

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 28.06.2018

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.30216 of 2003

Defence Workers Union rep by
its President,
R. Muthu
Regd No.245/NIG/2002,
No.233, Water Loc Road,
Wellington Barracks,
The Nilgiris - 643 231

.... Petitioner

Vs.

The Executive Officer,
Cantonment Board,
Wellington,
The Nilgiris District

.... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in R/III/3/X/E-3, dated 02.09.2003, on the file of the Respondent and quash the same as illegal and direct the Respondent to grant exemption from collecting professional tax from the salaries of the Members of the Petitioner Union.

For Petitioner : Mr.R. Sankarasubbu
For Respondent : Mr.M. Vijayan for
M/s King & Patridge

ORDER

The Petitioner, which is an association of staff of the Armed Forces in the Cantonment Area of the Respondent, has challenged the levy of professional tax to its members, in this Writ Petition.

2. Heard Mr.R. Sankarasubbu, learned counsel for the Petitioner and Mr.M. Vijayan of M/s King and Patridge for the Respondent.

3. Learned counsel for the Petitioner relies on the decision

of the Hon'ble Supreme Court of India in GOPAL UPADHAYAYA vs UNION OF INDIA (AIR 1987 SC 413) that non-combatants who are in some matters governed by the Civil Service Regulations, are integral to the "Armed Forces" within the contemplation of Article 33 of the Constitution of India, 1950, and contends that the members of the Petitioner Association are entitled to the same benefit of exemption from levy of professional tax extended to army personnel.

4. Learned counsel for the Respondents, on the other hand, referring to Rule 19 of the Army Rules, 1954, read with Section 21 of the Army Act, 1950, points out the Petitioner Association cannot espouse the cause of its members in the absence of any express sanction of the Central Government for the same.

5. Despite time granted, learned counsel for the Petitioner is not in a position to produce such express sanction from the Central Government and in such circumstances, seeks permission of this Court to withdraw this Writ Petition with liberty to the individual members of the Petitioner Association to pursue appropriate remedy in this regard and he has also made an endorsement to that effect.

6. Recording the same, the Writ Petition is dismissed as withdrawn with such liberty. It is made clear that no views have been expressed by this Court on correctness or entitlement of the claim made by the Petitioner in this Writ Petition. No costs.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

sr

To

The Executive Officer,
Contonment Board,
Wellington, The Nilgiris District.

+1cc to Mr.King and Partridge, Advocate SR.No.42472

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VGII(CO)
GN(17/07/2018)