

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.13090 of 2016 and
W.M.P. No.11457 of 2016

A.Kalaiselvan

.. Petitioner

-vs-

1.The State of Tamil Nadu,
rep. by Principal to Government,
Commercial Taxes and
Registration Department,
Secretariat, Fort St. George,
Chennai-9.

2.The Principal Secretary/
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-5.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records of the charge memo in CD1/37815/2013 dated 16.03.2015 issued to the petitioner by the second respondent and quash the same.

For Petitioner : Mr.R.Singaravelan
Senior Counsel for
Mr.Adithya Reddy

For Respondents: Mr.S.Kanmani Annamalai,
Additional Government Pleader (Taxes)

ORDER

The petitioner A.Kalaiselvan, working as Assistant Commissioner (CT), after receiving the charge memo dated 16.03.2015, alleging four charges against him in the annexure, which is enclosed with the above said charge memo, has come to this Court, challenging the said charge memo, issued by the second respondent against him.

2.Mr.R.Singaravelan, learned senior counsel appearing for the petitioner, assailing the impugned charge memo issued to the petitioner at the crucial time of promotion to the higher post,

submitted that after including the petitioner's name in the panel for promotion, the impugned charge memo has been issued with a huge delay of five years. When the order was passed in W.P. No.26325 of 2010 dated 03.12.2010, keeping it in storage for more than five years and allowing his predecessors to leave the place, as they are the persons who committed the irregularities, the petitioner has been wrongly charge-sheeted. Similarly, the other charges, have also been included, depriving his promotion. Adding further, he would submit that after receipt of charge memo, the petitioner has also given detailed representation dated 03.06.2015 to the Principal Secretary/ Commissioner of Commercial Taxes, Chennai, requesting to furnish three important documents. But, till date, there is no response whatsoever from the respondents. As a result, the petitioner is not able to give any explanation. Adding further, he would submit that instead of issuing a charge memo under Section 17 (a), the petitioner has been issued with the same under Section 17(b) of Tamil Nadu Civil Supplies (Discipline & Authority) Rules. Therefore, learned counsel for the petitioner prays for allowing this petition to convert the charge memo from 17(b) to 17(a).

3.Learned Additional Government Pleader, who takes notice on behalf of the respondents, would submit that the request of the petitioner to furnish three documents is not mandatory in as much as the order passed by this Court in W.P. No.26325 of 2010 dated 03.12.2010, is available with him in the file. Therefore, he could have a resort to the same. Similarly, the copy of document relating to TNVAT Act for the assessment year 2009-10, is also admittedly available with the petitioner. However, the department is prepared to furnish all the three documents.

4.Intervening at this stage, learned senior counsel would submit that as the petitioner had already left the office, where these files are kept, he is not able to have any access. Therefore, he sought for furnishing all the documents to enable the petitioner to submit a detailed explanation to the charges framed against him.

5.The petitioner has asked for certain documents, by way of representation. As the petitioner has to submit his explanation and only then the respondents can proceed further, hence, at this stage, it is not advisable to interfere with the charge memo. Therefore, the second respondent is hereby directed to furnish all the three documents, which are mentioned in the representation dated 03.06.2015, given by the petitioner, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, it is for the petitioner to submit his explanation, within three weeks therefrom.

6.With the above direction, the Writ Petition is disposed of. No costs. Connected MP is closed.

Sd/-
Assistant Registrar(CS-III)

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Sub Assistant Registrar

vga

To

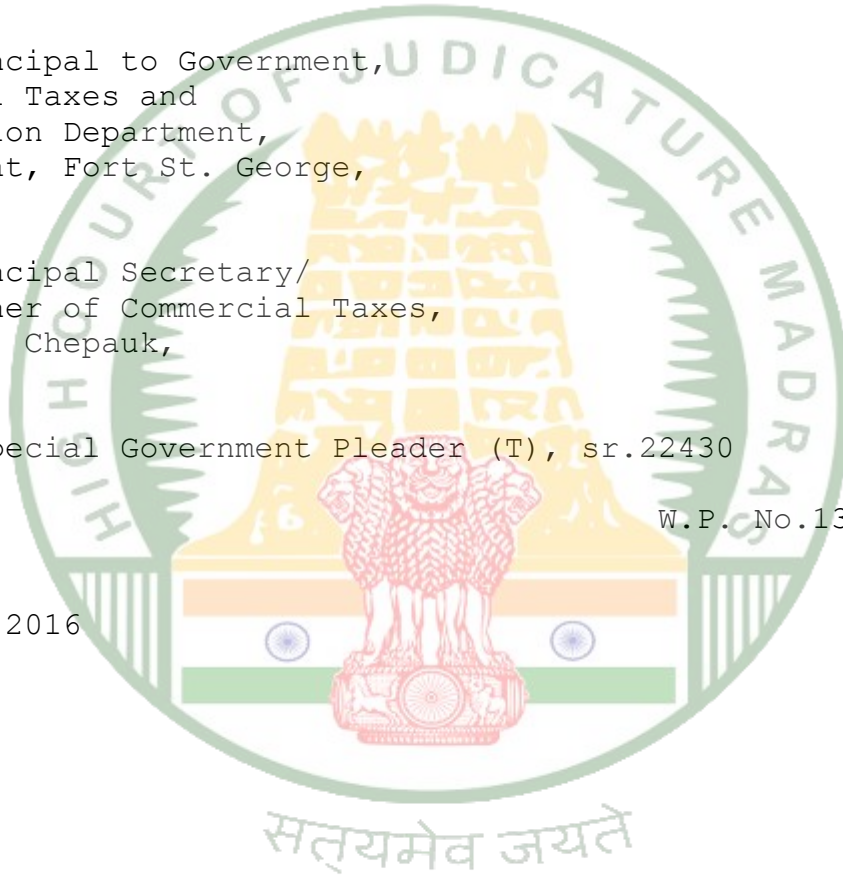
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1 cc to Special Government Pleader (T), sr.22430

W.P. No.13090 of 2016

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