IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.11575 of 2016

R.Karunanithi ..Petitioner

-Vs-

1. The Government of Tamil Nadu
   rep.by its Secretary
   Commercial Taxes and Registration Department
   Fort St.George
   Chennai 600 009

2. The Principal Secretary/Commissioner of Commercial Taxes
   O/o the Commissioner of Commercial Taxes
   Ezhilagam
   Chennai 600 005

3. Mr.N.Viswanathan ..Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records from the second respondent in connection with the impugned Charge Memo bearing Ref.No.CD2/16647/2014-IV dated 30.10.2014 and quash the same.

For Petitioner:: Mr.V.Prakash
Senior Counsel for
Mr.K.Krishnamoorthy

For Respondents:: Mr.S.Kanmani Annamalai
Addl. Government Pleader (Taxes)
for R1 & 2
No appearance for R3

ORDER

This writ petition is directed against the impugned charge memo dated 30.10.2014 issued by the Principal Secretary/Commissioner of Commercial Taxes, Chennai.

2. Learned senior counsel for the petitioner submitted that a similar charge memo came to be issued against four officers

including the petitioner. Questioning a similar and identical charge memo issued against one Mr.N.Saravanakumar, Writ Petition No.29030 of 2015 was filed before this Court primarily on vagueness and non-application of mind. This Court, by order dated 30.9.2015, agreeing with the points taken by the writ petitioner therein, quashed the charge memo holding that the charges framed against the writ petitioner therein were all very vague and in the absence of any specific allegation as to the dishonest/oblique motive or deliberate act of negligence, the charge memo impugned therein cannot be sustained. Paragraphs 23 & 24 of the order dated 30.9.2015 made in W.P.No.29030 of 2015 read as follows:-

> "23. In the considered opinion of the Court, in the absence of specific imputation of dishonest/oblique motive, lack of bona fide or utter negligence in discharge of duties, initiation of disciplinary proceedings is required to be quashed. The allegations pertain to the alleged act of the petitioner during his tenure as Commercial Tax Officer, Melur Assessment Circle for the period between 30.07.2012 and 31.12.2012 and in pursuant to the orders passed in W.P.Nos.11129/2013, 11324/2013 and 20336 of 2013, the petitioner and others were promoted as Assistant Commissioners and this Court is of the view that subsequent promotion of the petitioner has also washed out his alleged delinquency. The petitioner alone has been proceeded with for the reasons best known to the Disciplinary Authority and that apart, the charges framed against the petitioner are also very vague and in the absence of any specific allegation as to dishonest/oblique motive or deliberate act of negligence or undue favour shown, the impugned charge memo cannot be sustained.
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> 24. In the result, this Writ Petition is allowed and the impugned charge memo bearing Ref.No.CD2/16647/2014-III dated 30.10.2014 on the file of the second respondent is quashed. No costs. Consequently connected miscellaneous petitions are closed."

3. In the light of the above, the petitioner, who is also one among the co-delinquents, has come to this Court seeking a similar relief.

4. Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondents 1 & 2 fairly submitted that a similar and identical charge memo issued against Mr.N.Saravanakumar was already quashed by this Court by order dated 30.9.2015 on the ground that the impugned charge memo issued against the petitioner and other co-delinquents are all vague and the same order can be passed in this writ petition also.

5. Recording the submission made by the learned Additional Government Pleader for the respondents 1 & 2, this writ petition is allowed and the impugned charge memo bearing Ref.No.CD2/16647/2014-IV dated 30.10.2014 issued by the second respondent against the petitioner is quashed. Consequently, W.M.P.No.9973 of 2016 is closed. No costs.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

ss
To

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

2. The Principal Secretary/Commissioner of
   Commercial Taxes
   O/o the Commissioner of Commercial Taxes
   Ezhilagam
   Chennai 600 005

+1 CC to Mr.K. Krishnamoorthy, Advocate sr 77465.
+1 Cc to Spl. Govt. Pleader(T) sr 77887

W.P.No.11575 of 2016

SP(13/11/2017)