IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1547 of 2015

S.Subbarayan ...Petitioner

-Vs-

1.The Principal Secretary to Government,
Commercial Taxes and
Registration (A1) Department,
Fort St. George, Chennai - 600 009.

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

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records in respect of the impugned order G.O. (D) No.374, Commercial Taxes and Registration (A1) Department, dated 24.09.2014 of the first respondent and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mrs.K.Vasantha Mala
Government Advocate

ORDER

The order of punishment of stoppage of increment for a period of 3 years without cumulative effect imposed by the first respondent in G.O.(D) No.374, Commercial Taxes and Registration (A1) Department, dated 24.09.2014 is under challenge in the present writ petition.

2. The petitioner was working as Office Assistant at Kandamangalam Check Post and a charge memo under Rule 17(a) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules was issued against the petitioner in proceedings dated 06.10.2005, alleging that from 13.01.2005 to 16.01.2005, the petitioner had failed to affix his initial in the attendance register. The petitioner denied the charges by stating that he had attended duty on all the 4 days and he has signed the attendance register. The petitioner submitted his explanation setting out the facts and the reason for the minor error committed by him in not affixing his initial in the attendance register.

3. The learned counsel for the petitioner made a submission that the respondents have failed to consider the fact that the petitioner has signed the

duty register from 13.01.2005 to 16.01.2005. When the petitioner had signed the duty register for the said 4 days, there is no reason or disbelief in the version of the petitioner that he had not affixed his initial due to mistake. In view of the non-consideration of the above explanation, the petitioner is prejudiced, since he was imposed with a punishment of stoppage of increment for a period of 3 years without cumulative effect. It is further contended that the punishment is disproportionate to the gravity of allegations raised against the petitioner and on that ground also, the impugned order is liable to be set aside.

4. This Court is of the considered opinion that the allegation against the petitioner was that he has failed to affix his initial in the attendance register from 13.01.2005 to 16.01.2005. The explanation of the petitioner reveals that he had signed the duty register for the aforesaid days and that was not verified by the competent authorities while imposing the penalty. That apart, the punishment of stoppage of increment for 3 years without cumulative effect for a minor error committed by the petitioner is disproportionate to the gravity of allegations against the petitioner. Under

these circumstances, this Court is inclined to remand the matter back to the respondents for fresh consideration.

5. Accordingly, the impugned Government Order passed by the first respondent in G.O. (D) No.374, Commercial Taxes and Registration (A1) Department, dated 24.09.2014, is quashed and the matter is remanded back to the first respondent for re-consideration. The first respondent is directed to re-consider the explanation submitted by the petitioner with reference to the allegations and thereafter pass appropriate final orders on merits and in accordance with law, as expeditiously as possible.

6. With these directions, the Writ Petition stands allowed. No costs.

08.07.2022

Index:Yes
Internet:Yes
Speaking order
hvk

To

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Fort St. George, Chennai - 600 009.

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

S.M.SUBRAMANIAM, J.

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