

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 02.06.2017

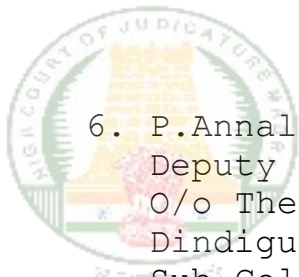
CORAM:

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. [MD] .No.562 of 2017
and
C.M.P (MD) .No.4696 of 2017

1. G.Shasti Kumar
DCTO/Superintendent,
O/o The Assistant Commissioner (CT),
Madurai Rural South,
Dr.Thangaraj Salai, Madurai-20.
2. R.Pandeeswaran,
Deputy Commercial Tax Officer,
O/o The Commercial Tax Officer,
Dindigul--II Assessment Circle,
Sub-Collector Office Road,
Dindigul-624 001.
3. S.Parvathy,
Deputy Commercial Tax Officer,
O/o, The Assistant Commissioner (CT),
Dindigul--V Assessment Circle,
Sub-Collector Office Road,
Dindigul-624 001.
4. P.Mahendran,
Deputy Commercial Tax Officer,
Paramakudi Assessment Circle,
No.3/103, Thiru Nagar,
T.Nalur, Paramkudi,
Ramanathapuram District - 623 701.
5. A.M.Maharifa,
Deputy Commercial Tax Officer,
O/o The Assistant Commissioner (CT),
West Tower Street Circle,
Dr.Thangaraj Salai, Madurai-20.



6. P. Annalakshmi,
Deputy Commercial Tax Officer,
O/o The Assistant Commissioner (Ct),
Dindigul--I Assessment Circle,
Sub-Collector Office Road,
Dindigul-624 001.
7. Rajasekar,
Deputy Commercial Tax Officer,
O/o The Assistant Commissioner (CT),
Thirumanagalam Assessment Circle,
Thirumanagalam, Madurai District.
8. Rajesh Prabu,
Deputy Commercial Tax Officer,
O/o The Assistant Commissioner (CT),
Theni-I Assessment Circle,
Madurai Road, Theni, Theni District.
9. Mohammad Hakkim,
Deputy Commercial Tax Officer,
O/o The Assistant Commissioner (CT),
Palani-I Assessment Circle,
Dr.R.S.Ramalingam Street,
Shanmugapuram, Palani,
Dindigul District - 624 601.
10. C.Radhakrishnan,
Deputy Commercial Tax Officer,
O/o The Commercial Tax Officer,
Ramanathapuram Assessment Circle,
Salai Street, Ramanathapuram District -623 501.
11. Mouna Gurunathan,
Deputy Commercial Tax Officer,
O/o The Commercial Tax Officer,
Kodaikanal, Assessment Circle,
Kodaikanal, Dindigul District.
- : Appellants

Vs.

1. The Secretary to Government,
Commercial Taxes & Registration Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Principal Secretary. Commissioner of
Commercial Taxes,
Ezhimala, Chengalpattu, Chennai-5.



3. The Joint Commissioner (Administration)
O/o The Principal Secretary/ Commissioner
of Commercial Taxes,
Ezhilagam, Chepauk, Chennai-5.

4. The Joint Commissioner (CT),
Madurai Division,
Commercial Tax Building,
Dr. Thangaraj Salai,
Madurai-625 020. Madurai District.

5. The Secretary,
Tamil Nadu Public Service Commission,
Frazar Bridge Road, VOC Nagar,
Park Town, Chennai-600 006.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 05.10.2015 made in W.P.(MD).No.17896 of 2015, on the file of this Court.

Prayer in WP(MD).17896/2015: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned communication in Letter No.P2/1463/2010-11, dated 23.02.2015 on the file of the Respondent No.2 addressed to the Respondents No.4 and 5 and quash the same as illegal and consequently to direct the respondents to declare the probation of the services of the petitioners in the cadre of Deputy Commercial Tax within the time stipulated by this Honourable Court.

For Appellant : Mr.V.Prakash
Senior Counsel
K.Krishnamoorthy

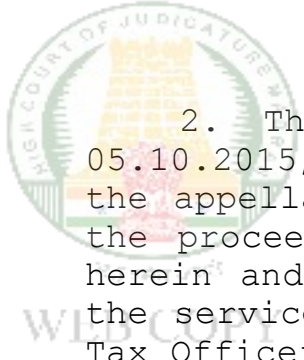
For Respondents 1 to4 : Mr.VR.Shanmuganathan
Special Government Pleader

For Respondent No.5 : Mr.K.K.Senthil
Standing Counsel

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.V.Prakash, learned Senior Counsel appearing for Mr.K.Krishnamoorthy, learned counsel for the appellant, Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents and Mr.K.K.Senthil, learned Standing Counsel, appearing for the fifth respondent. By consent, the Writ Appeal is taken up for final disposal at the stage of admission itself.



2. The Writ Appeal is directed against the order dated 05.10.2015, made in W.P(MD).No.17896 of 2015, which was filed by the appellants herein. The said Writ Petition was filed to quash the proceedings dated 23.02.2015 passed by the second respondent herein and to direct the respondents to declare the probation of the services of the appellants, in the cadre of Deputy Commercial Tax Officers within a stipulated time.

3. The Writ Court dismissed the Writ Petition. The reason for challenging the order dated 23.02.2015 is on account of the condition imposed in Paragraph No.3 of the said order, with regard to declaration of probation of the petitioners/appellants and it was stated that it is subject to outcome of W.P.Nos.22814 and 22815 of 2012 and a criminal case, which is pending in respect of the said recruitment. The Writ Court, after taking note of the factual position, pointed out that one Mr.G.Gnanasekaran, a direct recruit of the year 2010-2012, has been placed under suspension, vide proceedings No.EE2/35848/2013, dated 03.12.2013, for certain malpractices leading to leakage of TNPSC Exam question paper and another person, by name, S.Ravikumar, who was also selected in the same recruitment for the year 2010-2012 and arrested by CBCID in connection with TNPSC Group II leakage of Exam question paper and he was placed under suspension, vide proceedings dated 11.06.2013. Therefore, the Writ Court observed that the criminal cases are pending with regard to leakage of TNPSC exam question paper and if the Criminal Court comes to a conclusion that the question papers are leaked, the examination itself should be held to be illegal. Though such an observation has been made, as pointed out by the learned Senior Counsel for the Writ Petitioners/appellants, the examination in question, which is a subject matter of the criminal proceedings, is stated to have been conducted on 12.08.2012, whereas the Writ Petitioners/appellants had participated in the examination conducted on 30.04.2011 and to substantiate the said submission, the learned Senior Counsel referred to the First Information Report, which states about the date of examination. Further, it is submitted that subsequently, the Government has passed an order on 10.09.2015, declaring the probation of the petitioners/appellants, subject to the final outcome of the Writ Petitions and cases pending on the file of this Court as well as the cases pending before the Principal Bench and the other cases relating to recruitment. It is fairly submitted that the order dated 10.09.2015 was not placed before the Writ Court. Thus, it is submitted that the relief sought for by the Writ Petitioners/appellants in the Writ Petition itself has been granted by the department and there would be no need to proceed further in the Writ Appeal and due to inadvertence, in not placing the order dated 10.09.2015, the Writ Court had dismissed the Writ Petition.

<https://hcservices.ecourts.gov.in/hcservices/>

4. Considering the fact that the probation of the Writ Petitioners/appellants has been declared, vide order dated

10.09.2015, subject to the condition mentioned therein, we are of the view that the relief sought for in the Writ Appeal has worked itself out and therefore, there would be no need to proceed further. Accordingly, the Writ Appeal stands disposed of and the findings recorded by the Writ Court in the impugned order stand vacated and the Writ Petition stands closed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar()

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Commercial Taxes & Registration Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Principal Secretary. Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk, Chennai-5.
3. The Joint Commissioner (Administration)
O/o The Principal Secretary/ Commissioner
of Commercial Taxes,
Ezhilagam, Chepauk, Chennai-5.
4. The Joint Commissioner (CT),
Madurai Division,
Commercial Tax Building,
Dr. Thangaraj Salai,
Madurai-625 020. Madurai District.
5. The Secretary,
Tamil Nadu Public Service Commission,
Frazar Bridge Road, VOC Nagar,
Park Town, Chennai-600 006.

+1cc to M/S. K.K.SENTHIL, Advocate, SR.No.58424.

+1cc to M/S. K.KRISHNAMOORTHY, Advocate, SR.No.23044.

JUDGMENT MADE IN
W.A. [MD] .No.562 of 2017
02.06.2017