IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

W.A.No.1833 of 2021 and
C.M.P. No. 11601 of 2021

1. The Government of Tamil Nadu
Rep. by its Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George, Chennai – 9.

2. The Inspector General of Registration,
Chennai – 600 028. .... Appellants/ Respondents

-Vs-

A. Jaisankar ....Respondent/ Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order dated 26.02.2019 passed in W.P.No.4868 of 2011 and allow this Writ Appeal.

Petition filed under Article 226 of Constitution of India to issue a writ of Certiorari to call for the records pertaining to G.O.(D) No.530, Commercial Taxes and Registration Department dated: 31.12.2010 of the 1st respondent confirming the order of punishment bearing No. 19639/A3/2006-2 dated 14.9.2009 of the 2nd respondent and quash the same.

For Appellants : Mr.K.V. Sajeev Kumar,
Government Counsel.

For Respondent : Mr.K.S.Viswanathan

JUDGMENT

(Judgment of the Court was delivered by S.VAIDYANATHAN, J)

This Writ Appeal has been filed challenging the order 26.02.2019 passed in W.P.No.4868 of 2011, in allowing the Writ Petition filed by the Petitioner.

2. The Writ Petitioner has been charged under Rule 17 (b) of the Tamil Nadu Civil Service (Discipline & Appeal) Rules for

attempting to conceal the deletion of two receipts prepared under the Stamp Act, pertaining to the documents already registered and attempted to create two new receipts. Even though the charges are serious in nature, minor punishment has been imposed. Though the charges are very specific, in the enquiry, since there is no concrete evidence including circumstantial evidence, the Enquiry Officer found that charges are not proved. However, disagreeing with the finding of the Enquiry Officer, after affording an opportunity of hearing, punishment of stoppage of increment without cumulative effect was imposed by the Inspector General of |Registration, which was questioned by way of Appeal and the same was rejected by the Appellate Authority, confirming the order of the Disciplinary Authority. Aggrieved by the same, a Writ petition has been filed in W.P.No.4868 of 2011, whereby the learned Single Judge has set the aside order passed by the Appellate Authority/First Appellant as well the order of the Second Appellant. Challenging the same, the present Appeal has been filed by the State.

3. The learned Government Counsel appearing for the Appellants has raised two grounds. Firstly, as the charges are very serious in nature, the Writ Petitioner shall not be allowed to go scot-free from the punishment and that the punishment is only minor in nature and secondly, even assuming for the sake of argument that the punishment imposed is erroneous, on account of reflection of opinion of Tamil Nadu Public Service Commission in the order, the learned Single Judge ought to have remanded the matter for fresh consideration,instead of interfering with the punishment in toto.

4. Even though the charges appear to be serious in nature, there is no concrete evidence and that the department proceeded on the basis that the user name and password might have been utilized for the purpose of deleting and producing new receipts. For this, there should be a concrete evidence. Though mere preponderance of probability is sufficient for a decision in the Departmental Proceedings, in the case on hand, there is no evidence at all to establish that fraud is said to have been committed by the Respondent. The learned Single Judge has interfered with the order on the ground that there is a lack of application of mind on the part of Appellate Authority, as he has taken opinion from the Tamil Nadu Public Service Commission. It is no doubt true that it is open to the Authorities to take the views from Tamil Nadu Public Service Commission. In the present case on hand, the letter referred to in the order would make it very clear that the Appellate Authority has been influenced by the Tamil Nadu Public Service Commission and the learned Judge therefore has set aside the orders passed by both Authorities. It is seen that already fifteen years have gone by

from the date of the incident and therefore, the purpose of remand, at this stage will not serve any purpose, especially, when there are no material evidence produced in the enquiry to establish the charges.

5. In such view of the matter, we find no reason to interfere with the order of the learned Single Judge. Hence, this Writ Appeal is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

arr/shk

To:

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

2.The Inspector General of Registration,
Chennai - 600 028.

+1cc to Mr.K.S.Viswanathan, Advocate, S.R.No.48046
+1cc to the Government Pleader, S.R.No.48545

W.A.No.1833 of 2021

BS(CO)
SB(01/12/2021)