IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6181 of 2021

L.Meenakshi ... Petitioner

-vs-

1. The Commissioner of Commercial Taxes,
   Ezhilagam, Chennai - 600 005.

2. Joint Commissioner (ST),
   Chennai (South)
   Commercial Taxes Department,
   PAPJM Building No.1, Greams Road,
   Chennai - 600 006. ... 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 pass orders on the petitioner's representation, dated 16.10.2020 by including the leave period from 05.09.2010 to 03.12.2010 within her service period for the purpose of declaring probation in the cadre of Deputy Commercial Tax Officer and consequently grant the petitioner TNPSC seniority in the cadre of Commercial Tax Officer in the panel year 2011 along with her colleagues who were promoted vide proc.no.p1/318/2011, dated 19.07.2011 and all consequential benefits.

For Petitioner : Ms.Swarnam Rajagopal

For Respondents: Mr.M.Hariharan,
Additional Government Pleader

O R D E R

This Writ petition is filed, seeking a direction to the respondents to pass orders on the petitioner's representation, dated 16.10.2020 by including the leave period from 05.09.2010 to 03.12.2010 within her service period for the purpose of declaring probation in the cadre of Deputy Commercial Tax Officer and consequently grant the petitioner TNPSC seniority in the cadre of Commercial Tax Officer in the panel year 2011 along with her colleagues, who were promoted vide Proc.No.p1/318/2011, dated 19.07.2011 and all consequential benefits.

2.Mr.M.Hariharan, learned Additional Government Pleader takes notice for respondents. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. It is the case of the petitioner that she was in maternity leave between September 2010 and December 2010 and the said period of leave should not be construed as a period of tenure outside the service. According to the petitioner, the service of a person from the date of appointment till the date of promotion will be a part of the service tenure and is applicable even in the case of probation. In this regard, the petitioner submitted a representation dated 16.10.2020 to the respondent for inclusion of her leave period from September 2010 and December 2010 within her service period. Since the said representation did not evoke any response, the petitioner is before this Court by filing the present Writ petition.

4. The learned counsel for the petitioner submitted that the Juniors who have been appointed after the petitioners are placed as seniors. The petitioner also relied on the Judgment made in W.P.No.12660 of 2017 dated 22.12.2017 to condone maternity leave for probation.

5. It is no doubt true that the Maternity leave will have to be taken into account and it should be treated as if the employee who availed Maternity leave is deemed to be in service. But it is not known to as to why there is a huge delay in approaching this Court and more over the petitioner has also not produced the appointment order. Even assuming for the sake of arguments that the petitioner's claim is correct and she has directed to be included in the seniority list above her juniors, then the entire seniority in the panel for promotion of the year 2011 has to be necessarily disturbed. Though the petitioner wants disposal of her representation dated 16.10.2020, such direction will give raise to one more litigation and in that case, there will be no finality to the issue at all. Hence, the Writ Petition is dismissed as devoid of merits. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vum

To

1. The Commissioner of Commercial Taxes,
   Ezhilagam,
   Chennai - 600 005.

2. Joint Commissioner (ST),
Chennai (South)
Commercial Taxes Department,
PAPJM Building No.1, Greams Road,
Chennai - 600 006.

+2cc to Mr.Adithya Reddy, Advocate, S.R.No.15597

W.P.No.6181 of 2021

SMI(CO)
GN(16/06/2021)