IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

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THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Writ Appeal No.783 of 2020
and
C.M.P.No.10289 of 2020

1.The Principal Secretary to Government,
Commercial Taxes and Registration Department,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.

2.The Inspector General of Registration,
Chennai – 600 028. : Appellants/Respondents

Vs.

D.T.Boopathy : Respondent/Petitioner

Writ Appeal filed u/s.15 of Letter Patent against the order passed by this Court in W.P.No.11293 of 2014, dated 28.01.2019.

For Appellants : Mr.S.Silambanan
Additional Advocate General
Assisted by
Mr.L.S.M.Hasan Fizal,
Additional Government Pleader and
Mr.M.Babu Barveez,
Government Advocate.

For Respondent : Mr.S.Gokul
for Mr.N.Damodaran

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JUDGMENT

(*Judgment of the Court was* delivered by R.SUBRAMANIAN.J,)

The Government is on appeal aggrieved by the order in W.P.No.11293 of 2014 wherein the Writ Court set aside the punishment of stoppage of increment without cumulative effect for a period of three years imposed on the respondent herein for certain delinquencies. The charge against the respondent was that, by registering certain documents, he had caused loss to the exchequer. The disciplinary authority as well as the appellate authority concluded that the respondent has not acted with any malice. He had in fact sought for a clarification from the District Registrar regarding registration of the document and since the clarifications were not forthcoming, he was forced to register the documents in a confused state of mind. However, the authorities chose to impose the punishment as aforesaid on the respondent. The Writ Court rightly found that the punishment is unwarranted, more so, when the disciplinary authority and the appellate authority have rendered a finding to the effect that there was no *mala fide* intention on the part of the respondent to cause loss to the exchequer. It is also seen from the records that recovery action has been initiated against the company which had presented the document for registration for recovering the loss and those proceedings have also been upheld by this Court. Hence, there is no actual monetary loss to the Government because of the registration of the document by the respondent.

2.Mr.S.Silambanan, learned Additional Advocate General would vehemently contend that the punishment has been imposed as a corrective measure and the conduct of the respondent has been taken into account to impose a mild punishment.

3.We are unable to accept the contention of the learned Additional Advocate General. The charge is one of causing loss to the exchequer. It is on record that the respondent was new to the post. It is also on record that the respondent sought clarification from his superiors. Since the clarification was not forthcoming, he entertained a doubt about the nature of the document, however, he registered it because of the confusion. In such situation, we do not think that even a minor punishment of stoppage of increment without cumulative effect for a period of three years which would have an effect on him throughout his career in the department is warranted. Therefore, we are unable to fault the Writ Court for having allowed the Writ Petition. The Writ Appeal fails and it is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

[R.S.M.,J] [S.S.K., J]
23.01.2023

Index : Yes/No
Internet : Yes/No
Speaking Order
srm

To

1.The Principal Secretary to Government,
Commercial Taxes and Registration Department,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.

2.The Inspector General of Registration,
Chennai – 600 028.

R.SUBRAMANIAN, J
and
SATHI KUMAR SUKUMARA KURUP, J

srm

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