IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.24516 of 2014
and MP.No.2 of 2014

V.Mahendran
Assistant Commissioner (CT) – (Audit)
Office of the Assistant Commissioner (CT),
Commercial Taxes Department. Govt. of Tamil Nadu,
Udhagamandalam 643 001. ... Petitioner

Vs.

The Joint Commissioner (CT),
Office of the Joint Commissioner of Commercial Taxes,
Coimbatore Divisison,
Dr.Balasundaram road,
Coimbatore 641 018. ... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for records relating to the proceedings pursuant to the Memorandum of Charge dated 28.01.2014 in Ref.No.8712/2013/A1 of the Respondent herein and quash the same.

For Petitioner : Mr.A.Thiagarajan, Senior Counsel
for M/s.A.Vinu Pradha

For Respondent : Mr.M.Hariharan, AGP (T)

ORDER

Challenging the charge memo dated 28.01.2014 issued by the respondent, the petitioner has come up with this writ petition.

2.It is the case of the petitioner that he was working as Assistant Commissioner (CT), Ganapathy Assessment Circle, Coimbatore from 27.09.2011 to 05.07.2013 and the Assistant Commissioner (CT) (FAC), Sai Baba Colony Circle, Coimbatore from 09.07.2012 to 04.07.2013. While he was serving as Assistant Commissioner (CT), Thudiyalur Circle, Coimbatore, he was issued with a charge memo dated 28.01.2014 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, framing

5 charges against him. On receipt of the same, he sent a representation dated 24.03.2014 to the respondent requesting to furnish copies of the documents, so as to enable him to give his objections/ explanations to the charges. But, till date, no steps have been taken on the representation. Hence, this writ petition.

3.Upon notice, the respondent filed a detailed counter affidavit, wherein, it is inter alia stated that the petitioner alleged that till date, copies of the documents have not been provided to him and no reply has also been given to him; the charges are based on the records handled by the petitioner as Assessing Authority in the three assessment circles and the same are available in the concerned assessment circles, where he can verify them and even take extracts from them. It is also stated therein that the petitioner has not explained to the charges framed by the respondent. Stating so, the respondent sought to dismiss this writ petition.

4.It is the main contention of the learned senior counsel for the petitioner that the petitioner was not furnished with the copies of the required documents sought by him, so as to submit his explanation / objection to the charge memo issued by the respondent; and the enquiry officer without providing reasonable opportunity to the petitioner to put forth his defence and produce the material evidence, completed the enquiry and filed a report to the disciplinary authority, which is arbitrary, illegal and against the principles of natural justice. On this score alone, the impugned charge memo is liable to be quashed, according to the learned senior counsel.

5.Per contra, the learned Additional Government Pleader appearing for the respondent reiterated the averments made in the counter affidavit and submitted that the petitioner was provided sufficient opportunities to substantiate his defence, but he failed to avail the same and hence, there is no violation of the principles of natural justice on the part of the respondent. He further submitted that the enquiry officer conducted enquiry into the charges levelled against the petitioner and filed a report to the disciplinary authority, who inturn forwarded the same to the Government for passing appropriate orders and hence, the charge memo impugned herein does not call for any interference by this Court at this stage.

6.Heard both sides and perused the materials placed before this Court.

7.Admittedly, the petitioner did not file his reply / explanation / objection to the charge memo issued against him, which, according to him, is due to non-supply of copies of the required documents, whereas the respondents stated that the records are very much available in the concerned assessment circles, where the petitioner can go and verify the same, but without doing the same, he blamed the respondent department; and the petitioner also did not cooperate with the enquiry officer.

8.This Court is of the opinion that the contentions so raised on the either side need not be gone into at this stage, in view of the submissions made on the side of the respondent that the enquiry was already completed and the enquiry report was also submitted to the disciplinary authority, who inturn forwarded the same to the Government; and it is now for the Government to pass appropriate orders.

9.Therefore, this Court directs the Government to pass appropriate orders, with regard to the charges framed against the petitioner, on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

10.Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vrc

To

The Joint Commissioner (CT),
Office of the Joint Commissioner of Commercial Taxes,
Coimbatore Divisison,
Dr.Balasundaram road,
Coimbatore 641 018.

+1CC to the Special Government Pleader (Taxes)
High Court
Madras (SR No.19237)

W.P.No.24516 of 2014
and MP.No.2 of 2014

BR (CO)
PR (19/07/2021)