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W.P. No.8059 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2026

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.8059 of 2024

and

W.M.P. No.9016 of 2024

M.Suganthi Vasantha Rani,

Petitioner

Vs

1. State of Tamil Nadu,
Rep. by its
Secretary to Government,
School Education Department,
Fort St. George, Chennai -600 009.

2.The Director of Elementary Education,
D.P.I.Compound, College Road,
Chennai -600 061.

3.The Chief Educational Officer,
Thiruvannamalai Educational District,
Thiruvannamalai District -601602.

4.The District Elementary Educational
Officer,
Thiruvannamalai District.

5.The Block Educational Officer,
Polur-Thiruvannamalai District-606 803.

6.The Principal Accountant General,
Office of the Accountant General(A & E)
Tamil Nadu, No. 361, Anna Salai,
Teynampet, Chennai -600 018.

Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus to call for the records relating to impugned order of returning the proposal by the 6th respondent in P25/2/12524246/ADK/71 dated 28/09/2022 and quash the same as illegal and unsustainable and direct the respondents to count 50% of the services rendered by the petitioner as part time vocational teacher(From 16.11.1992 to 16.06.2000) for pensionary benefits and direct the respondent to refix the pension.

For Petitioner : Mr.R. Govindaraj
For Respondents : Mrs.S. Mythreye Chandru
Spl. Govt. Pleader for R1 to R5
Mrs. Hema Muralikrishna for R6

ORDER

This writ petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings of the 6th respondent in P25/2/12524246/ADK/71 dated 28.09.2022, quash the same as illegal and unsustainable, and consequently direct the respondents to count 50% of the services rendered by the petitioner as Part-Time Pre-Vocational Teacher from 16.11.1992 to 16.06.2000 for the purpose of pensionary benefits, refix the pension accordingly and extend all consequential monetary benefits without interest.



2. Short facts :-

a. The petitioner was appointed as a Part Time Pre-Vocational Teacher on 16.11.1992 on consolidated pay. While in service, she was sponsored by the respondents themselves for mandatory three months training under G.O.Ms.No.224, dated 24.03.1994, from 15.04.1999 to 10.07.1999.

b. Upon successful completion of the training, her services were regularised as Full Time Pre-Vocational Teacher by proceedings dated 06.06.2000, and she joined duty on 16.06.2000, i.e., well prior to 01.04.2003. The petitioner retired from service on 31.08.2018 on attaining the age of superannuation.

c. After retirement, she submitted representations seeking counting of 50% of the part-time service rendered from 16.11.1992 to 16.06.2000 for pensionary benefits. The proposal forwarded by the 5th respondent was returned by the 6th respondent vide proceedings dated 28.09.2022, which is impugned herein.

3. Learned counsel for the petitioner contended that the petitioner was appointed as Full Time Pre-Vocational Teacher from 16.06.2000 i.e., before 01.04.2003, and therefore her case squarely falls under para 45(iii) of the ***Hon'ble Full Bench judgment in The Government of Tamil Nadu v. R. Kaliyamoorthy, reported in 2019 (6) CTC 795.***



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He further submitted that pension is a continuing cause of action, and the delay cannot be put against the petitioner. The respondents themselves cannot now deny the benefit after having sponsored the petitioner for training and regularised her service. Hence, the impugned order dated 28.09.2022 issued by the 6th respondent is contrary to settled law and liable to be quashed.

4. Learned Special Government Pleader appearing for the respondents 1 to 5 submitted that the petitioner retired in the year 2018, whereas the Hon'ble Full Bench judgment was in 2019, and the present writ petition was filed only in 2024, and hence the petition suffers from delay and laches. Further, she submitted that the petitioner was not a party to the earlier writ proceedings and was a fence-sitter. The petitioner initially accepted the Pension Payment Order without objection and after pronouncement of this order, she approached this Court. More particularly, she argued by placing reliance in para 6 of the counter affidavit that the petitioner is not entitled to the benefit under G.O.Ms.No.408, Finance(Pension) Department, dated 25.08.2009 as she was a part-time employee. In view of the above, she prayed for dismissal of this writ petition.

5. Reiterating the same submission, learned counsel for the 6th respondent submitted that the order of the 6th respondent dated 28.09.2022 is legally valid



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and counting 50% of the services rendered by the petitioner as Part-Time Vocational Teacher is unjustifiable. Therefore, this Court may dismiss this writ petition.

6. This Court has considered the rival submissions and perused the materials available on record.

7. It is an admitted fact that the petitioner entered service as a Part-Time Pre-Vocational Teacher in the year 1992 and thereafter, she underwent training as per G.O.Ms.No.224, dated 24.03.1994. It is also not in dispute that her services were regularised on 16.06.2000, which is prior to 01.04.2003.

8. The issue involved in this writ petition is no longer res integra. The Hon'ble Full Bench of this Court, in the case of ***Government of Tamil Nadu v. R. Kaliyamoorthy, reported in 2019 (6) CTC 795***, has authoritatively laid down the law. The relevant portion of para 45 (i) to (v) reads as follows:

“45. In the light of the above, we answer the reference as follows:

(i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension.

(ii) Those Government servants appointed prior to 01.04.2003, whether on temporary or permanent basis, are entitled to pension.



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(iii) In case a Government employee had rendered service on non-provincialised service or on consolidated pay or honorarium or daily wages and such services were regularised before 01.04.2003, half of such service shall be counted for the purpose of pensionary benefits.

(iv) & (v) Those absorbed in regular service only after 01.04.2003 are not entitled to such benefit.”

9. The petitioner's case squarely falls under para 45(iii) of the Hon'ble Full Bench judgment, as referred to supra.

10. The objection relating to delay, laches and fence-sitting cannot be sustained. Pension is a recurring and continuing right, and a wrong fixation gives rise to a continuing cause of action. The Hon'ble Full Bench judgment declares the law in rem, and similarly placed employees cannot be denied its benefit merely because they were not parties to the earlier proceedings.

11. The cause of action in the present case arose only when the proposal was returned by the 6th respondent on 28.09.2022, which is the impugned order. The reliance placed on G.O.Ms.No.408 or G.O.Ms.No.194 is misplaced, as the petitioner's claim is founded on the binding Hon'ble Full Bench decision, and not merely on Government Orders.



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12. Administrative inconvenience or financial implications cannot override a right flowing from a binding judicial precedent. Therefore, the impugned order is contrary to the law laid down by the Hon'ble Full Bench and cannot be sustained.

13. For the reasons aforesaid, the impugned order dated 28.09.2022 passed by the 6th respondent is liable to be set aside and accordingly the same is hereby set aside and the matter is remanded to the 6th respondent for fresh consideration. Further, the respondents shall count 50% of the services rendered by the petitioner as Part Time Pre-Vocational Teacher from 16.11.1992 to 16.06.2000, revise the pension, without interest accordingly, and disburse the consequential benefits. The aforesaid exercise shall be completed, within a period of eight weeks from the date of receipt of a copy of this order.

14. With the above observations and directions, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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M.DHANDAPANI, J.

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To

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