IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.34262 of 2019

N.Vadivel ..Petitioner

Vs.

The Commissioner of Commercial Taxes,
Chepauk, Chennai - 5 ..Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the order of the respondent herein passed in his Proc.No.CD1/31243/2015 dated 16.07.2018 imposing a punishment of stoppage of increment for a period of three years without cumulative effect.

For Petitioner : Mr.Ravi Shanmugam
For Respondents : Mr.Master Ganesh, Standing Counsel (Taxes)

ORDER

Mr.Master Ganesh, learned Standing Counsel, takes notice for the respondent. On consent given by the learned counsel appearing on either side, this writ petition is taken up for final hearing.

2. This writ petition has been filed challenging the impugned order passed by the respondent, dated 16.07.2018, imposing a punishment of stoppage of increment for three years with cumulative effect.

3. The petitioner was working as a Assistant Commissioner from the year 2014. Charges were framed against the petitioner under 17(a) of the Tamil Nadu Civil Service (Discipline & Appeal) Rules, in the year 2015. The petitioner submitted an explanation for this purpose and the disciplinary proceedings went on. Ultimately, the respondent has passed the impugned order imposing the punishment of stoppage of increment for three years with cumulative effect.

4. Mr.Ravi Shanmugam, learned counsel appearing on behalf of the petitioner submitted that the impugned order does not contain any reasons for imposing such a punishment against the

petitioner. The learned counsel submitted that the respondent has merely extracted the charges and the reply that was given to each one of the charge and without even discussing the explanation and applying his mind, the respondent has straight away imposed the punishment.

5. The learned counsel for the petitioner submitted that the impugned order requires interference on this sole ground.

6. Heard the learned counsel appearing for the respondent.

7. This Court finds force in the submission made by the learned counsel for the petitioner. A careful reading of the impugned order shows that the respondent has merely reproduced every charge and the explanation that was given from either side and without any discussion, whatsoever, the impugned order has been passed imposing punishment of stoppage of increment for three years with cumulative effect. When such a major punishment is given by the respondent, he is expected to give his reasons for coming to such conclusion. In the absence of any reasons, the order itself suffers from non-application of mind and it requires interference on this sole ground alone.

8. In the result, the impugned order passed by the 2nd respondent in Proc.No.CD1/31243/2015, dated 16.07.2018, is hereby set aside. The matter is again remanded back to the respondent and the respondent is directed to consider the charges and the explanation given by the petitioner and he is expected to apply his mind and thereafter, pass a suitable orders by giving reasons.

9. This writ petition is accordingly allowed with the above directions. No costs.

Sd/-
Assistant Registrar(C.S.VIII)

/True Copy/

Sub Assistant Registrar

To

The Commissioner of Commercial Taxes,
Chepauk, Chennai - 5

+1 cc to M/s.Ravi Shanmugam,Advocate Sr.No. 102656
+1 cc to The Special Government Pleader Sr.No. 103307

AKM/28.01.2020/2P-4C / W.P.No.34262 of 2019