IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2020

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.9023 of 2020

T.Thambidurai ... Petitioner

vs.

1. The State of Tamil Nadu,
   rep.by its Secretary to Government,
   Commercial Taxes and Registration Department,
   St.George Fort, Secretariat,
   Chennai-9.

2. The Principal Secretary/Commissioner of
   Commercial Taxes,
   Chepauk,
   Chennai-5 ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the first respondent to conclude the departmental proceedings and pass final orders in pursuance of the Charge Memos issued by the 2nd respondent in his proceedings in CD2/6793/2014 dated 06.03.2014 and in his proceedings in CD2/29323/2016, dated 14.07.2017 and by considering the petitioner's representations dated 22.10.2019 and 08.06.2020 within the period that may be stipulated by this Court.

For Petitioner :Mr.C.Venkatesh Kumar

For Respondents :Mr.Hariharan Mohan Kumar,A.G.P.

ORDER

The matter is taken up through web hearing.

2.The writ petition is filed with the following prayer:

> "to direct the first respondent to conclude the departmental proceedings and pass final orders in pursuance of the Charge Memos issued by the 2nd respondent in his proceedings in CD2/6793/2014 dated 06.03.2014 and in his proceedings in CD2/29323/2016, dated 14.07.2017 and by considering the petitioner's representations dated 22.10.2019 and 08.06.2020 within the period that may be stipulated by this Court.

3.The case of the petitioner is that he was appointed as Assistant Commercial Tax Officer (ACTO) at Commercial Tax Department, Madurai on 20.04.1990. He was promoted as Deputy Commercial Tax Officer (DCTO) on 10.01.2001 and further promoted as Commercial Tax Officer on 15.03.2007. Finally, he was promoted as Joint Commissioner (Commercial Taxes) in 2013 and was also transferred and posted as Additional Departmental Member, at Sales Tax Appellate Tribunal(STAT), Coimbatore in 2014.

4.When the petitioner was due for retirement on 31.10.2014, he was placed under suspension on the eve of his retirement, vide Government Proceedings dated 30.10.2014 and was not allowed to retire by the subsequent proceeding passed on 31.04.2014. He was issued with a Charge Memorandum under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The charges against the petitioner were in relation to his discharge of function in a Supervisory capacity. Thereafter, an Enquiry Officer was appointed and an enquiry was also conducted and report was submitted on 11.03.2016. According to the petitioner, the report found some charges proved and some are not proved. The petitioner submitted his explanation to the report on 11.08.2017 and no final order has been passed as on date.

5.In the meanwhile, the petitioner was issued with another charge memorandum on 14.07.2017, by the second respondent, in regard to similar allegations and in pursuance of the said charge memo, an enquiry was conducted and according to the petitioner, the enquiry was also completed. However, no report was forwarded to him and no final order was passed as on date.

6.The grievance of the petitioner is that despite his superannuation date fell as early as on 31.10.2014, in view of the pendency of disciplinary proceedings for all these years, the petitioner is facing untold hardship, surviving without full pensionary benefits. For no valid reasons, the second respondent or any other authority concerned has not passed final orders in the disciplinary proceedings and the protracted proceedings has drastically affected his right to livelihood and survival. Therefore, the petitioner is before this Court seeking direction for early completion of the disciplinary proceedings.

7.After notice, Mr.Hariharan Mohan Kumar, learned Additional Government Pleader, entered appearance on behalf of the respondents.

8.When the matter is taken up for hearing today, the learned Additional Government Pleader would submit, on instructions, that he would have no objection if a direction is issued to the respondents to complete the departmental proceedings within a period of 12 weeks from the date of receipt of copy of this order.

9.Considering the submissions of the learned Additional Government Pleader for the respondents and also the limited prayer as sought in the writ petition, the writ petition is disposed of as under:

> The respondents are directed to complete the departmental/disciplinary proceedings initiated against the petitioner by passing final orders in respect of both the charge memorandums, as aforementioned, within a period of twelve weeks from the date of receipt of copy of this order. The respondents are also directed to comply with all mandatory legal requirements before passing final orders in the matter.

10.The writ petition stands disposed of as indicated above. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mrm/msk

To

1. The Secretary to Government,
   Commercial Taxes and Registration Department,
   St.George Fort, Secretariat,
   Chennai-9.

2. The Principal Secretary/Commissioner of
   Commercial Taxes,
   Chepauk,Chennai-5

+1cc to the Special Government Pleader, Sr.No.24964

W.P.No.9023 of 2020

RSV(CO)
GS(05/08/2020)