IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2017

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.3934 of 2017
And
W.M.P.No.4023 of 2017

T.Raman ... Petitioner

Vs.

1 The Government of Tamil Nadu
Rep by Additional Chief Secretary
Commercial Taxes Department,
Secretariat, St.George Fort,
Chennai - 600 005.

2 The Additional Chief Secretary/ Commissioner of Commercial Taxes Department,
O/o the Commissioner of Commercial Taxes Department,
Ezhilagam, Chepauk, Chennai - 600 009.

3 Tamil Nadu Public Service Commission,
Rep. by its Secretary,
Frazer Bridge Road,
V.O.C.Nagar, Chennai - 600 003. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st and 2nd respondents to issue the order of declaration of probation to the petitioner and re-fix the date of appointment of the petitioner on par with his juniors who got directly recruited to the post of ACTO (Now DCTO) through the Tamil Nadu Public Service Commission in the year 2012 with all consequential benefits including him in the regular panel of the year 2014 to the post of Commercial Tax Officer and other seniority benefits arising thereof.

For Petitioner : Mr.K.Krishnamoorthy
For Respondents : Mr.S.Kanmani Annamalai for R1 and R2
Additional Government Pleader (Taxes)
Ms.C.N.G.Niraimathi for R3

O R D E R

By consent, the writ petition is taken up for final disposal. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) accepts notice on behalf of the respondents 1 and 2. Ms.C.N.G.Niraimathi, learned Standing Counsel accepts notice on behalf of the third respondent

2.The petitioner claims that he belongs to Hindu Malayali Scheduled Tribe Community and he appeared in Combined Subordinate Service Examinations - I, 2009 - 11 on 30.07.2011 conducted by the third respondent and was successful in the written examination and in the counselling held on 15.10.2012, he opted for Deputy Commercial Tax Officer.

3.It is further averred by the petitioner that except him all other individuals were issued with orders during December, 2012 itself and they also joined duty immediately with effect from 17.12.2012, whereas, the petitioner was not communicated with the appointment order. The petitioner in this regard, submitted repeated representations and at last, an order of appointment was issued by the third respondent only on 06.03.2013. The petitioner would aver that the second respondent has already prepared a temporary panel for promotion to the post of Commercial Tax Officer of the year 2014, in which, the other persons who had joined on 17.12.2012 are likely to be included. Though, he has successfully completed the departmental examinations, the regularisation as well as declaration of probation is yet to be done on account of the fact that his certificate was sent for scrutiny before the Tamil Nadu State Level Scrutiny Committee.

4.Learned counsel for the petitioner would submit that the Tamil Nadu State Level Scrutiny Committee vide proceedings dated 16.07.2012 in No.2849/CVIII/2011, has also confirmed the fact that the petitioner belonged to Hindu Malayali Scheduled Tribe Community and as such, there cannot be any impediment to regularise his services and also successful declaration of his probation and in this regard, he has also submitted his representation.

5.The grievance now expressed by the petitioner is that though his probation was declared to be satisfactory on 11.12.2015, the order of appointment is to be re-fixed with effect from 17.10.2012 like the other similarly placed persons and in this regard, he has given a representation dated 05.09.2014, to the second respondent and since no orders have been passed, came forward to file this writ petition.

6.Heard the submissions of the learned counsel appearing for the petitioner, the learned Additional Government Pleader (Taxes) appearing for the respondents 1 and 2 and the learned Standing Counsel appearing for the third respondent.

7.Though the petitioner prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit one more representation to the respondents 2 and 3, along with a copy of this order, as well as a copy of the earlier representation dated 05.09.2014, within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the respondents 2 and 3 are directed to consider the same, on merits and in accordance with law and pass appropriate orders, within a further period of eight weeks thereafter and communicate the decision taken to the petitioner.

8.The writ petition is disposed of accordingly. Consequently, the connected miscellaneous petition is also closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

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Sub Assistant Registrar

To

1 The Additional Chief Secretary
Government of Tamil Nadu
Commercial Taxes Department,
Secretariat, St.George Fort,
Chennai - 600 005.

2 The Additional Chief Secretary/ Commissioner of Commercial Taxes Department,
O/o the Commissioner of Commercial Taxes Department,
Ezhilagam, Chepauk, Chennai - 600 005.

3 The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C.Nagar, Chennai - 600 003.

+1cc to Mr.Krishna moorthy, Advocate, S.R.No.10522
+1cc to the Government Pleader, S.R.No.10515

PK(CO)
RS(01/03/2017)

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