IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

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**THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.P.No.2806 of 2020

K.Rangasamy ... Petitioner

Vs

1 The Principal Secretary to Government,
Department of Commercial Taxes and Registration,
Fort St. George,
Chennai 600009.

2 The Additional Chief Secretary/
Commissioner of Commercial Taxes,
Chepauk, Chennai 600005. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Calling for the records on the files of the 1st respondent in G.O(D) No. 229 Commercial Taxes and Registration (A1) Department dated 19.11.2019 and quash the same as illegal and unconstitutional consequently direct the respondents to reinstate into service as Assistant in the respondent department with all monetary and service benefits.

For Petitioner ... Mr.R.Senniappan

For Respondent ... Mrs.K.Vasantha Mala,
Government Advocate

**<u>O R D E R</u>**

This writ petition has been filed challenging the G.O(D) No. 229 Commercial Taxes and Registration (A1) Department dated 19.11.2019, under which, the petitioner has been dismissed from service.

2. The following charge was framed against the petitioner in the disciplinary proceedings initiated against him:

> *"While you (AO-5) Thiru M.Selvakumar were working as A3 Assistant and Inspector of Sales Tax Collection and you (AO-6) Thiru K.Rangasamy were working as A1 Assistant, both were attached Office of the Assistant Commissioner (Commercial Taxes), Thiruchengode (Rural), Namakkal District during on 01.11.2013 you (AO-5) shared and disbursed among the staff in the said office, the Deepavali mamool collected by (AO-2) Thiru Mylsamy, Assistant, (AO-3) Thiru Deivasigamani, Assistant and (AO-4) Thiru Rajendran,*

*Record Clerk. During the last week of October 2013 they (AO-2, AO-3 and AO-4) were collected money from traders under your jurisdiction. You (AO-5) availed Rs.6,000/- as your share out of the ill gotten money, and you (AO-6) Thiru K.Rangasamy, Assistant also accepted Rs.4,500/- out of the ill gotten money as you (AO-6) share. Thus you (AO-5 and AO-6) had failed to maintain absolute integrity and devotion to duty."*

3. Learned counsel for the petitioner has now filed a memo dated 17.11.2022 signed by the petitioner under which, the petitioner has pleaded guilty of the aforementioned charge. However, learned counsel for the petitioner would submit that the punishment of dismissal from service imposed under the impugned G.O. is disproportionate to the nature of charge levelled against the petitioner. Hence, he seeks for reduction of the punishment from dismissal of service to one of two years increment cut with cumulative effect as in the case of the similar order passed by the first respondent in G.O(D) No. 161 Commercial Taxes and Registration Department dated 20.10.2011.

4. Learned counsel for the petitioner on instructions, would submit that the petitioner undertakes not to make any claim for past arrears of salary and other monetary benefits from the date when he was dismissed from service by the disciplinary authority. The said undertaking given by the petitioner through his counsel is recorded.

5. Heard Mr.R.Senniappan, learned counsel for the petitioner and Mrs.K.Vasantha Mala, learned Government Advocate appearing for the respondents.

6. The charge against the petitioner is that he along with his colleagues had collected Diwali Mamool from the traders and the petitioner's share was Rs.6,000/- from the said collection and therefore, he has failed to maintain absolute integrity and devotion to duty.

7. Admittedly, similarly placed employees were given lesser punishment namely two years increment cut with cumulative effect. On the

face of the charge framed against the petitioner also, this Court is of the considered view that punishment of dismissal from service imposed on the petitioner is disproportionate to the nature of charge. The petitioner having admitted his guilt by filing a memo before this Court, after giving due consideration to the nature of charge, this Court is of the considered view that the petitioner shall also get the benefit of reduction of punishment instead of dismissal from service as was given to his colleagues who were also involved in the incident of collecting bribe as Diwali mamool from the traders.

8. For the foregoing reasons, this writ petition is **disposed of** by issuing the following directions:

(a) The punishment imposed by the first respondent in G.O(D) No. 229 Commercial Taxes and Registration (A1) Department dated 19.11.2019 is reduced from dismissal of service to one of two years increment cut with cumulative effect.

(b) The petitioner shall rejoin the duty within a period of four weeks from the date of receipt of a copy of this Order and the respondents are directed to permit the petitioner to rejoin the duty and pay his salary from the date when he rejoins the duty as per his legal entitlement.

9. However, it is made clear that the petitioner shall not make any claim for arrears of past salary and other monetary benefits on account of dismissal from service.

No costs.

**22.11.2022**

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Index: Yes/ No
Speaking Order/Non-speaking Order

To

1 The Principal Secretary to Government,
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2 The Additional Chief Secretary/
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Chepauk, Chennai 600005.

**ABDUL QUDDHOSE, J.**

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