BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.188 of 2020
and
W.M.P(MD)No.123 of 2020

L.Subramanian ... Petitioner

Vs.

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

2.The Commissioner of Commercial Taxes,
O/o.the Commissioner of Commercial Taxes,
Chepauk, Chennai – 600 005.

3.Tmt.M.Maheswari,
Administrative Deputy Commissioner (State Tax),
O/o.Joint Commissioner (State Tax),
Madurai,
Formerly Deputy Commissioner(CT),
Sivakasi.

4.The Deputy Commissioner (State Tax),
O/o.the office of the Deputy Commissioner (ST),
Virudhunagar,
Virudhunagar District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order in G.O.(D)No.178, Commercial Taxes and Registration(A1) Department, dated 26.09.2019 on the file of the first respondent No.1 and quash the same as illegal.

For Petitioner : Mr.S.Louis

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader
For R-1, R-2 and R-4

ORDER

This writ petition has been filed by the petitioner challenging the impugned order of the first respondent in G.O.(D)No.178, Commercial Taxes and Registration(A1) Department, dated 26.09.2019.

2. The case of the petitioner is that he was serving as Deputy Commercial Tax Officer since 16.06.2014 at Rajapalayam I Assessment Circle. Subsequently, he was posted as Manager/Deputy Commercial Tax Officer in the office of Departmental Representative (CT), Salem. Thereafter, he was posted as Deputy State Tax Officer, (Audit, Arrear, Refund), at the office of the Deputy Commissioner(State Tax),

Virudhunagar District and till date, the petitioner is serving there. While so, in the year 2016, the second respondent issued a charge-memo in CD2/25880/2015, dated 21.07.2016, levelling three charges against the petitioner. The first charge is that the petitioner made corrections in the date of inspection as if the inspection was made on 28.08.2014 instead of 27.08.2014, by tampering the Government records.

3. The second charge is that the petitioner failed to submit the weekly diary report to the Deputy Commissioner(Commercial Taxes), within fifteen days. The third charge is framed for violation of Tamil Nadu Government Servants Conduct Rules, 1973. Thereafter, an Enquiry Officer was appointed vide proceedings No.CD2/25880/2015, dated 03.11.2016, nominating the Additional Chief Secretary, Commissioner of Commercial Taxes, Chennai.

4. It is the further case of the petitioner that he appeared before the Enquiry Officer and presented all the details regarding the allegations levelled against him. The petitioner also offered written submissions before the Enquiry Officer on 24.03.2017 and 08.05.2017. The petitioner

admitted that he inspected the subject premises on 27.08.2014 as mentioned in the application for Registration of TIN by the owner of "மான் சேமியா" by name Mr.M.Balasubramanian. However, the said Mr.M.Balasubramanian produced the records only on 28.08.2014 and therefore, the petitioner made correction as if the inspection was conducted on 28.08.2014 instead of 27.08.2014. According to the petitioner, the said correction was made by him only for bonafide reason and there is no malafied intention for receiving any bribe or any illegal gratification from the said Mr.Balasubramanian.

5. With regard to the second charge, the petitioner has stated that due to work pressure, he was not able to produce the weekly diary report, within the stipulated period and the said explanation given by the petitioner is also genuine, according to the petitioner. Without consider the explanation offered by the petitioner, a proved minute was drawn against the petitioner and the same was accepted by the Disciplinary Authority and imposed punishment of stoppage of increment for a period of one year with cumulative effect, which is highly disproportionate and the same is necessarily to be interfered with at the hand of this Court and prayed for

allowing of this writ petition.

6. Per contra, the learned Additional Government Pleader appearing for the respondents 1, 2 and 4, would submit that for the aforesaid lapses, already the Department initiated criminal proceedings for receiving illegal gratification of Rs.3000/- from the said Mr.M.Balasubramanian and after enquiry, a case was registered by the Law Enforcing Agency under the relevant provisions of the Prevention of Corruption Act and Indian Penal Code and the said case is now pending in Spl.C.C.No.1 of 2016 on the file of the Chief Judicial Magistrate, Rajapalayam and further, the petitioner himself admitted his lapse in respect of alteration of inspection date and not producing the weekly diary within fifteen days. For the admitted lapse, criminal case was also filed and the same is pending. Therefore, the punishment imposed on the petitioner by the Disciplinary Authority is a reasonable one and the same need not be interfered with and hence, prayed for dismissal of this writ petition.

7. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1, 2

and 4 and perused the materials produced before this Court.

8. The facts of the case are not in dispute. Admittedly, the petitioner while he was serving as Deputy Commercial Tax Officer, Rajapalayam – I Assessment Circle, Tirunelveli Division, one Mr.M.Balasubramanian has made an application for registration of TIN and the petitioner also made inspection on 27.08.2014. However, it appears that the documents were received by the petitioners only on 28.08.2014 and thereby, the petitioner made correction in the date as 28.08.2014 instead of 27.08.2014. Though the petitioner claims administrative reason for such lapse, the lapse was admitted by the petitioner. In respect of the second charge, the petitioner had already admitted that he did not furnish the diary report within a period of fifteen days and he claimed that due to work pressure, he was not able to furnish the report within the stipulated time. Hence, both the charges were admitted by the petitioner.

9. Further, the fact remains that for receiving illegal gratification from the said Mr.M.Balasubramanian, a criminal case was registered by the Law Enforcing Agency against the petitioner under the relevant provisions and after completion of investigation, a charge sheet was filed and the

same was taken on file in Spl.C.C.No.1 of 2016 on the file of the Chief Judicial Magistrate, Rajapalayam and the same is pending. Once the petitioner himself admitted his lapse and for the said lapse, a criminal case was also registered, rendering any opinion on the said issue will definitely affect the case before the Court below.

10. With regard to the punishment imposed, in the present case, the petitioner admitted his lapse, for which, the Original Authority imposed punishment of stoppage of increment for a period of one year with cumulative effect, which is in the considered opinion of this Court, not disproportionate and reasonable one.

11. For all the foregoing reasons, this Court is not inclined to interfere with the impugned order, dated 26.09.2019 passed by the first respondent. Hence, this Writ Petition is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

05.12.2022

Index: Yes/No
Internet: Yes/No
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M.DHANDAPANI, J.

pm

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