IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.05.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAN

W.P.Nos.4505 and 4506 of 2015

T.Sundaramurthy .. Petitioner in both W.Ps

vs

1. The State of Tamilnadu,
Represented by its Principal Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Chennai - 600 009.

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

Prayer in both W.Ps: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the first respondent, dated 30.09.2013 in G.O.(2D).No.124 and G.O.(3D).No.13 respectively and quash the same.

For Petitioner in both W.Ps : Mr.K.Ramu

For Respondents in both W.Ps : Mr.K.Dhananjeyan, Special Government Pleader

COMMON O R D E R

The order of suspension issued on the petitioner as well as the order not permitting the petitioner to retire from service by the 1st respondent, are under challenge in these writ petitions.

2. The writ petitioner was appointed as a Junior Assistant in the Commercial Tax Department in the year 1974 and was promoted upto the level of the District Registrar with effect from 07.09.2009. A charge memo was issued against the writ petitioner in proceedings dated 19.09.2013 under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules. The sole charge framed against the petitioner was that when he was working as Sub Registrar (in the level of District Registrar) at Royapuram, during the period from 2011 to 2012, he caused financial loss to the Department to the tune of Rs.59,70,901/-. The said financial loss was culled out from the audit report relating to the last quarter of the financial year.

3. Consequent to the initiation of disciplinary proceedings and the issuance of the charge memo in proceedings dated 19.09.2013, the petitioner was placed under suspension by G.O.(2D).No.124, Commercial Taxes and Registration (H) Department, dated 30.09.2013. The order of suspension was issued due to the forthcoming superannuation of the writ petitioner on 30.09.2013. A consequential order under Fundamental Rule 56(1)(c) was also issued in G.O.(3D) No.13, Commercial Taxes and Registration (H) Department, dated 30.09.2013. Both the orders are challenged by the writ petitioner on various grounds.

4. Now, the learned counsel appearing for the writ petitioner contended that the writ petition in W.P.No.26951 of 2013, filed by the writ petitioner, challenging the charge memo, was originally dismissed by the learned Single Judge on 27.09.2013 and the writ petitioner preferred an appeal in W.A.No.2403 of 2013. The Hon'ble Division Bench passed a final order dated 17.03.2015 setting aside the charge memo on the ground of its vagueness and incapable of proceeding further. Accordingly the writ appeal was allowed.

5. The learned Special Government Pleader is unable to dispute the contention regarding allowing of the writ appeal and there is no information with regard to further appeal by way of SLP by the State. Such being the factum of this case, the consequential order of suspension as well as not permitting the writ petitioner to retire from service, are to be set aside. Accordingly, following quashing of the charge memo, further disciplinary proceedings cannot be proceeded with. Hence, the impugned orders are quashed and the writ petitions stand allowed. No costs.

-sd/-
Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

To

1. The Principal Secretary to Government,
   Commercial Taxes and Registration Department,
   Secretariat, Chennai - 600 009.

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

+2 CC TO MR.K.RAMU Advocate SR.NO. 36921
+1 cc Government pleader SR.NO. 36955

W.P.Nos.4505 and 4506 of 2015

vsn[co]

RD 17/05/2017