IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-11-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.19886 of 2016
And
WMP Nos.17149 of 2016 and 5008 of 2019

Tmt.R.Mageswari .. Petitioner

vs.

1.Principal Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George,
Secretariat,
Chennai – 600 009.

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

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the first respondent in G.O.(D) No.190, Commercial Taxes and Registration

Department, dated 31.05.2016 and consequential order in G.O.(D) No.191, Commercial Taxes and Registration Department, dated 31.05.2016 and quash the same.

For Petitioner : Mr.C.Baktha Sirmoni

For Respondents : Ms.K.Vasantha Mala, Government Advocate.

O R D E R

The order of suspension issued on the eve of the retirement of the writ petitioner is sought to be quashed in the present writ petition.

2. The writ petitioner was holding the post of Assistant Commissioner of Commercial Taxes (Audit) and departmental disciplinary proceedings were initiated on the ground that certain assessment lapses committed by the writ petitioner resulted in loss of revenue.

3. In this regard, the Authorities Competent placed the petitioner under suspension. The first respondent-Government issued G.O.(D) No.190, Commercial Taxes and Registration Department, dated 31.05.2016, placing the writ petitioner under suspension. The services of the

writ petitioner were extended and she was not allowed to retire under the Fundamental Rules and accordingly, the first respondent-Government issued another G.O.(D) No.191, Commercial Taxes and Registration Department, dated 31.05.2016.

4. The learned counsel for the petitioner mainly contended that the departmental disciplinary proceedings are not initiated. Even now despite the fact that there is no impediment for the Authorities to continue the departmental disciplinary proceedings, the petitioner is not responsible for any revenue loss and the departmental disciplinary proceedings are erroneously initiated against the writ petitioner and she was placed under suspension.

5. The learned Government Advocate, appearing on behalf of the respondents objected the said contentions raised on behalf of the petitioner by stating that in view of the interim stay granted in the present writ petition, the respondents are unable to proceed with the departmental disciplinary proceedings.

6. The preliminary reports are made available and the Department is ready to proceed with the departmental disciplinary proceedings and in view of the pendency of the present writ petition and on account of the interim stay, the respondents have kept all further proceedings in abeyance.

7. In the present case, the impugned order of suspension cannot be interfered with by this Court, since it is the order passed on the last day of the retirement of the petitioner and her services were extended by invoking the Fundamental Rules. Therefore, the departmental disciplinary proceedings initiated against the writ petitioner should be concluded in all respects and thereafter, the petitioner would be eligible to claim her benefits or otherwise in the manner known to law.

8. On account of the pendency of the present writ petition, the Department also has not proceeded with the departmental disciplinary proceedings. However, this Court is of an opinion that the Department ought

to have continued the departmental disciplinary proceedings, since there is no impediment for issuing a charge sheet and conducting an enquiry. Already six years lapsed from the date of retirement of the writ petitioner and the departmental disciplinary proceedings once initiated against the Government Servant must be disposed of as expeditiously as possible. Long pendency of the departmental disciplinary proceedings would cause prejudice to the interest of the employees, since in the present case, the petitioner is not in a position to get her terminal and retirement benefits.

9. In view of the facts and circumstances, the respondents are directed to continue the departmental disciplinary proceedings by following the procedures as contemplated by affording an opportunity to the writ petitioner and conclude the same and pass final orders as expeditiously as possible without causing any undue delay. The writ petitioner is directed to cooperate for the early disposal of the departmental disciplinary proceedings. In the event of non-cooperation on the part of the writ petitioner, the same shall be recorded in the Minutes and in the circumstances, the petitioner is not entitled to any relief merely on the ground of delay in disposal of the

departmental disciplinary proceedings. As far as the impugned suspension order is concerned, it is to be reviewed only after the disposal of the departmental disciplinary proceedings against the writ petitioner.

10. This being the factum, the respondents are directed to dispose of the departmental disciplinary proceedings initiated against the writ petitioner without causing any undue delay.

11. With the abovesaid observations and directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

09-11-2022

Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
Svn

To

1.Principal Secretary to Government,
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Secretariat,
Chennai – 600 009.

2.The Commissioner of Commercial Taxes,
Ezhilagam,
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S.M.SUBRAMANIAM, J.

Svn

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