



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Writ Petition (MD) No.1396 of 2013

and

M.P (MD) No.1 of 2013

S.Indira Gandhi

... Petitioner

Vs.

1.The Secretary to Government,
Commercial Tax & Registration Department,
State of Tamil Nadu,
Fort St. George
Chennai-600 009.

2.The Inspector General of Registration,
Chennai-600 028.

3.The District Registrar,
Kanyakumari,
At Nagercoil.

... Respondents

Prayer: This Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the first respondent in G.O.Ms.No.430 dated 28.9.2012 confirming the order passed by the first respondent in G.O.Ms.No.325 dated 20.10.2011 modifying the order passed by the second respondent in his proceeding No.46546/R3/2007 dated 07.08.2008 and quash the same.

For Petitioner : Mr.T.A.Ebenezer

For R1 to R3 : Mr.S.Satheesh Kumar

Additional Government Pleader.

O R D E R

This Writ Petition has been filed to call for the records pertaining to the order passed by the first respondent in G.O.Ms.No.430 dated 28.9.2012 confirming the order passed by the first respondent in G.O.Ms.No.325 dated 20.10.2011 modifying the order passed by the second respondent in his proceeding No.46546/R3/2007, dated 07.08.2008 and quash the same.

2. Challenging the punishment of stoppage of increment for one year without cumulative effect imposed for the relevant period, the petitioner is before this Court.

3. The petitioner was working as a Assistant in Kottram, Sub Registrar Office. While she was in charge as Sub Registrar, it was found that she had issued Encumbrance Certificates by omitting two entries. Hence, she was charged for negligence. An Enquiry



Officer was appointed and an enquiry was also conducted. The petitioner did not deny the charge. Therefore, the Enquiry Officer submitted a report and held that the petitioner is guilty of the charge and second respondent, the Inspector General of Registration, Chennai passed an order of imposing punishment of stoppage of increment for two years without cumulative effect. The petitioner challenged the said order by way of first appeal before the first respondent. The first respondent is taking a lenient view reduced the punishment of stoppage of increment for one year without cumulative effect on 20.10.2011. A review sought for by the petitioner was also rejected by the first respondent on 28.09.2012.

4. The learned counsel appearing for the petitioner would contend that apart from the petitioner, another person who is working as Assistant in the Sub Registrar's Office also charged for the same offence and however, he has been imposed a lesser punishment of stoppage of increment for the period of three months, claiming that the petitioner has not been treated equally, when the charge is the same, the counsel appearing for the petitioner seeks interference with the order imposing punishment.

5. It is not a dispute that the petitioner served as Sub-Registrar, on the crucial date when the Encumbrance Certificate was issued by omitting two entries. The Sub-Registrar definitely has more responsibilities. Even though the charge is same nature of delinquency is much more serious. The learned counsel appearing for the petitioner would rely upon the Judgment of the Hon'ble Supreme Court in the **State of UP and others Vs. Raj Pal Singh Equivalent to 2002(4) AWC 2946 SC**. In the said case, the charge was that four Assistant Warders were accused of beating up one Shivadan Singh and even though the Senior officers dissuaded them, they never listened. These allegations were proved in a Departmental Proceeding and the disciplinary authority passed orders of dismissal for some of the Warders and for others a lesser punishment of stoppage of five increments was imposed. The High Court's order of dismissal was confirmed by the Supreme Court.

6. It is seen from the facts that the nature of delinquency and the charges are the same. The delinquent officials belong to the same category of employment, but, in the case on hand, the petitioner was in charge as Sub-Registrar on the date of occurrence. She is definitely an higher official with more responsibility. Therefore, even though the charge is same, the delinquency is much more serious. Hence, I see no reason to interfere with the punishment imposed by the authorities. The Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

Sub Assistant Registrar



To

1.The Secretary to Government,
Commercial Tax & Registration Department,
Fort St. George
Chennai-600 009.

2.The Inspector General of Registration,
Chennai-600 028.

3.The District Registrar,
Kanyakumari,
At Nagercoil.

+1 CC to Mr.T.A.EBENEZER, Advocate, SR No. 15638

TRP/SM

PSM/MR/SAR3/21.04.2017/3P/5C

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