

(2011) 12 MAD CK 0202

In the Madras High Court

Case No : Writ Petition No. 3719 of 2007 (T) O.A. No. 2704 of 2001

R.Ragupathy

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 15-12-2011

Acts Referred:

Constitution of India, 1950 — Article 14
Tamil Nadu Pension Rules, 1978 — Rule 43(2)

Citation : (2012) 3 MLJ 12

Hon'ble Judges : D. Hari Paranthaman, J

Bench : Single Bench

Advocate : V.Ravi Kumar, for the Appellant; V.Subbiah, Spl.GP, for R1 and R2 and Mr. V.Vijayshankar for R3, for the Respondent

Judgement

Honourable Mr. Justice D. Hari Paranthaman

1. The petitioner was appointed as a Par-time Vocational Instructor on 25.10.1963 in a Panchayat Union Middle School, Ponnavaarayankottai, Pattukottai, Thanjavur District. Subsequently, he acquired all the qualifications for regular absorption.

2. During 1986, the Government decided to convert all the Part-time Vocational Instructors into Full-time by way of G.O.Ms.No.1367, Education Department, dated 05.09.1986, based on the One Man Committee recommendations.

3. In these circumstances, the first respondent issued an order dated 01.04.1992, stating that the qualified part-time Craft Teachers would be appointed in the Secondary Grade vacancies in Elementary and Middle Schools, after the completion of 3 months training. On that basis, the first respondent issued G.O.Ms.No.224, Education Department, dated 24.03.1994, for absorption of Vocational Instructors as Secondary Grade Teachers.

4. Subsequently, by way of another G.O.Ms.No.752, Education, Science and Technology Department, dated 18.10.1996, earlier G.O.Ms.No.224, dated

24.03.1994, was modified and it was decided to regularise the candidates, who have completed 3 months training, in the post of Full Time Vocational Instructor and not in the post of Secondary Grade Teacher. On that basis, the petitioner was absorbed as a regular Full Time Vocational Instructor by order dated 19.05.1998, passed by the District Elementary Educational Officer, Thanjavur, only with effect from 16.12.1996. Thereafter, after reaching the age of superannuation on 30.04.1998, he retired from service. He rendered 34 years of unblemished service.

5. The pension proposal dated 15.10.1998, was sent by the Assistant Elementary Educational Officer, Pattukottai, to the third respondent in respect of the petitioner. But, the third respondent rejected the pension proposal by the impugned order dated 25.04.2000.

6. Aggrieved by the same, the petitioner filed O.A.No.2704 of 2001, before the Tribunal, seeking to quash the impugned order dated 25.04.2000, with a consequential direction to the respondents to sanction pension and other retiral benefits by taking into account the length of service rendered by him as Part-time Vocational Instructor also. On abolition of the Tribunal, the same was transferred to the file of this Court and renumbered as W.P.No.3719 of 2007.

7. The respondents filed counter affidavit refuting the allegations.

8. Learned counsel appearing for the petitioner submitted that though he rendered less than two years of service in the regular post, he shall be given pension, as he rendered 34 years of service in total. He further submitted that the Government issued G.O.Ms.No.437, Finance Department, dated 23.06.1998, to count 50 % of service of daily wages service of a full time employee for the purpose of pension. Likewise, a similar G.O.Ms.No.118, Finance (Pension) Department, dated 14.02.1996, was also issued.

9. Though those Government Orders are directly not applicable, the principle therein shall be applied and the petitioner shall be given pension benefits by counting 50% of service that was rendered as part time Vocational Instructor.

10. Learned counsel for the petitioner submitted that when this writ petition is pending, the Government issued G.O.Ms.No.39, Rural Development Department, dated 13.06.2011, for counting 50% of service of part time employees for the purpose of granting pension. He produced the said GO for my perusal.

11. On the other hand, learned counsel appearing for the respondents 1 and 2 has sought to sustain the impugned order stating that there is no rule that provides counting service of part time service rendered by the petitioner in the education department.

12. Learned counsel appearing for the third respondent submitted that as per Rule 43(2) of Tamil Nadu Pension Rules, only those Government servants, who had put in qualifying service of not less than 10 years regular service, are entitled to pension. As such, the petitioner, who had put in less than two years of

regular service, is not entitled to pensionary benefits. Therefore, there is no infirmity in the impugned order.

13 Heard both sides.

14. Admittedly, now the Government has issued G.O.Ms.No.39, Rural Development Department, dated 13.06.2011, for counting 50% of services rendered by the part time employees in their department for the purpose of pension.

15. Furthermore, as rightly contended by the learned counsel for the petitioner, when the Government issued G.O.Ms.No.1367, Education Department, dated 05.09.1986, converting the Part-time Craft Teachers into that of Full-time Craft Teachers stage by stage every year, within a reasonable time, the petitioner was ultimately absorbed as Full time Vocational Instructor in the year 1996 only. Therefore, if the petitioner had been converted into a full time employee within a reasonable time, as contemplated in G.O.Ms.No.1367, dated 05.09.1986, he could have got pension.

16. Admittedly, in this case, the petitioner rendered 34 years of unblemished service, therefore, he cannot be denied the benefit of pension, in the light of G.O.39, referred to above. When 50% service of part-time employees in

Rural Development Department is calculated for the purpose of payment of pension, the same yardstick shall be applied to part time employees in the third respondent department also, as required by Article 14 of the Constitution. Therefore, in my view, the first respondent shall also issue an appropriate order like G.O.Ms.No.39, dated 13.06.2011.

17. In these circumstances, the first respondent is directed to issue suitable orders for counting part-time service of the petitioner rendered in their department for the purpose of pension and also forward the necessary proposals to the third respondent for authorising pension and other benefits. The first respondent is directed to complete the said exercise within a period of 8 weeks from the date of receipt of a copy of this order. On receipt of the proposal from the first respondent, the third respondent is directed to authorise the pension and other benefits within a period of four weeks thereafter.

18. The writ petition is disposed of accordingly. No Costs.