IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.20103 of 2013

NM Rajaapandiyan
(formerly M.Rajapandian) ... Petitioner

vs.

1. State of Tamil Nadu,
rep.by its Secretary to Government,
Commercial Taxes & Registration
Department, Secretariat,
Chennai - 600 009.

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

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to promote the petitioner notionally as Assistant Commissioner of Commercial Taxes from 1997 and as Deputy Commissioner of Commercial Taxes from 6.3.2007, the date on which the petitioner's junior was promoted and confer all the consequential benefits, by considering the representation made by the petitioner dated 30.12.2009 which was followed by reminders on 12.11.2010, 10.6.2011, 19.08.2011 and 22.03.2013.

For Petitioner : Mr.P.Ganesan for
M/s.C.S.Associates

For Respondents : Mr.R.Swarnavel

ORDER

Petitioner has come up with this Writ Petition seeking a direction to the respondents to promote him notionally as Assistant Commissioner of Commercial Taxes from 1997 and as Deputy Commissioner of Commercial Taxes from 6.3.2007, the date on which his junior was promoted and confer all the consequential benefits, by considering the representation made by the petitioner dated 30.12.2009 which was followed by reminders dated 12.11.2010, 10.6.2011, 19.08.2011 and 22.03.2013.

2. According to the Petitioner, on 08.07.1974, he joined as Assistant directly in Tamil Nadu Secretariat and he was awarded Selection Grade in the year 1984. Though he was eligible to be included in the list for appointment to the post of Commercial Tax Officer in the year 1990, his name was not included, which compelled him to file O.A.No.1034 of 1996. By order dated 02.04.2004, the said Original Application was dismissed, against which, he filed W.P.No.21484 of 2004. By judgment dated 30.11.2006, the Division Bench allowed the said writ petition and directed the respondents therein to give appointment to the petitioner as Commercial Tax Officer. Pursuant to the same, the Government implemented the said judgment and issued order in G.O.(2D) No.137, CT & RE Department dated 17.08.2007. However, the second respondent has not complied with the said Government Order. Hence, the petitioner filed Contempt Petition No.632 of 2009. During the pendency of the same, the petitioner was appointed as Commercial Tax Officer on 28.10.2009. Thereafter, seeking notional pay fixation on par with his junior and pay arrears and monetary benefits, he made a representation dated 30.12.2009 to the Respondents, which was followed by reminders on 12.11.2010, 10.6.2011, 19.08.2011 and 22.03.2013. However, none has not been taken up for consideration. Therefore, having no other alternative, the Petitioner has come up with the present Writ Petition.

3. Learned counsel for the Petitioner submitted that, the representation dated 30.12.2009 made by the Petitioner may be directed to be considered by the Respondents and appropriate orders may be passed within a reasonable time.

4. In reply, learned counsel appearing for the Respondents submitted that, he has no objection to the consideration of the Petitioner's representation by the Respondents within a reasonable time.

5. Having regard to the submissions made by the learned counsel on either side, as the Petitioner's representation has not been taken up for consideration by the Respondents, this Court, without going into the merits of the case, directs the Petitioner herein to send a copy of the representation dated 30.12.2009 along with a copy of this order to the Respondents within a period of two (2) weeks from the date of receipt of a copy of this order. On receipt of the same, the Respondents shall consider the Petitioner's representation dated 30.12.2009 and pass appropriate orders on merits and in accordance with law, within a period of twelve (12) weeks.

6. The Writ Petition is disposed of with the above direction. No costs.

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Assistant Registrar(CS)

//True copy//

Sub Assistant Registrar

av/aeb

To

1. The Secretary,
The State of Tamil Nadu,
Commercial Taxes & Registration
Department, Secretariat,
Chennai - 600 009.

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

+1 C.C. to M/S. C.S.Associates Advocate SR.NO. 37465

+1 C.C. to The Special Government Pleader High Court, Madras SR.NO. 37469

W.P.No.20103 of 2013

CA (CO)

VS 19.12.2020