



Rev.Aplw.No.116 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Rev.Aplw.No.116 of 2024

R.Selvarajan

... Petitioner

Vs.

1.The Govt. of Tamil Nadu,
Rep. by Secretary to Govt.
School Education Dept.
Fort St. George, Chennai.

2.The Director of School Education,
DPI Complex,
College Road,
Chennai.

3.The Accountant General (Pension & Pay),
Anna Salai,
Chennai.

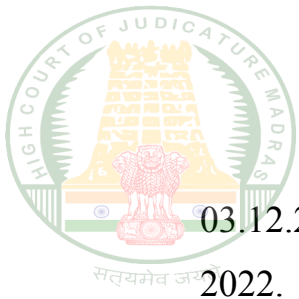
4.The Chief Educational Officer,
Salem District.

... Respondents

PRAYER: Review Application filed under Order 47 Rule 1 read with Section 114 of Code of Civil Procedure, to review the judgment of this Hon'ble Court dated 27.02.2024 made in W.P.No.14688/2022 and pass orders in accordance with the dictum laid down by the Full bench of this Hon'ble Court dated

Page No.1 of 8

<https://www.mhc.tn.gov.in/judis>



Rev.Aplw.No.116 of 2024

03.12.2019 made in W.A.No.158 of 2016 and allow the W.P.No.14988 of 2022.

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For Petitioners : Mr.T.Aananthi

For R1, R2 & R4 : Ms.E.Ranganayaki
Additional Government Pleader

For R3 : No appearance.

ORDER

This Review Application has been filed as against the order passed by this Court in W.P.No.14988 of 2022 dated 27.02.2024.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner filed a writ petition for direction, directing the respondents to calculate half of the service rendered on consolidated pay from 10.07.1980 to 12.08.1988 along with regular service for counting the qualifying service and grant revised terminal and pension benefits along with arrears as per G.O.No.41, Finance (Pension) Department, dated 09.02.2010. This Court, by relying upon the Judgment of the Hon'ble Division Bench of this Court in W.A.No.882 of 2016, dismissed the writ petition on the ground

Page No.2 of 8

<https://www.mhc.tn.gov.in/judis>



of delay and latches. Therefore, the request made by the petitioner cannot be considered on the ground of delay and latches.

4. The learned counsel appearing for the petitioner pointed out that the Hon'ble Division Bench of this Court is no longer *res integra*, since the Full Bench of this Court had already decided the very same issue in W.A.Nos.158 of 2016 etc., batch dated 03.12.2019, in which this Court held as follows :

44. The aforesaid Judgment of the Honourable Supreme Court would squarely apply to this case. Merely because this Court has passed multiple number of orders in favour of some of the similarly placed persons like the writ petitioners, it will not operate as resjudicata or it will preclude the State Government from questioning those orders in a parellel or similar proceedings. In such circumstances, we are of the view that the orders, hitherto passed by this Court, both single Bench or the Division Bench will not operate as a bar for maintaining these writ appeals or writ petitions or those orders will not be considered as the one which laid down any binding precedent to be followed in other cases. An order, which was not passed in accordance with the statutory provisions, need not be followed by the



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Rev.Aplw.No.116 of 2024

Court at the instance of similarly placed persons.

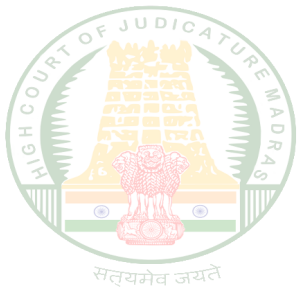
45. In the light of the above, we answer the reference as follows:

(i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259, dated 06.08.2003.

(ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10(a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

(iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.

(iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into



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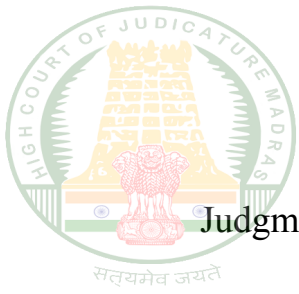


Rev.Aplw.No.116 of 2024

regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.

(v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.”

5. Insofar as the petitioner is concerned, the petitioner was appointed as Vocational Instructor on consolidated pay on 10.07.1980. Thereafter, he was appointed on regular pay on 12.08.1988. On attainment of age of superannuation, he retired from service on 31.08.2011. After extension of service for educating the students till the end of the academic year, the petitioner was retired from service on 31.05.2012. The petitioner had put in eight years of service on consolidated salary. Thereafter, his service was regularised on 12.08.1988. Therefore, the petitioner submitted a representation to count the qualifying service of 50% which was rendered by him under consolidated salary for calculating pension. The very same issue was already decided by the Hon'ble Full Bench of this Court. The above



Rev.Aplw.No.116 of 2024

Judgment is squarely applicable to the case on hand.

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6. Therefore, the order passed by this Court is hereby recalled and the writ petition is allowed. The respondents are directed to calculate half of the service rendered by the petitioner on consolidated salary from 10.07.1980 to 12.08.1988 along with regular service for counting the qualifying service for the purpose of pension and other benefits and disburse the arrears of pensionary benefits as per the G.O.No.41, Finance (Pension) Department, dated 09.02.2010 within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, this Review Application is allowed.

No costs.

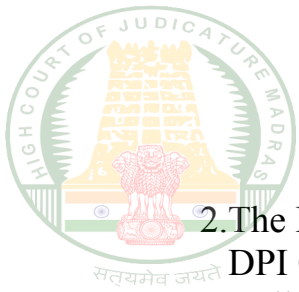
04.09.2024

Index : Yes/No
Speaking Order : Yes/No
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To

1.The Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Fort St. George, Chennai.

Page No.6 of 8

<https://www.mhc.tn.gov.in/judis>



Rev.Aplw.No.116 of 2024

2.The Director of School Education,
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3.The Accountant General (Pension & Pay),
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4.The Chief Educational Officer
Salem District.

G.K.ILANTHIRAIYAN. J,

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Page No.7 of 8

<https://www.mhc.tn.gov.in/judis>



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Rev.Aplw.No.116 of 2024

Rev.Aplw.No.116 of 2024

04.09.2024

Page No.8 of 8

<https://www.mhc.tn.gov.in/judis>