BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

WP(MD)No.9791 of 2018
and WMP(MD)No.8985 of 2018

P.Ponnum Perumal ... Petitioner

Vs.

1.The Principal Secretary to Government,
Commercial Taxes and Registration (H) Department,
Fort Saint George,
Chennai - 600 009.

2.The Inspector General of Registration,
Office of the Inspector General of Registration,
100, Santhome High Road,
Mylapore, Chennai - 600 004. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance a Writ of Certiorari to call for the records relating to the order made in G.O(D)No.42 dated 12.03.2018 on the file of the first respondent and quash the same.

For Petitioner : Mr.A.Thiyagarajan
Senior Counsel for
Mr.D.Veerasekaran

For Respondents : Mr.M.Murugan,
Additional Government Pleader

ORDER

This writ petition has been filed seeking to quash G.O(D)No.42 dated 12.03.2018 passed by the first respondent.

2.The case of the petitioner is that he was appointed as Junior Assistant in the Registration Department and was subsequently, promoted upto the level of District Registrar. While he was working as a District Registrar (Administration) at Tindivanam, he was issued with a charge memo, wherein 4 charges were framed against him and pursuant to the same, he was placed under suspension on 04.04.2013. Later on, the said suspension order was revoked on 23.07.2013. However, departmental proceedings were initiated against the petitioner and enquiry was conducted. Ultimately, it was concluded that out of the 4 charges, 1st and 2nd charges were not proved and 3rd and 4th charges were held to be proved. Based on the enquiry report, the punishment of stoppage of increment for one year without cumulative effect, was awarded and a recovery of Rs.3,50,791/- from the salary of the petitioner in 17 installments was also ordered, by the first respondent vide order dated 12.03.2018, which is impugned herein.

3.Upon notice, the respondents have filed a detailed counter affidavit, wherein at paragraph No.8 it is stated as follows:

> *"8. However, there is a procedural lapse since the petitioner herein has usurped the power of Deputy Inspector General of Registration by reducing the value from Rs.500/- per Sq.ft to Rs.400/- per sq.ft and has thus violated the instructions of the 2nd respondent issued in Circular No.29310/L1/2009 dated 28.03.2012 and 43413/L1/2010 dated 12.09.2011 and thus violated Rule 20 (1) of the Tamil Nadu Government Servant Conduct Rules, and was awarded punishment of stoppage of increment for one year without cumulative effect which is in order"*

4.Assailing the order impugned herein, the learned Senior Counsel appearing for the petitioner made the following contentions:

4.1 With regard to the third charge that the petitioner did not rectify the value fixed by the Joint Sub Registrar-2, Tindivanam at Rs.500/- for Sree Balaji Avenue of Kidangal Village, Tindivanam, nor placed the same before the Deputy Inspector General of Registration and thereby, acted in favour of the land owners and caused loss to the Government to the tune of Rs.3,50,791/-, it is submitted that (i)the documents were registered in the year 2012, whereas the upward revision was given effect from 05.04.2013 and hence, the same cannot be made applicable to those documents of the year 2012; (ii)the four documents bearing Nos.3073/12, 3074/12, 3075/12 and 3076/12 pertaining to Sree Balaji Avenue of Kidangal Village, Tindivanam, were registered on 18.10.2012 and the same was rectified by the petitioner even before the upward revision by the Government and hence, there is no revenue loss to the Government as alleged in the impugned order; and (iii)further, the parties to the documents have paid the stamp duty at the rate of Rs.1,205/- as demanded by the department.

4.2 With regard to the 4th charge that when the Joint Sub Registrar-2, Tindivanam fixed the value at Rs.500/- for Kaveripakkam Village S.Nos.71/10, 11, 13 to 16 etc. for the layout in SVK Nagar and the same was sent for rectification, the petitioner fixed only Rs.400/- with an intention to give benefit to the land owners and thereby, caused loss to the Government to the tune of Rs.7,84,109.50 and violated Rule 20(1) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, it is submitted that (i)there is no registered document to prove that the market value was Rs.500/- in and around SVK Nagar; and (ii)the deficit stamp duty relating to the sale deeds mentioned in this charge, was referred under Section 47(A)(3) of the Indian Stamps Act to Deputy Collector (Stamps), Cuddalore, who, after due enquiry and verification of encumbrance certificate and spot inspection, has passed orders on 04.09.2015 and 24.10.2014, stating that the

guideline value fixed by the Government is Rs.400/- and hence, there is no loss to the Government.
Thus, the learned Senior Counsel submitted that based on the enquiry report, the punishment inflicted on the petitioner and the consequential recovery made against the petitioner, are arbitrary, illegal and contrary to law and hence, the same cannot be allowed to sustain.

5.The learned Additional Government Pleader appearing for the respondents made his submissions supporting the order impugned herein.

6.Heard both sides and perused the records.

7.Concededly, the petitioner was issued with a charge memo, containing four charges. After enquiry, the Enquiry Officer concluded that charge nos.1 and 2 have not been proved and charge nos.3 and 4 have been proved. Based on the same, the first respondent passed the order, inflicting punishment and recovery against the petitioner, which is impugned herein.

8.The main allegation made against the petitioner is that he has caused revenue loss to the Government by fixing the value for registration of the documents in question, contrary to the instructions issued by the Deputy Inspector General of Registration, Cuddalore, for which, he was inflicted with the punishment of stoppage of increment for one year without cumulative effect, by the impugned order. However, having regard to the submissions made by the learned Senior Counsel for the petitioner and on going through the materials placed on record, this Court is of the view that by the act of the petitioner, there is no loss caused to the Government, as the parties to the documents have paid the stamp duty as demanded by the department. As such, the punishment imposed on the petitioner is excessive and the consequential recovery made against him is arbitrary, unjust and unsustainable in law and hence, the same are liable to be set aside.

9.In view of the foregoing discussions, this writ petition stands allowed and the order dated 12.03.2018 passed by the first respondent is set aside. However, it is open to the respondents to give warning to the petitioner to follow the Rules strictly in future. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Vacation officer/
Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

dsk/rk

To

1.The Principal Secretary to Government,
Commercial Taxes and Registration (H) Department,
Fort Saint George,
Chennai - 600 009.

2.The Inspector General of Registration,
Office of the Inspector General of Registration,
100, Santhome High Road,
Mylapore, Chennai - 600 004.

+1CC TO MR.D.VEERASEKARAN, Advocate Sr. No.59257
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 59256

WP(MD)No.9791 of 2018
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