



WP(MD).No.11222 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

WP(MD).No.11222 of 2019

D.Sudhakar

.. Petitioner

Vs.

- 1.The Secretary To Government,
Education Department,
Tamil Nadu Government,
Chennai - 600 009.
- 2.The Director Of School
Education, College Road,
Chennai - 600 006.
- 3.The Joint Director Of School
Education, (higher Education),
College Road,
Chennai.
- 4.The Chief Educational Officer,
Chief Education Office,
Virudhunagar.
- 5.The Headmaster,
Government Higher Secondary School,
Reserve Line, Sivakasi West,
Virudhunagar District.



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6. The Headmaster,
Y.R.T.V. Matric Higher Sec School,
Sivakasi,
Virudhunagar District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the impugned order passed by the fourth respondent in his proceedings No.Na.Ka.No.3061/Aa1/2018 dated 03.09.2018 and consequential order passed by the 3rd respondent in his proceedings No.Na.Ka. No. 037466/W3/E2/2018 dated 18.03.2019 and quash the same as illegal and also consequently direct the respondents one to three to count the service rendered by the petitioner as P.G. Economics Teacher in recognized Y.R.T.V. Matric Higher Secondary, School, Sivakasi from 15.06.1990 to 13.12.2012 for the purpose of pay fixation, pension and other benefits on the basis of the fourth respondent proceedings in e.f.vz;.5226/M2/2014 dated 08.08.2014 and consequential proceedings of the fifth respondent in f.f.vz;29/2018 dated 15.02.2018 in the light of the G.O(Ms).No.143 Education Department dated 30.01.1987 to the petitioner.

For Petitioner	:	Mr.A.P.Muthupandian
For RR 1 to 4	:	Mr.R.R.Badurus Zaman Government Advocate
For RR5 & 6	:	-No Appearance-



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ORDER

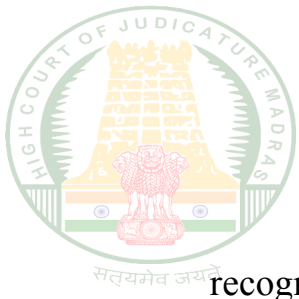
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Under assail is the order passed by the fourth respondent in proceedings No.Na.Ka.No.3061/Aa1/2018 dated 03.09.2018.

2. The case of the writ petitioner is that he was appointed as P.G. Economics Teacher in the sixth respondent school on 15.06.1990. He had been appointed as PG Economics Teacher with the sixth respondent school, as per proceedings dated 04.05.2011. He passed PG Teacher Recruitment Board, conducted by the Teacher's Recruitment Board, during the year 2011-12 for the post of P.G. Assistant in Economics.

2(i). He has been appointed as P.G. Assistant as per the proceedings of the third respondent dated 12.12.2012 and posted as Government Higher Secondary School in Narikudi, Virudhunagar District. He had received the job on 13.12.2012 due to Government Employment. He had joined the service on 02.01.2013 and subsequently to the fifth respondent school on 18.07.2013.

2(ii). The writ petitioner attained the age of superannuation on 31.04.2006. Any teacher who has completed ten years of service in Government School, they are entitled for pension as per G.O(Ms).No.37 Education Department dated 05.01.1983. The service rendered in the



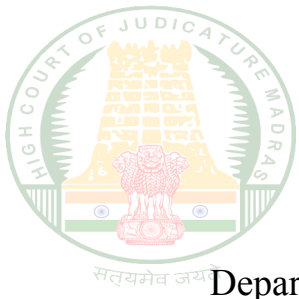
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recognized or aided school can be taken into account for the fixation of pay and pension. Subsequently, G.O(Ms).No. 143 Education Department dated 30.01.1987 also recognized school services and taken into account for calculation of pension and re-fixed the pay and consequential benefit.

2(iii). He made a representation on 09.05.2016 to the third respondent to that effect but the respondent did not properly considered. Thereafter, he was constrained to file WP(MD).No.8979 of 2018, directing the respondents to count the service rendered by the petitioner as PG Assistant Economics Teacher in the recognized Y.R.T.V.Matric Higher Secondary School, Shivakasi from 15.06.1990 to 13.12.2012 for the purpose of re-fixation, pension and other attendant benefits. This Hon'ble Court *vide* order dated 24.03.2018 was pleased to direct the respondents to consider the request of the writ petitioner, forwarded by the fourth respondent *vide* proceedings dated 08.08.2014. Subsequently, the order impugned came to be passed. Hence this writ petition.

3. The learned counsel appearing for the writ petitioner would submit that the petitioner's service was rendered in the recognized school and it is not an aided school. He would submit that the respondents have passed a Government Order bearing G.O(Ms).No.37 Education



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Department dated 05.01.1983 and G.O(Ms).No.143 Education Department dated 30.01.1987, and G.O.(Ms).No.285 dated 12.03.1991 and G.O(Ms).No.18 dated 09.01.1997. As per the aforementioned Government Orders, the writ petitioner is entitled to get the said benefits.

4. He would further submit that the third respondent ought to have considered the service rendered by writ petitioner from 15.06.1990 to 13.12.2012 i.e., more than twenty two and a half year, rendering service as PG Economics Teacher in the sixth respondent recognized school. To strengthen his contention, he has relied upon the judgment of the Hon'ble Division Bench dated 05.07.2018 in [WA.No.1267 of 2014] in the case of **The Secretary to the Government of Tamil Nadu Vs. S.Veerabadran** and the judgment of this Hon'ble Court in 28.02.2018 in [WP(MD).No.20326 of 2013] in the case of **K.Pitchai Vs. The State of Tamil Nadu and Anr.** to show that the petitioner is entitled to get the said benefits by calculating the service rendered as PG Economic Teacher in the sixth respondent recognized school.

5. *Per-contra*, the learned Government Advocate for the respondents would submit that the writ petitioner would rely upon the G.O(Ms).No. 143 Education Department dated 30.01.1987. Wherein it



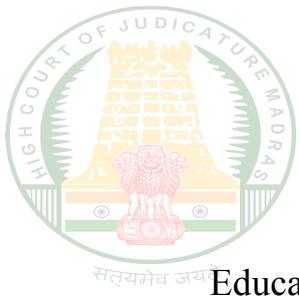
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has been provided to the service rendered by one Fr.Stanislaus in DON Bosco Matriculation School in Goa and DON Bosco Matriculation School in Madras and therein, the order passed for calculation pension and other benefits. As per G.O(Ms).No.314 School Education Department dated 12.12.2012, the Government had considered the inclusion of the service rendered by the individual teacher in an unapproved post in recognized school. Thereafter, the Government had clarified the service rendered in recognized schools can be taken into account for the purpose of promotion. However, the said service will not be counted for the purpose of pay fixation and for grant of pensionary benefits. He would also submit that as per Rule 1 of the “Tamil Nadu Pension Rules, 1978” (hereinafter referred as Rules), it shall not apply to the Government Service appointed on or after 1st of April 2003 to the service and post in connection with the affairs of the State of Tamil Nadu.

6. This Court has considered the submissions made on either side and perused the material on record.

7. According to the learned counsel for the writ petitioner, the third respondent that is the Joint Director of School Education, (Higher



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Education), College Road, Chennai ought to have considered the service rendered by the writ petitioner from 15.06.1990 to 13.12.2012 as PG Economics Teacher in the sixth respondent school that is Y.R.T.V.Matric Higher Secondary School, Sivakasi, Virudhunagar District for promotion basis.

8. It is seen from the typed set of papers, joined at Government Higher Secondary School, Narikudi, Virudhunagar District, as per the proceedings issued by the third respondent dated 12.12.2012 and he had joined the service on 02.01.2013 and subsequently, he had transferred to the fifth respondent school on 13.07.2013. At this juncture, it is relevant to refer the Rules 1 & 2 of the said Rules which state as follows:

*“1. **Short title and commencement** – (1) These rules may be called the Tamil Nadu Pension Rules, 1978.*

(2) they shall be deemed to have come into force on the 1st January 1979.

“Provided that these rules shall not apply to Government Servants appointed on or after the 1st April 2003, to services and posts in connection with the affairs of the State which are borne on pensionable establishments, whether temporary or permanent.”

*“2. **Application** - Save as otherwise provided in these rules, these rules shall apply to all Government Servants appointed to services and posts in connection with the affairs of the State which are borne on pensionable establishments whether temporary or*



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permanent, but shall not apply to -

(a) persons in casual and daily rated employment,

(b) persons paid from contingencies; /

(c) persons employed on contract except when the contract

provides otherwise;

(d) members of the All-India Services;

(e) persons entitled to the benefit of a Contributory Provident Fund;

(f) persons who are entitled to the benefits under the Factories Act, 1948 and the Employees' Provident Fund Act, 1952, excluding those who are governed by Statutory Service Rules and belong to pensionable service."

9. A perusal of the order impugned, shows that wherein it has been stated the period of service rendered by the writ petitioner i.e., 15.06.1990 to 13.12.2012 in an unaided private matriculation school cannot be taken into consideration by citing the Tamil Nadu Pension Rules, 1978. As per Rule 1 (2), its application itself clearly enumerates that the Rule shall not apply to the Government Servant appointed on or after 1st of April 2003, to services. According to the writ petitioner, he has joined in Government Service on 02.01.2013 and therefore, he cannot claim the service already rendered by him in the fifth respondent school, before joining into Government Service, by relying on various



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10. There is no merit in this writ petition, and the same is liable to be dismissed. In the result, the writ petition is dismissed. No costs.

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NCC : Yes
Index : Yes
Internet : Yes

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M.JOTHIRAMAN, J.

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