BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 01.09.2020
DELIVERED ON : 07.09.2020
CORAM:
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN
WP(MD).No.3465 of 2014 and
M.P(MD).No. 2 of 2014

T. Subbiah : Petitioner

Vs.

1. The Secretary,
Government of Tamil Nadu,
Commercial Taxes and Registration,
A1 Department, Fort St. George,
Chennai.

2.The Commissioner of Commercial Taxes,
Chepauk,
Chennai.

3.The Joint Commissioner of Commercial Taxes,
Tirunelveli Division,
AR Line Road,
Palayamkottai,
Tirunelveli District. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certirori calling for the records relating to the impugned order made by the 1st respondent in G.O.(2D) No. 57, commercial Taxes and Registration A1 Department, dated 09.05.2013 and quash the same.

For petitioner : No appearance
For Respondents : M/s. J. Padmavathi Devi
Special Government Pleader

ORDER

This Writ Petition has been filed to quash the impugned order made by the 1st respondent in G.O.(2D) No. 57, commercial Taxes and Registration A1 Department, dated 09.05.2013.

2. There was no representation on behalf of the petitioner for more than three hearings and today also there is no representation on behalf of the petitioner. Since the matter is pending from 2013 without any progress, this Court is inclined to dispose of the writ petition on merits.

3. The factual matrix of the petitioner's case are as under:

The petitioner was working as Assistant Commercial Tax Officer at Commercial Tax Check Post, Kavlkinar. The second respondent vide proceeding, dated 19.12.2005 framed four charges against him under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and he has also submitted his explanation on 14.02.2006. The second respondent has appointed the Additional Appellate Deputy Commissioner, Coimbatore as the Enquiry Officer on 30.11.2006 and he has also submitted his enquiry report on 12.11.2009 by holding two charges as “not proved”. Since the Enquiry report has been submitted after a period of three years from the date of appointing the Enquiry Officer and the Government has disagreed with the finding of the Enquiry Report, the first respondent has issued a memo, dated 13.09.2010, calling for further representation and further representation of the Petitioner are all examined in detail by the second respondent. Since the charges are grave in nature and the Petitioner bearing high responsibility, punishment is warranted in spite of his short period for retirement, accordingly an order of punishment of stoppage of increment for one year without cumulative effect was imposed. It was observed that the effect of punishment will not affect his pension. In such circumstances, the petitioner has preferred an appeal before the first respondent and the same was rejected. Challenging the same, the petitioner has filed the present Writ Petition before this Court.

4. The following four charges are framed against the petitioner:

(1) While on duty as Assistant Commercial Tax Officer / Check Post Officer at C.T. Checkpost, Kavalkinaru on 14.10.2003 between 6.00 hours and 11.00 hours along with his subordinates Thiru. P. Thangaraj, Assistant, Thiru.. S. Thirumalai, Record Clerk and M.S. Kaja Mohideen, Office Assistant was found to have been in possession of Rs.1,853/- over and above the collected tax amount during the course of surprise check conducted at the said check post on 14.10.2003 by the officials of competent authority.

(2) While on duty on the aforesaid check post, had failed to collect tax of Rs.4,578.40/- in respect of the cash bills / Gate Pass.

(3) While on duty in the aforesaid check post, during the aforesaid period had failed to bundle and label the copies of the bills of Tvl. Chandra Traders, Virudhunagar and Sri Venkateshwara Steels, Ponneri collected at the said check post and to keep at

the check post in safe custody as required under the instructions of Special Commissioner and Commissioner of Commercial Taxes Lr.No.D3/10481/2002, dated 13.02.2002 and kept in the Zip bag unauthorisedly.

(4) While on duty as Assistant Commercial Tax Officer / Checkpost Officer in the aforesaid checkpost by committing the above lapses have failed to maintain absolute integrity and devotion to duty and conducted himself in a manner unbecoming of a Government Servant and thus violated Rule 20(1) of the Tamil Nadu Government Servant Conduct Rules 1973.

5. I have heard Mrs. J. Padmavathi Devi, learned Special Government Pleader appearing for the respondents.

6. Though the Enquiry Officer has held that the charges are not proved, taking note of the evidence of PW.1 viz., Deputy Superintendant of Police, Vigilance and Anti Corruption, Thirunelveli and also on the factual position with regard to charges 2 and 3, the disciplinary authority had disagreed with the finding of the Enquiry Officer and the petitioner was put on notice of disagreement with the enquiry report and further representation was called for from the petitioner and thereafter, held that the charges are proved and dismissed the appeal.

7. After going through the records and the explanation submitted by the petitioner before the disciplinary authority as well as before the Appellate Authority, I do not find any merits in this case. The punishment imposed viz., stoppage of increment for one year without cumulative effect would not be a bar payment of pension. In this case, the punishment imposed on the proved charges cannot be termed to be disproportionate to the charges. The writ petition is also devoid of merits.

8. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

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/ /2020

Sub Assistant Registrar(CS)

trp

To

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ORDER MADE IN
WP(MD).No.3465 of 2014 and
M.P(MD).No. 2 of 2014
07.09.2020

TR(11.09.2020) 4P 4C