IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY
AND
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A.No.33 of 2022

S. Thiagarajan ... appellant

Vs

1. The Additional Chief Secretary/Commissioner,
Commercial Taxes,
Chepauk, Chennai - 05.

2. The Deputy Commissioner/Enquiry Officer,
Commercial Taxes Department (ST) (FAC),
Cuddalore.

... respondents

Appeal filed against the order passed by this Court dated 06.12.2021 in WP No.25778 of 2021.

Prayer in WP No.25778 of 2021 : Praying for issuance of a Writ of Certiorari to call for the records of the respondent in connection with the impugned order passed by the respondent in No. E2/ 20545/ 2011-I dated 02.01.2019 and the enquiry report submitted by the 2nd respondent, dated 27.05.2020 and quash the same.

For Appellant : Mr. S. Sivkumar

For Respondents : Mr. Arun Natarajan,
Special Government Pleader

JUDGMENT
(made by M.DURAISWAMY, J.)

Challenging the order passed in W.P.No.25778 of 2021, the writ petitioner has filed the above writ appeal.

2. The appellant filed the writ petition to issue a writ of certiorari to call for the records of the first respondent in connection with the impugned order passed by order dated 02.01.2019 and the inquiry report submitted by the second respondent dated 27.05.2020 and to quash the same.

3. It is the case of the appellant that while he was working as Assistant/Sales Tax Collection Inspector, in the Office of the Assistant Commissioner/(CT), Mannady East Assessment Circle, Chennai, he was falsely implicated in a criminal case under the provisions of the Prevention of Corruption Act. The appellant was placed under suspension on 10.06.2011.

4. It is also the case of the appellant that a criminal case which was registered against him, ended in acquittal on 20.12.2017 in C.C.No. 6 of 2013, on the file of the Special Court for the cases under the Prevention of Corruption Act, Chennai.

5. The appellant contended that the initiation of the departmental inquiry against him was erroneous for the reason that the Criminal Court had acquitted him in the criminal case in C.C.No. 6 of 2013. It is not in dispute that the appellant had participated in the departmental inquiry and an inquiry officer namely, the second respondent has also filed his inquiry report.

6. When the matter was pending before the first respondent, who was the competent authority, the appellant has filed the writ petition challenging the inquiry report. It cannot be disputed that the department is at liberty to proceed against the delinquent officials by initiating departmental action even in the event of the official being acquitted of the criminal charges by the criminal court.

7. The learned Single Judge taking into consideration the case of both sides has rightly observed that there is no hard and fast rule to hold that when once an official is acquitted by the criminal court, the department has to blindly close the case against the official concerned. It has also rightly observed by the learned Single Judge that it is always open to the department to proceed against the official concerned departmentally, if they find there are enough materials to hold him guilty or there are enough materials to sustain the charges from the perspective of the departmental action. The preponderance of probability is sufficient to prove the charges in a departmental inquiry as against the delinquent official.

8. When the departmental inquiry has reached finality and disciplinary authority has still not applied his mind and is yet to pass order, the writ petition filed by the appellant at the stage of inquiry report cannot be entertained.

9. The appellant has to wait for the final outcome of the

disciplinary proceedings, then it is open to challenge the order passed by the competent authority, if he is aggrieved, in accordance with law.

10. The learned Single Judge has rightly dismissed the writ petition. We do not find any ground to interfere with the order passed by the learned Single Judge. The appeal is devoid of merits and the same is dismissed.

11. The learned counsel for the appellant submitted that the appellate authority may be directed to pass orders within a time frame.

12. Mr.Arun Natarajan, learned Special Government Pleader, appearing for the respondents submitted that the first respondent may be directed to pass orders within a period of four weeks.

13. Having regard to the submissions made by the learned counsel on either sides, we direct the first respondent to pass orders based on the inquiry report submitted by the second respondent within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrn

To

1. The Additional Chief Secretary/Commissioner,
   Commercial Taxes,
   Chepauk, Chennai - 05.

2. The Deputy Commissioner/Enquiry Officer,
   Commercial Taxes Department (ST) (FAC),
   Cuddalore.

+1cc to Mr.S.Sivakumar, Advocate, S.R.No.4603
+1cc to the Special Government Pleader, S.R.No.4464

W.A.No.33 of 2022

RSV(CO)
SB(10/02/2022)