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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.3611 of 2014
and
M.P.(MD).No.1 of 2014

P.Mathivanan ... Petitioner

Vs.

1.The Secretary to the
Government of Tamil Nadu,
Commercial Taxes and Registration Department,
Secretariat,
Chennai – 600 009.

2.The Special Commissioner and
Commissioner of Commercial Taxes,
Office of the Commissioner of Commercial Taxes,
Chepauk,
Chennai – 600 005. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of impugned order in G.O.(D).No.168 dated 24.04.2012 issued by the first respondent and quash the same as illegal and consequently direct the respondents to provide pension benefits to the petitioner with all arrears of

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monetary benefits to the petitioner.

For Petitioner : Mr.R.R.Kannan

For Respondents : Mr.R.Suresh Kumar,
Additional Government Pleader.

ORDER

This Writ Petition is filed to quash G.O.(D).No.168 dated 24.04.2012 and consequently direct the respondents to provide pension benefits to the petitioner along with arrears of monetary benefits.

2. The petitioner was serving as Assistant Commercial Tax Officer. A disciplinary proceedings was initiated against the petitioner and imposed with a punishment of stoppage of increment for 3 years with cumulative effect. The petitioner filed appeal and the same was dismissed against which the present Writ Petition is filed. The allegations against the petitioner is while he was working as Assistant Commercial Tax Officer, he intercepted a goods vehicle TATA 407, Laden with single Jersy Machine belonging to one K.Kandaswamy at about 7.30 p.m. and with corrupt motive, he demanded a sum of Rs.15,000/-. The petitioner has failed to register a case of offence but he has received Rs.

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15,000/-. After receiving Rs.15,000/-, the petitioner has not issued cash receipt for the aforesaid amount. Therefore, the disciplinary proceedings were initiated and the punishment was inflicted.

3. The learned counsel appearing for the respondents submitted that for the same cause of action, disciplinary proceedings were initiated against 3 delinquents. The petitioner was inflicted with a punishment of stoppage of increment for 3 years with cumulative effect. For another co-delinquent, namely Ramachandran, who was working as Deputy Commercial Tax Officer, where the punishment imposed was cut in pension at the rate of Rs.500/- per month for 3 years. Against one Selvaraj, who worked as Driver, the punishment of stoppage of increment for one year with cumulative effect was imposed. The contention of the petitioner is that since the co-delinquents were imposed lesser punishment and hence the petitioner prays to impose a lesser punishment, since it is affecting his terminal benefits as well as the pensionary benefits.

4. In several cases, this Court has held that if a lesser punishment is imposed on the co-delinquent, then there cannot be any discrimination for imposing punishment for same offences. Since in the present case it is affecting

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the petitioner terminal benefits, hence this Court is inclined to interfere in the punishment.

5. For the reasons stated above, this Court is modifying the punishment as stoppage of increment for 2 years without cumulative effect. The respondents are directed to impose a punishment of stoppage of increment for 2 years without cumulative effect and shall grant consequential effect of monetary pensionary benefits to the petitioner. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

16.12.2022

Index : Yes / No
Internet : Yes/ No
Nsr

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Chepauk,
Chennai – 600 005.

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S.SRIMATHY, J.

Nsr

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