IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.1886 of 2015
in
M.P.Nos.1 & 2 of 2015

S.Bharathan ..Petitioner

//Vs.//

The Principal Secretary and
Commissioner of Commercial Taxes,
Chepauk,
Chennai - 600 005. .. Respondent

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, to call for the records of the proceedings of the respondent in Ref.No. P1/34185/2014 dated 03.12.2014 and squash the same and consequently direct the respondent to include and promote the petitioner in the panel for the year 2014 to the post of Commercial Tax Officer.

For Petitioner : Mr.V.Vijay Shankar

For Respondent : Mr.M.Elumalai
Government Advocate.

O R D E R

The relief sought for in this writ petition to call for the records in pursuant to the orders passed by this Court in Ref.No.P1/34185/2014 dated 03.12.2014 and quash the same and direct the respondent to include the name of the writ petitioner for promotion to Commercial Tax Officer in the panel for the year 2014.

2.The learned Counsel appearing on behalf of the writ petitioner made a submission that the name of the petitioner had been deferred on account of fact that he was suffering a punishment of “censure”, during the relevant point of time, when the panel for promotion was prepared and published. However, the said punishment of censure was challenged by the writ petitioner in W.P.No.39016 of 2015 and the same was allowed by this Court on 25.04.2018 and the Order of punishment was set aside. Thus, it is contended that the case of the writ petitioner shall be considered afresh in the light of the orders passed in W.P.No.39016 of 2015.

3.This Court is of an opinion that if the name of the official is deferred on account of punishment. If the punishment is set aside either by he Appellate Authority or by the Court, then, the officer would be eligible for retrospective promotion on par with his immediate juniors, who had been promoted in the relevant panel. This being the principles are to be followed, this Court is of an opinion that the case of the writ petitioner deserves consideration in the hands of the respondent. In view of the fact that the order of punishment of censure has already been set aside by the Court.

4.Accordingly, the impugned order is quashed and the respondent is directed to reconsider the case of the writ petitioner for promotion to the post of Commercial Tax officer for the panel of the year 2014 on par with his immediate juniors, if he is otherwise qualified in accordance with the law and there is no other impediment for grant of such retrospective promotion. The said exercise shall be done by the respondents, within a period of twelve weeks from the date of receipt of a copy of this order.

5.Accordingly, the writ petition stands allowed. Consequently, the connected Miscellaneous Petitions are closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

ggi
To
The Principal Secretary and
Commissioner of Commercial Taxes,
Chepauk,Chennai - 600 005.

+1cc to Mr.V.Vijayshankar, Advocate Sr.no.35792
+1cc to Government Pleader Sr.No.35824

SSV(CO)
GSP:21.6.2018

W.P.No.1886 of 2015
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