



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

AND

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.P.[MD].No.3416 of 2017

M.Devimeena

: Petitioner

Vs.

1.Union of India, rep. by its
Commissioner of Central Excise,
Madurai - 2.

2.The Joint Commissioner of Central Excise,
Office of the Commissioner of Central Excise,
Madurai - 625 002.

3.The Registrar,
Central Administrative Tribunal,
Madras Bench,
Chennai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue writ of certiorarified mandamus, calling for the records relating to the order dated 13.01.2017 made in OA/310/01929/2014 on the file of the 3rd respondent and quash the same, by setting aside the communication bearing C.No.II/33/03/2013-Estt dated 24.02.2014 passed by the 2nd respondent herein and consequently direct the respondents 1 and 2 to reinstate the writ petitioner herein in service as Inspector of Central Excise with effect from 04.03.2014 with all consequential benefits such as continuity of service.

For Petitioner : Mr.G.Prabhu Rajadurai
For Mr.T.Antony Arul Raj

For Respondents : Mr.S.Gurumurthy

ORDER

[Order of the Court was made T.S.SIVAGNANAM, J.]

This writ petition has been filed by an Inspector of Central Excise, challenging the order passed by the Central Administrative Tribunal in O.A.No.310 of 2014. Though the observation made by

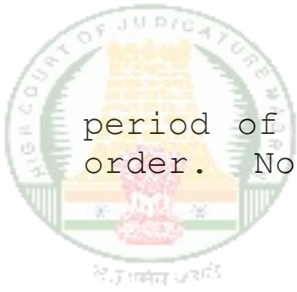
the Tribunal are entirely in favour of the petitioner, the petitioner has filed the present writ petition only with regard to the operative portion of the order passed by the Tribunal and in particular, a direction issued in para 8.

2. The fact which lead to the filing of the original application before the Tribunal was that the petitioner while working as an Inspector of Central Excise under the control of the respondent department submitted an application dated 02.12.2013 stating that she wishes to proceed on VRS. This was probably due to the fact that the petitioner's has a son, who was identified as a "Dyslexic" and needs constant attention and care in his studies as he was in the 9th standard. Subsequently, the petitioner made a request in writing and expressed her intention to revoke the VRS application and requested the Commissioner to consider the letter of cancellation of VRS. However, this was not accepted by the respondent department and an order dated 22.04.2010 came to be passed, which was put to challenge before the Tribunal.

3. The department in their counter affidavit filed before the Tribunal contended that withdrawal of VRS application was conditional and therefore, the department was justified in rejecting the request. The Tribunal, taking into consideration the factual position rejected the contention raised by the department that VRS application was conditional. But, however, did not issue any positive direction to the department to pass an order on the said application, permit her to join duty.

4. The settled legal position is that before application for VRS is accepted, every employee is entitled to withdraw the application. Though, it may be true that in the letter of withdrawal of the VRS application, the petitioner has stated the facts and circumstances prevailing in her family. We find that such withdrawal of application is neither conditional nor contingent upon certain other conditions. In no uncertain terms, the petitioner stated that she wants to withdraw/cancel the application for VRS. In such circumstances, the Tribunal ought to have granted full relief to the petitioner and ought not to have relegated the matter back to the respondent as they have already taken a stand by way of the order dated 24.02.2014 and in the counter affidavit filed before the Tribunal. We are fully convinced that the petitioner is entitled to the full relief sought for by her in the original application.

5. Accordingly, this writ petition is allowed and the operative portion of the direction issued by the Tribunal, more particularly in para 8, is set aside and the order passed by the second respondent dated 24.12.2014 is set aside and consequently, the respondents are directed to permit the petitioner to join duty and continue to serve the department in the capacity of Inspector. The above direction be implemented by the respondent, within a



period of three weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(Records)

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/True copy/

Sub Assistant Registrar

To

1.The Commissioner of Central Excise,
Madurai - 2.

2.The Joint Commissioner of Central Excise,
Office of the Commissioner of Central Excise,
Madurai - 625 002.

3.The Registrar,
Central Administrative Tribunal,
Madras Bench,
Chennai.

+1 cc to Mr.S.Gurumoorthy , Advocate in SR.No. 59535

+1 cc to Mr.T.Antony Arul Raj , Advocate in SR.No. 59520

Arul/dsk

AE/SV/SAR3/15.06.2017/3P/6C

ORDER MADE IN
W.P. [MD] .No.3416 of 2017
08.06.2017