



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.696 of 2020

and

W.M.P. (MD)Nos.506 and 507 of 2020

WEB COPY

S.Selvaraj

... Petitioner

versus

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

2. The Commissioner of Commercial Taxes,
Commercial Taxes Department,
Chepauk,
Chennai - 600 005.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent in his letter No.234/E1/2019-10 dated 04.12.2019, quash the same and direct the respondents to revoke the punishment of dismissal from service of the petitioner with all consequential monetary and other attendant benefits including terminal benefits within the time stipulated by this Court.

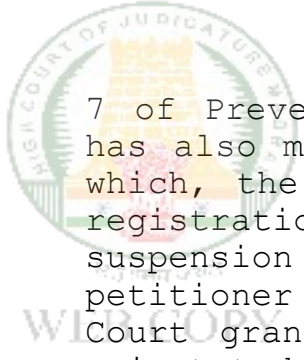
For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.A.Kannan,
Additional Government Pleader

ORDER

This writ petition is filed as against the order dated 04.12.2019, in and by which, the first respondent rejected the request of the petitioner for reinstatement into service and also for disbursement of retirement benefits.

2. The petitioner joined the service in the Commercial Taxes Department as Junior Assistant on 01.06.1976. Thereafter, he was promoted as Assistant Commercial Tax Officer and Deputy Commercial Tax officer. In the year 2004, he was promoted as Commercial Tax Officer. While so, one Dharmaraj gave a complaint as against one Selvakumar. Based on that complaint, a case in Crime No.6 of 2005 was registered against him for the offence punishable under Section



7 of Prevention of Corruption Act. Thereafter, the said Dharmaraj has also made certain allegations against the petitioner, based on which, the petitioner was also added in the FIR. Pursuant to the registration of case, the first respondent passed an order of suspension on 22.12.2005. Against the order of suspension, the petitioner filed a writ petition in W.P.(MD)No.65 of 2006 and this Court granted an interim stay. Subsequently, the petitioner was reinstated into service. In the meantime, a charge sheet has been filed before the Special Court for Corruption Cases (Chief Judicial Magistrate), Srivilliputhur and the same was taken on file as Spl.C.C.No.5 of 2006. After the trial, the trial Court, vide order dated 09.04.2020, convicted and sentenced the petitioner for the offences charged. The first respondent, without initiating any departmental proceedings, removed the petitioner from service on 28.01.2014. Challenging the order of conviction and sentence, the petitioner filed an appeal in Crl.A.(MD)No.145 of 2010 before this Court. This Court, vide Judgment dated 02.11.2018, set aside the order of conviction and sentence imposed by the trial Court and acquitted the petitioner from all the charges. Pursuant to the Judgment of acquittal passed by this Court in Crl.A.(MD)No.145 of 2010, the petitioner sent a representation dated 01.01.2019, requesting the first respondent to reinstate him into service and to grant all service benefits. Since there was no response from the first respondent, the petitioner filed a writ petition in W.P.(MD) No.13347 of 2019 before this Court and this Court, vide order dated 23.07.2019, disposed of the writ petition, directing the respondents to consider the petitioner's representation dated 01.01.2019. In compliance of the order passed by this Court in W.P.(MD)No.13347 of 2019, the first respondent considered the representation of the petitioner, by rejecting the request made by him, vide order dated 04.12.2019, which is impugned in this writ petition. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that in view of acquittal from all the charges, the petitioner is entitled for reinstatement and other service benefits. However, the first respondent rejected the request of the petitioner, which is unsustainable in law. Hence, he prayed for allowing the writ petition.

4. Mr.A.Kannan, learned Additional Government Pleader appearing for the respondents submits that as against the Judgment of acquittal passed by this Court in Crl.A.No.145 of 2010, dated 02.11.2018, the Directorate of Vigilance and Anti-Corruption Department filed a Special Leave Petition before the Hon'ble Supreme Court in S.L.P. (Criminal) Diary No.27138 of 2020. Since the appeal was pending before the Hon'ble Supreme Court, the first respondent rejected the request of the petitioner. Now, the appeal came to be dismissed by the Hon'ble Supreme Court, vide order 21.10.2021 and the respondents are also ready to reconsider the case of the

5. This Court paid its anxious consideration to the rival submissions made.

6. Though a criminal case has been registered against the petitioner in the year 2006, the Department, without initiating any departmental proceedings, dismissed the petitioner from service, pursuant to the order of conviction and sentence imposed by the trial Court in Spl.C.C.No.5 of 2006. The said order of conviction and sentence was challenged by the petitioner before this Court in CrI.A.(MD)No.145 of 2010 and the same was set aside by this Court, vide Judgment dated 02.11.2018. When the order of conviction and sentence imposed by the trial Court was set aside, nothing prevents the respondents from considering the case of the petitioner afresh. As a subsequent development, it is now brought to the notice of this Court by the learned Additional Government Pleader that the Special Leave Petition filed before the Hon'ble Supreme Court as against the Judgment of acquittal passed by this Court dated 02.11.2018 was dismissed.

7. In view of the above, the writ petition is allowed. The impugned order passed by the first respondent dated 04.12.2019 is set aside and the matter is remitted back to the first respondent. The first respondent shall consider the case of the petitioner afresh and pass appropriate orders, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD I)

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/ /2022

Sub Assistant Registrar(CS)

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To

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

2. The Commissioner of Commercial Taxes,
Commercial Taxes Department,
Chepauk, Chennai - 600 005.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-39536[F] dated 20/12/2021)

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