IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.09.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.No.2327 of 2023
AND
C.M.P.No.19846 of 2023

1.Government of Tamil Nadu
Rep. by Secretary to Government
Commercial Taxes and Registration Department
Secretariat, Chennai 600 009

2.The Commissioner of Commercial Taxes
Chepauk, Chennai-5

3.The Joint Commissioner (Commercial Taxes)
Enforcement
Salem Division, Salem

4.The Deputy Commissioner of Commercial Taxes
Salem Division, Salem

5.The Assistant Commissioner of Commercial Taxes
Namakkal .. Appellants

Vs.

A.Radha .. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 10.03.2022 passed in W.P.No.23689 of 2012.

For Appellants	:	Mr.M.Venkateswaran Special Government Pleader
For Respondent	:	Mr.L.Chandrakumar

JUDGMENT

[Judgment of the court was delivered by R.MAHADEVAN, J.]

Assailing the order dated 10.03.2022 passed by the learned Judge in W.P.No.23689 of 2012, the appellants have preferred this writ appeal.

2.The necessary facts leading to the filing of this writ appeal are as under:

The respondent herein / writ petitioner joined duty as a Typist in the Commercial Taxes Department, Namakkal, on 24.10.1996. Thereafter, she was promoted as Assistant on 19.11.2001, which necessitated her to undergo a Foundational Training in Civil Services Training Institute, Bhavanisagar. Though her name was recommended for training for the period between 31.03.2004 and 15.05.2004, she was unable to attend as she was on maternity leave from

09.03.2004 to 22.04.2004. Thereafter, vide letter dated 02.11.2006, she was directed to undergo the training commencing from 10.11.2006, for which, she was not permitted, since the training was meant for those who were promoted before 31.12.2001. While so, she was promoted as Assistant Commercial Tax Officer. However, the said promotion was cancelled by the third appellant by order dated 16.08.2012 and she was reverted to the post of Assistant for non-completion of training. Challenging the order passed by the third appellant, she filed a writ petition in W.P.No.23689 of 2012, which was allowed by setting aside the order dated 16.08.2012 passed by the third appellant, with a consequential direction to treat the respondent herein as having continued in the post of Deputy Commercial Tax Officer and grant all service and monetary benefits including promotion to the post of Commercial Tax Officer, by including her name in the panel for the year 2011. Aggrieved by the same, the appellant authorities are before this Court with the present appeal.

3.The learned Special Government Pleader appearing for the appellants submitted that the respondent did not complete Bhavanisagar training which is mandatory in the cadre of Assistant and her increment was also not sanctioned as per Rule 35(ab) of the Special Rules for the Tamil Nadu Ministerial Service. The failure on the part of the respondent in undergoing training in the cadre of Assistant is not the fault of the Department. She was only temporarily promoted as Assistant Commercial Tax Officer (Now Deputy Commercial Tax Officer) for the year 2006 based on the recommendation of the Joint Commissioner and hence it cannot be considered as a permanent one. Subsequently as per the orders of the Government dated 21.06.2012, her name has been ordered to be deleted from the panel and also from the subsequent inclusion in the Commercial Tax Officer panel for the year 2011. Without considering all these aspects, the learned Judge erred in allowing the writ petition filed by the respondent. Stating so, the learned Government counsel prayed for setting aside the impugned order.

4.On the other hand, the learned counsel for the respondent submitted that the learned Judge has considered all the facts of the case in detail in proper perspective and has passed the order in the writ petition, with valid reasons and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the records carefully.

6.According to the learned Special Government Pleader appearing for the appellants, it is not the fault of the Department for the failure of the respondent in undergoing Bhavanisagar training when she was working as Assistant, which is mandatory for further promotion as Assistant Commercial Tax Officer (Now Deputy Commercial Tax Officer). But, the fact remains that the respondent was sanctioned medical leave from 09.03.2004 to 22.04.2004 owing to her pregnancy. Only during this time, the Department had recommended her for training with effect from 31.03.2004. When she was admittedly on sanctioned medical leave, it is not correct on the part of the Department to expect her to attend the training during that period. It is also to be noted that her name was not included in the subsequent training that was held on 16.03.2006. But, a letter dated 02.11.2006 was issued by the Department to the respondent to undergo training, which is an error committed by the Department, since the said training was meant only for the candidates who were promoted before 31.12.2001 and not the respondent herein. Taking note of all these factors, the learned Judge has correctly observed that the appellants had not subjected the respondent for training at the relevant point of time and hence, non-completion of the training cannot be put against the respondent.

7.Therefore, this court finds no infirmity or illegality in the order so passed by the learned Judge, warranting interference. Accordingly, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D.,J.] [M.S.Q., J.]
22.09.2023

Internet : Yes
Neutral Citation: Yes / No
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