BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **27.11.2019**

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**

**and**

**THE HONOURABLE MRS.JUSTICE R.THARANI**

**W.A.(MD)No.1345 of 2019**

**AGAINST**

**WP(MD)No.19809 of 2013**

S.Loganathan ... Appellant/Petitioner

Vs.

1.The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George,Chennai.

2.The Commissioner of Commercial Taxes,
Ezhilagam Buildings,
Chepauk,Chennai-600 005.

3.The Joint Commissioner (Legal),
Office of the Commissioner of Commercial Taxes,
Legal wing at Madurai,
Commercial Taxes Buildings,
Dr.Thangaraj Salai,
Madurai-625 020. .. Respondents/Respondents

**PRAYER:** Writ Appeal is filed under Clause 15 of the Letter Patent Act, to set aside the order dated 05.08.2019 in W.P.(MD)No.19809 of 2013 and allow this writ appeal.

**PRAYER IN WP(MD)NO.19809 OF 2013**

Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the G.O.(MS).No.122, Commercial Taxes and Registration (E1) Department, dated 20.09.2013, passed by the first respondent, insofar as it relates to the sentence that 'this is only a formal order issued for record purpose, since his junior has not reached his turn in the regular panel of Commercial Tax Officers fit for appointment as Assistant Commissioners for the years from 1984 to 2010 and this will not entitle him for inclusion in the regular panel and to quash the same and further to direct the respondents to promote the petitioner to the post of Assistant Commissioner in the Department of Commercial Taxes with effect from 04.03.2010 being the date on which his junior, by name, Thiru.T.G.Sundaramoorthy, joined duty as Assistant Commissioner and further to direct the respondents to disburse to the petitioner the consequential monetary benefits.

For Appellant : Dr.D.Gnanasekaran

For Respondents : Mr.S.Angappan
Government Advocate

**JUDGMENT**

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Dr.D.Gnanasekaran, learned counsel for the appellant and Mr.S.Angappan, learned Government Advocate for the respondents. By consent on either side, this writ appeal is taken up for final disposal.

2. This appeal has been filed against the order, dated 05.08.2019 made in W.P.(MD)No.19809 of 2013.

3. The appellant after a period of ten years of his retirement submitted a representation stating that he should be promoted to the post of Assistant Commissioner by relaxing the relevant Rules and placed in an appropriate place in the panel. It is not in dispute that the appellant suffers censure during the relevant point of time and his case was not considered. The appellant's case rests upon the promotion granted to one Balamurugan, who according to the appellant is Junior to him.

4. This contention has been explained by the Department in their counter affidavit by stating that the case of the appellant was deferred in the temporary panel for Assistant Commissioner for the year 2009-2010 in view of the pendency of the charge under Section 17(b) of the Rules and the charge was dropped by proceedings, dated 12.01.2012 and therefore, his name was not found in the panel published in G.O.Ms.No.20, Commercial Taxes and Registration (E1) Department, dated 26.02.2010.

5. The contentions, which have been put forth in the counter affidavit, have not been denied by the petitioner. Now the appellant seeks for relaxation of the qualification, grant him notional promotion and consequently to fix a higher scale of pay and thereafter, revise his pension. Such prayer is not maintainable, especially when the appellant had retired from service on attaining the age of superannuation on 30.04.2010. Further, as rightly noted by the learned Writ Court that there is no vested right for the petitioner to seek for promotion that too by relaxing the required qualification for promotion. Grant of relaxation is not a matter of

right. Therefore, there is no error in the order passed by the learned writ Court. Accordingly, this writ appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

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+2CC'S TO Special Government Pleader, Sr.Nos.102681 & 102372

**W.A.(MD)No.1345 of 2019**
**27.11.2019**

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