BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.19975 of 2018
and
W.M.P.(MD).Nos.17772 and 17773 of 2018

B.Lalitha Bhavani ... Petitioner

Vs.

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

2.The Additional Chief Secretary to Government,
Commercial Tax and Registration Department,
St.George Fort,
Chennai.

3.The Inspector General of Registration,
Santhome High Road,
Chennai - 28. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records petaining to the impugned orders made in No.37661/Aa1/2014 dated 03.06.2016 passed by the third respondent confirmed in G.O.(D).No.128 Commercial Tax and Registration (K) Department dated 21.03.2017 passed by the second respondent, which was also confirmed in G.O.(D).No.78 Commercial Tax and Registration (K) Department dated 20.04.2018 passed by the first respondent and quash the same.

For Petitioner : Mr.P.R.Prithiviraj

For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader.

ORDER

This Writ Petition has been filed to quash the impugned order dated 03.06.2016, confirmed by the second respondent's order dated 21.03.2017 and also confirmed by the first respondent order dated 20.04.2018.

2. The facts of the case are that the petitioner was appointed as Junior Assistant on 21.11.1981 on compassionate grounds then promoted as Assistant on 17.04.1994 then as Grade - II Sub Registrar on 04.08.2008 and promoted as Grade-I Sub Registrar on 27.10.2010. A charge memo dated 05.09.2014 was issued alleging that the Document No.960 of 2012 on the file of the Joint Sub-Registrar III, Trichy on 22.03.2012, there is a deficit stamp duty. For the said document, the correct fixation was made by the then Registrar Office on 22.03.2012 itself. The document holder failed to reply to the said notice nor remitted the amount due to the department. The petitioner's tenure in the said place was from 12.08.2013 to 17.06.2014. The respondents alleged the petitioner has not taken any steps to refer the said document under Section 47 A(1) of Indian Stamp Act by ignoring the circular of the third respondent dated 08.11.2013 and by doing so, the petitioner has violated rule 20(1) of Tamil Nadu Government Servants and Conduct Rules. The petitioner submitted his explanation stating that the document was registered by the then Registering office on 22.03.2012 itself. There are two circulars covering the entire issue. One circular dated 08.11.2013 direct the Sub Registrar to refer the document by invoking 47 A(1) within seven days from the date of registration and the subsequent circular dated 19.11.2013 directed the Sub Registrar to inform the parties to avail opportunity of appeal before the Deputy Inspector General of Registration instead of referring under Section 47 A(1) of the Stamp Act.

3. The contention of the petitioner is that during the period that is from 2012-2013, six officers were holding the post and none of them took steps. However, the petitioner has taken steps by issuing notice to the document holder to prefer an appeal before the Deputy Inspector General of Registration. The said notice was challenged before this Court in W.P. (MD). No. 16732 of 2012 and this Court vide order dated 23.07.2014 has directed the document holder to work out his remedies before the Collector under Section 47-A of the Act. The document holder has confessed the case before the District Collector, Stamps and finally the document holder had paid the deficit stamp duty to the tune of Rs.69,760/- on 08.12.2017 and the registration fees of Rs.8095/- on 15.12.2017. Hence the petitioner prayed to quash the punishment of stoppage of increment for 6 months without cumulative effect.

4. The respondents had filed a counter stated that the respondents have relied on the circular dated 08.11.2013 where it has been instructed to all the Registering Officers to take action

within seven days from the date of registration. The petitioner has assumed office on 12.08.2013 but failed to initiate action under the Section 47A(1). The charges framed against the petitioner was proved based on the outcome of the departmental enquiry, in the department enquiry there is no violation of principles of natural justice and thereafter the minor punishment of stoppage of increment for six months has been imposed. The respondents thereafter sought the opinion from the Tamil Nadu Public Service Commission and it has recommended the Government to reject the appeal and imposed the punishment hence the respondents prayed to dismiss the Writ Petition.

5. Heard Mr.Prithiviraj, learned counsel for the petitioner and Mrs.D.Farjana Ghoushia, learned Special Government Pleader for the respondents.

6. It is seen from the records that the petitioner has served in the said place from 12.08.2013 to 17.06.2014. The alleged delinquency happened on 22.03.2012. Thereafter, some six officers were served in that place. It is the petitioner who has initiated action by issuing notice to the document holder to prefer an appeal and issued notice. Thereafter, the document holder challenged the said notice before this Court and the document holder was directed to prefer an appeal before the District Collector, Stamps. The document holder has contested before the District Collector, Stamps, which has ended in directing the document holder in paying deficit stamp duty to the tune of Rs.69,760/- on 08.12.2017 and the registration fees of Rs.8095/- on 15.12.2017. Because of the notice issued by the petitioner, the said amount could be collected and the petitioner has taken appropriate action as per the rules applicable. Therefore, this Court is of the considered view that the punishment is illegal and the impugned order is set aside.

7. For the reasons stated supra, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal Secretary to Government,
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Chennai.

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Chennai.

3.The Inspector General of Registration,
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+1 CC to M/s.D.SADIQ RAJA, Advocate (SR-9676[F] dated 03/03/2022)

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MS/31.03.2022/4P.5C