IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.A.No.988 of 2017

K.Pandian .. Appellant

-vs-

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

2. The Commissioner
Commercial Taxes Department
Ezhilagam
Chepauk
Chennai 600 005

3. The Joint Commissioner (Enforcement)
Commercial Taxes Department
Vellore Enforcement Division
Vellore

4. The Enquiry Officer cum
Deputy Commissioner (Enforcement)
Commercial Taxes Department
Villupuram Division
O/o Deputy Commissioner
Master Plan Complex
Villupuram .. Respondents

Appeal under Clause 15 of the Letters Patent, against the order dated 04.07.2017 made in W.P.No.35859 of 2016.

W.P.No.35859 of 2016:-Writ Petition is filed Uunder Article 226 of the Constitution of India for issuance of a Writ of Mandamus calling for the records of the 3rd Respondent pertaining to the impugned Charge Memo in Rc. No.2008- VI/2014 dated 30.04.2014 and quash the same and consequently direct the Respondents to declare completion of probation by the Petitioner and grant the petitioner all attendant and consequent monetary benefits including promotions and seniority.

For Appellant :: Mr.S.Sivakumar

For Respondents :: Mr.S.Kanmani Annamalai
Additional Government Pleader

JUDGMENT

(Judgment of the Court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel for the parties for some time.

2. It appears that although similar set of charges were framed in respect of five officers including the petitioner for certain irregularities, while they served as Deputy Commercial Tax Officers at Kottakuppam check post during the relevant period, finally the enquiry officer appointed to inquire into the charges framed against the four officers/co-delinquents, filed his report holding them as not guilty, since the charges were not proved. Thereafter, it appears that the disciplinary authority, disagreeing with the findings of the enquiry officer, imposed the punishment of stoppage of increment for a period of one year without cumulative effect on the other four co-delinquents. Ultimately, the said orders of punishment came to be questioned by the other four co-delinquents before this Court and the said orders were set aside by this Court on the ground of no evidence with a further direction to the respondents to treat the same as duty period with all service and monetary benefits. However, the case of the appellant/writ petitioner alone was singled out, because of the fact that he reported for duty in the transferred place. But the learned single Judge has dismissed the writ petition directing the appellant to face the enquiry on a misconception that the enquiry had commenced.

3. It is the contention of the learned counsel for the appellant that for more than two years, none of the three enquiry officers, who have been appointed to go into the charges framed against the appellant, had completed the enquiry, even though the other four co-delinquents were conferred with the benefits, and only the appellant has been singled out, because of the fact that he obeyed the order of transfer.

4. We also find that when a similar set of charges were framed in respect of four other officers like that of the appellant, although the enquiry officer held them not guilty, when the punishment was imposed by the disciplinary authority differing with the findings of the enquiry officer, they

successfully challenged the said orders in the writ petitions. But the case of the appellant alone was singled out, because he had joined in the transferred place. Moreover, when the enquiry officer was appointed on more than one occasion to inquire into the charges framed against this appellant, the enquiry has not even commenced even after a lapse of more than two years, although the benefit was extended to the other four co-delinquents similarly placed like that of the appellant. In that view of the matter, we are of the considered opinion that the charges framed against the appellant should be treated as dropped, since the enquiry has not been completed, despite the appointment of the enquiry officer, for more than two years. Accordingly, the impugned order is set aside and the writ appeal stands allowed. Needless to state that the respondents shall consider the case of the appellant for declaration of probation and other attendant benefits including promotion in accordance with law, if he is otherwise found eligible. Consequently, C.M.P.No.13800 of 2017 is closed. No costs.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

ss

To

1. The Principal Secretary to Government
Commercial Taxes & Registration Department
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Chennai 600 009

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4. The Enquiry Officer cum
Deputy Commissioner (Enforcement)
Commercial Taxes Department
Villupuram Division
O/o Deputy Commissioner
Master Plan Complex
Villupuram

+1cc to Mr.S.Sivakumar, Advocate Sr. 58846
+1cc to the Special Government Pleader Sr. 58953

VR(30/8/2017)