IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

WP NO.27692 OF 2014

P.Shanthi ...Petitioner

Vs.

1.Government of Tamil Nadu,
Represented by Secretary to Government,
Commercial Taxes & Registration Department,
Secretariat, Chennai-600 009.

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

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the respondents in connection with the impugned order passed by the first respondent in G.O.(D)No.561, Commercial Taxes & Registration (H2) Department, dated 21.12.2009 and impugned orders of the 2nd respondent in Pro. No.47632/B1/2000 dated 07.09.2004 and Letter No.30875/V2/2010 dated 21.03.2011 and quash the same and issue consequential direction to the respondents to disburse pensionary benefits to the petitioner with interest.

For Petitioner : Mr.Balakrishnan
for Mr.M.Ravi

For Respondents: Mr.C.Selvaraj
Government Advocate (Civil Side)

O R D E R

The petitioner is the wife of the deceased Government Servant. Her husband was working as a Sub-Registrar in the Registration Department. While the delinquent was working as Junior Assistant and Assistant, has committed various acts of deliquescent, on that basis a charge memo came to be issued on 26.11.2002. According to the charge memo, the delinquent officer has suppressed the acquisition of immovable properties, thereby violated Rule 7(1)(a),(b) of the Tamil Nadu Government Servant Conduct Rules.

2. Enquiry was conducted and the charges were held proved. The disciplinary authority vide order dated 07.09.2004 has imposed a punishment of stoppage of increment for a period of three years with cumulative effect, which affects pension. Against that, the delinquent officer preferred an appeal, which was enhanced to one of removal from service, after getting opinion from the Public Service Commission. The order of removal from service passed by the Appellate Authority is dated 21.12.2009. The delinquent officer died on 14.12.2010. Thereafter, the petitioner has made a representation to the Government. Since it was not considered, she preferred the above writ petition for quashing the punishment order passed by the first respondent.

3. I have heard the rival submissions.

4. At the outset, the petitioner was imposed with stoppage of increment by the 2nd respondent on 07.09.2004. Against which, he preferred an appeal to the Government in which the punishment was enhanced to removal from service on 21.12.2009. After that, he died after one year i.e. 14.12.2010. Since the punishment has taken effect during the life time of the Government servant and he had taken any steps to challenge the same, after his death, the petitioner/wife cannot have any locus to file the petition to set aside the same.

5.Secondly, there are grave allegations of not informing the acquisition of immovable properties by the family members to the department. In the enquiry, it is clearly proved that the wife and son of the Government servant were not earning members and they did not have any source of income to purchase the enormous properties. Even though, the petitioner's husband had taken a stand that it was offered by his wife from the money gifted by her father it was not substantiated by sufficient evidence. In fact, the contradictory statements made by the delinquent officer by itself proved the charges. In the absence of any source of income to the petitioner and her son, it cannot be said that they have purchased the properties on their own. On the other hand, it was proved that the huge amount of money was invested by them without having any source other than her husband. Therefore, in the absence of any proof of independent income to the family members, the punishment of removal from service imposed on the delinquent officer cannot be revisited.

6. I do not find any discrepancy in the order. In the matters of corruption and aggrandizement of illegal wealth of removal from service is the appropriate punishment. The writ petition merits no consideration and accordingly, the same is dismissed. No costs.

s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

vs

To

1.The Secretary to Government,
Commercial Taxes & Registration Department,
Secretariat, Chennai-600 009.

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

+1 CC to The Government Pleader sr 37370(01/11/2021)

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PMK(CO)
SP(18/10/2021)