IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-06-2016

CORAM :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Writ Petition No. 33015 of 2014
and
M.P.No.1 of 2014

G. Dhakshnamoorthy ... Petitioner

Versus

1. The Principal Secretary to Government
   Commercial Tax and Registration Department
   Fort St. George
   Chennai - 600 009

2. The Inspector General of Registration
   No.100, Santhome High Road
   Chennai - 600 028 ... Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records of the first respondent relating to the G.O. (D) No.433, Commercial Tax and Registration (H) Department dated 13.08.2013 and quash the same and consequently direct the respondents to promote the petitioner as Assistant Inspector General of Registration along with regular monetary benefits including the retirement benefits.

For Petitioner : Mr. D. Veerasekaran

For Respondents : Mr. A. Kumar
Special Government Pleader

ORDER

By the impugned order dated 13.08.2013, the first respondent passed final orders in the disciplinary proceedings initiated against the petitioner and others. Ultimately, the petitioner was imposed with recovery of Rs.1,000/- per month from his pension for three years. Challenging such order of punishment, the petitioner has come up with this writ petition.

2. The learned counsel for the petitioner would contend that in the departmental enquiry, along with the petitioner, two other delinquent officers were also enquired. One of the delinquents namely Mr. S. Gurumoorthy has approached this Court

by filing WP No. 4339 of 2014 challenging the order dated 20.12.2013 imposing punishment on him. It was contended by Mr. S. Gurumoorthy that four charges were framed against him out of which charge Nos. 1, 2 and 4 were held as not proved by the Commissioner for disciplinary proceedings. Therefore, he attacked charge No.3 framed against him. This Court, by an order dated 13.06.2014 in WP No. 4339 of 2014, passed the following order:-

> "8. I am conscious of the fact that in a writ proceeding, this Court cannot re-appreciate the evidence adduced in the disciplinary proceedings but, at the same time, it is permissible for the Court to interfere with the order of punishment when the Court finds that the said finding is totally baseless which is based on no evidence. In this case, since, I have held that there was no evidence at all available to hold that the petitioner is guilty of charge No.3, the finding given by the commissioner for disciplinary proceedings that the petitioner is guilty of charge No.3 and the consequential Government Order imposing punishment on the petitioner are liable to be set aside.
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> 9. In the result, the writ petition is allowed and the impugned charge memorandum and G.O. (D) No.691, Commercial Tax and Registration (R) Department dated 20.12.2013 are liable to be set aside and the petitioner is exonerated from charge No.3. The petitioner shall be permitted to retire from the date on which he had attained the age of superannuation, if there was no other legal impediment and he shall be paid all the retirement benefits by the respondents. No costs. Consequently, connected miscellaneous petition is closed."

3. As against the order dated 13.06.2014 in WP No. 4339 of 2014, the Department preferred Writ Appeal No. 953 and 954 of 2015 and they were also dismissed by the Division Bench of this Court on 23.07.2015. In Para Nos. 7 and 8, it was held by the Division Bench of this Court as follows:-

> "7. The charge No.3, on reading itself, appears to be weak and vague. A common charge has been levelled against all the three accused. Finding of unaccounted cash in one corner of the office cannot be attributed to any particular person or to all persons working in the office. The learned single Judge has rightly come to the conclusion that the said charge was proved on the basis of no evidence and that the charge was rightly set aside and the writ petitions were allowed.
>
> 8. Resultantly, both writ appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions stand closed."

4. The learned counsel for the petitioner submitted that as against the petitioner, four charges were framed out of which charge Nos. 1, 2 and 4 have been held as not proved. The only charge for which punishment was imposed on the petitioner is charge No.3. According to the counsel for the petitioner, the findings given for the very same charge No.3 against the co-delinquents and the consequential punishment imposed on them have been quashed by this Court which was also affirmed by the Division Bench of this Court. Therefore, the learned counsel for the petitioner prayed this Court to allow the writ petition.

5. A counter affidavit has been filed on behalf of the respondents on 10.09.2015 in which there is no whisper made about the order passed by this Court on 13.06.2014 in WP No. 4339 of 2014 which was upheld by the Division Bench of this Court on 23.07.2015.

6. I heard the counsel for both sides and perused the materials placed on record. It is seen from the records that four charges have been framed against the petitioner out of which charge Nos. 1, 2 and 4 were held as not proved by the Tribunal for Disciplinary Proceedings and a report to that effect was forwarded to the Government. The Government thereafter imposed the punishment on the petitioner for the proved charge No.3. In the meantime, as against charge No.3, the co-delinquents have filed WP No. 33015 of 2015 and the same was allowed by this Court by setting aside the findings rendered for charge No.3 and the resultant punishment imposed on the co-delinquents. As against the same, the Department filed WA No. 953 of 2015 and 954 of 2015 and they were dismissed by the Division Bench of this Court on 23.07.2015, as mentioned supra. It is not in dispute that the charge No.3 levelled against all the delinquents, including the petitioner are one and the same. Therefore, in the light of the order passed by this Court on 13.06.2014 in WP No. 4339 of 2014 which was confirmed by the Division Bench of this Court in the Judgment dated 23.07.2015 in WA Nos. 953 and 954 of 2015, the impugned order is set aside. The writ petition is allowed as prayed for. No costs. Consequently, connected Miscellaneous Petition No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government
   Commercial Tax and Registration Department
   Fort St. George
   Chennai - 600 009

2. The Inspector General of Registration
   No.100, Santhome High Road
   Chennai - 600 028.

+1cc to Mr.D. Veerasekaran, Advocate, S.R.No.30401

W.P No. 33015 of 2014

SR(CO)
CA(23/06/2016)