



WEB COPY



WP.No.24694 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. No.24694 of 2012

E.Krishnan

....

Petitioner

Vs

1. The State of Tamil Nadu,
Represented by
The Secretary to Government,
Commercial Taxes Department,
Fort St.George, Chennai – 600 009.

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

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Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of Mandamus directing the second respondent to pass appropriate order in accordance with law on the written representation of the petitioner dated 07.04.2012.

For Petitioner : Mr.S.Sivashanmugam

For Respondents : Mrs.T.K.Vasantha Mala
Government Advocate



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ORDER

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This Writ Petition has been filed for direction directing the first respondent to consider the representation of the petitioner dated 07.04.2012 seeking promotion to the post of Assistant Commercial Tax Officer.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

3. The petitioner had joined the service as Junior Assistant in the year 1981. He was promoted as Assistant Grade-II in the year 1991, subsequently, posted as Upper Division Inspector. His name was included in the post of Assistant Commercial Tax Officer in the year 2001 in the proceedings of the second respondent dated 09.08.2004. Subsequently, his name was ordered to be deleted from the said list on the ground of pendency of charges framed under Rule 17 (B) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules and inclusion deferred until finalization of the disciplinary proceedings. The disciplinary proceedings was finalised on 30.12.2009 and thereby he was



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imposed minor punishment of stoppage of increment for one year without cumulative effect on his pension. Therefore, the petitioner was entitled to have his name included in that list in the light of concerned Service Rules to the post of Assistant Commercial Tax Officer. Therefore, he submitted a representation to the respondents. Though the disciplinary proceedings initiated under Rule 17(B) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules, he was imposed minor punishment of stoppage of increment for one year without cumulative effect.

4. However, in view of G.O.Ms.No.368, dated 18.10.1993, if the persons imposed with punishment shall not be considered for a period of five years. However, it was challenged before this Court and the said Government Order was struck down by the Hon'ble Full Bench of this Court in Writ Appeal (MD) Nos.315, 355, 587, 869 and 826 of 2010 dated 27.04.2011. Therefore, the petitioner is entitled for promotion to the post of Assistant Commercial Tax Officer even from the year 2007 onwards. The currency of punishment was imposed from 01.10.2006 to 30.06.2007.



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5. In view of the above, the respondents are directed to consider the representation of the petitioner to give him notional promotion and all other monetary benefits within a period of twelve weeks from the date of receipt of a copy of this order. If the representation is not available in the office of the respondents, the petitioner is directed to submit a fresh representation and on receipt of the same, the respondents are directed to consider the same within a period of twelve weeks from the date of receipt of the representation.

6. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs.

01.09.2023

Index:Yes/No
Internet:Yes/No
Lpp

To
1. The Secretary to Government,
Commercial Taxes Department,
Fort St.George, Chennai – 600 009.

2. The Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
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G.K.ILANTHIRAIYAN,J.

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