IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.7.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.1129 of 2018
and
C.M.P.No.9087 of 2018

B. Suseel Kumar ... Appellant

Versus

1 The Govt. of Tamil Nadu
Rep by Secretary to Government
Commercial Taxes Department
Fort St. George Secretariat
Chennai 600 009

2 The Principal Secretary/
Commissioner of Commercial Taxes
Ezhilagam Chennai 600 005 ... Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 19.1.2018 passed in W.P.No.17272 of 2014 on the file of this court.

WP.17272 of 2014: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified mandamus Calling for the records relating to the proceedings of the 2nd respondent in letter No.Lr.Ref. CD2/16033/2014 dt 12.6.2014 and quash the same and direct the 1st respondent herein to grant promotion to the petitioner from the Post of Deputy Commissioner (Commercial Taxes) to the post of Joint Commissioner (Commercial Taxes) without reference to the pendancy of the Charge Memo in Lr.Ref. CD2/16033/ 2014 dt 12.6.2014 of the 2nd respondent herein.

For appellant : Mr.K.Krishnamoorthy
For respondents : Ms.G.Dhana Madhuri
Government Advocate

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant and Ms.G.Dhana Madhuri, learned Government Advocate, who takes notice for the respondents.

2. Aggrieved against the order passed by the learned Single

Judge in declining to quash the charge memo, rather directing the respondents to conclude the enquiry proceedings within a time limit, the writ petitioner has come up before this court.

3. It appears that the appellant/writ petitioner, while working as Deputy Commissioner(CT), Enforcement, Chennai South, was deputed as one of the team members to conduct a surprise inspection of an assessee, who is said to have evaded the tax liability, however, later, he was subjected to disciplinary proceedings by issuance of charge memo on 12.6.2014, on the basis of the complaint made by the assessee with regard to some procedural lapses in seizing the records from them. The appellant filed the writ petition seeking to quash the charge memo and to direct the respondents to grant promotion to him from the post of Deputy Commissioner (Commercial Taxes) to the post of Joint Commissioner (Commercial Taxes) without reference to the pendency of the charge memo.

4. The learned Single Judge, after elaborate discussion of the facts and circumstances of the case in the light of Rules governing with the penalties and procedures and also various decisions, has directed the respondents to continue with the disciplinary proceedings, however, to conclude the same within six months, after affording opportunity to the appellant/writ petitioner.

5. It is the stand taken by the appellant that the learned Single Judge, without considering the nature of charges observed that the respondents are entitled to proceed against the enquiry by providing opportunity to the appellant/writ petitioner as per the rules and pass final orders and therefore, sought for indulgence of this court.

6. Having heard the learned counsel for the parties and perused the order passed by the learned Single Judge, we find that the learned Single Judge has elaborately examined factual circumstances in the light of various decisions and having found the procedure lapses are said to have been committed by the petitioner, directed to proceed with the enquiry proceedings and conclude the same by providing opportunity to the appellant/writ petitioner as per the rules and pass final orders within a period of six months.

7. In our view, no prejudice is shown to have been caused to the petitioner by the order passed by the learned Single Judge. In such view of the matter, we do not find any reason to interfere with the order passed by the learned Single Judge. The writ petition dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1 The Govt. of Tamil Nadu
Rep by Secretary to Government
Commercial Taxes Department
Fort St. George Secretariat
Chennai 600 009

2 The Principal Secretary/
Commissioner of Commercial Taxes
Ezhilagam Chennai 600 005

+1cc to Mr.K.Krishna Moorthy Advocate, S.R.No. 48860
+1cc to the Government Pleader, S.R.No. 49563

W.A.No.1129 of 2018

GN(04/09/2018)