IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2023

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.3102 of 2023

R.Sivakumaran … Petitioner

Vs.

1.The Principal secretary to
to Government
Commercial Taxes Department
Fort St.George
Chennai - 600 009.

2.The Commissioner of Commercial Taxes
Chepauk, Chennai - 600 005. … Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, direct the 1st respondent to consider and pass orders on petitioner's appeal dated 29.07.2021 for granting retrospective promotion to him as Deputy Commercial Tax Officer (now upgraded as commercial Tax Officer) for the year 1998 on par with his juniors and to place his name in the Deputy Commercial Tax Officer(Now upgraded as commercial Tax Officer) (Now upgraded as Commercial Tax Officer) list for the year 1998 at Sl.No.129A by relaxing Rule 6(d) of the Tamil Nadu

Commercial Tax Subordinate Service Rules as done by the Government in respect of petitioner's colleagues and co delinquents Mr.Varadharajan, Mr.P.Mani and Mr.S.Rajan vide G.O.Ms.No.81 Commercial Taxes and Registration Department dated 01.06.2021, G.O.Ms.No.94 Commercial Taxes and Registration Department dated 02.06.2021, G.O.Ms.No.95 Commercial Taxes and Registration Department dated 02.06.2021 and to accordingly sanction him arrears of pay, refixation of his last drawn pay and also revise his pension and other consequential pensionary benefits.

For Petitioner : Mr.R.Prem Narayan

For Respondents : Mrs.K.Vasanthamala
Government Advocate

O R D E R

This writ petition has been filed for the issue of a writ of mandamus directing the 1st respondent to consider the appeal filed by the petitioner on 29.07.2021, within the time frame fixed by this Court.

2.The case of the petitioner is that he was working as a Deputy Commercial Tax Officer (Manager) and he retired from service on attaining the age of superannuation on 31.12.2001. The grievance of the petitioner was that his name was not included in the panel for promotion to the post of

Deputy Commercial Tax Officer due to the currency of punishment of stoppage of increment for a period of two years with cumulative effect. The petitioner along with other similarly placed persons challenged the punishment imposed against them in WP.Nos.8948 to 8951 of 2011.

3.This Court by a common order dt.11.07.2018, allowed the writ petitions and the punishment imposed against the petitioner and 2 others was set aside. According to the petitioner, pursuant to the orders passed in the writ petition, representations were made seeking for two annual increments and for payment of the arrears and for including the name of the petitioner in the panel that was prepared in the year 1998 for promotion to the post of Deputy Commercial Tax Officer. The representation that was made by the other delinquent officers was considered and the Government also relaxed the relevant rule and they were given the benefits. However, when it came to the petitioner, the benefit was not given to the petitioner on the ground that he did not complete two years of service as Assistant Commercial Tax Officer in the assessment circle. It is stated that the petitioner made an appeal in this regard to the Government, seeking for relaxation of rules as was done for the co-delinquent officers since the same was not considered, the present writ petition has been filed before this Court.

4.Heard Mr.R.Prem Narayan, learned counsel for the petitioner and Mrs.K.Vasanthamala, learned Government Advocate appearing on behalf of the respondents.

5.The learned Government Advocate appearing on behalf of the respondents submitted that the appeal that has been filed by the petitioner is now under consideration before the 1st respondent and the same will be dealt with on its own merits and in accordance with law and a decision will be taken by the 1st respondent within the time limit fixed by this Court.

6.In the light of the above submission made by the learned Government Advocate, there shall be a direction to the 1st respondent to consider the appeal filed by the petitioner on its own merits and in accordance with law and a final order shall be passed within a period of **six weeks** from the date of receipt of a copy of this order.

7.This writ petition is disposed of in the above terms. No costs.

06.02.2023

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Internet : Yes/No
Index : Yes/No
Speaking Order :Yes/No
Neutral Judgment :Yes/No

To

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to Government
Commercial Taxes Department
Fort St.George
Chennai - 600 009.

2.The Commissioner of Commercial Taxes
Chepauk, Chennai - 600 005.

N.ANAND VENKATESH,J.

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