IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. Nos.18432 & 18948 of 2020

W.P.No.18432 of 2020

S.Sabareeswaran ... Petitioner

/vs/

The Principal Secretary to Government of Tamil Nadu,
Commercial Taxes and Registration (A2) Department,
Fort St. George,
Chennai – 600 009. ... Respondent

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings No.G.O.(D) No.82, Commercial Taxes and Registration (A2) Department dated 11.06.2019 and quash the same and consequently direct the respondent to declare the completion of probation of the petitioner on completion of two years of service from the date of joining the service as Junior Assistant.

W.P.No.18948 of 2020

S.Sabareeswaran ... Petitioner

/vs/

1.The Principal Secretary to Government of Tamil Nadu,
Commercial Taxes and Registration (A2) Department,
Fort St. George,
Chennai – 600 009.

2.The Additional Chief Secretary/
Commissioner of Commercial Taxes,
Chepauk,
Chennai – 600 005.

3.The Joint Commissioner of
Commercial Taxes (Enforcement)
Vellore Circle,
Vellore. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in her proceedings in Na.Ka.No.A2/853/2016 dated 19.01.2017 and the consequential orders passed by the 2nd respondent in Proc.No. EE1/11196/2017 dated 23.02.2018 and by the 1st respondent in G.O.(D) No.181 Commercial Taxes and Registration (A2) Department dated 15.10.2020 and quash the same

In Both W.Ps.

For Petitioner ... Mr.V.Rajinikanth

For Respondents ... Mrs.K.Vasanthamala
Government Advocate

COMMON ORDER

The petitioner was appointed as a Junior Assistant with the respondent Department and was deputed for Bhavanisagar training on 05.02.2016. On 13.03.2016, the petitioner was sitting in his friend's room and at that time, the Warden who inspected the room, found some empty bottles misused for some other purpose. Immediately, their training were terminated and consequently, they issued the Charge Memo dated 28.03.2016 under Rule 17 (a) of the Tamil Nadu Civil Servant (Discipline and Appeal) Rules against this petitioner. However, on 19.08.2016, the disciplinary authority dropped the proceedings by warning the petitioner. Again on 14.09.2016, on the letter sent by the Principal, Bhavanisagar Training by condemning the soft approach of dropping further action by giving a warning, the matter was reopened again and another charge memo was given to the petitioner by the Joint Commissioner and consequently, the petitioner was imposed with the punishment of stoppage of increment for three increments without cumulative effect. The petitioner challenged the same before appellate authority, but failed. However, the petitioner had successfully completed the Bhavanisagar training on 26.04.2017, by undergoing the training for the remaining days. But the probation of the petitioner was declared w.e.f. 27.04.2017, instead of giving effect from the date of completion of two years of service. The petitioner's grievance is that similarly placed person who was also present with the petitioner on the fateful day, has got his probation on his completion of two years from the date of joining and further, he was not given with any punishment by opening the charges which have been dropped with the warning.

2.The attention of this Court was drawn to the order of relaxation given to the co-trainee Periya Karuppan vide G.O.Ms.No.351, dated 29.08.2018.

3.The alleged incident had taken place on 13.03.2016. Both the petitioner and Periya Karuppan were deputed to undergo training during the same period. While a similarly placed person was left scot free without any repeated charges and a consequential punishment, the petitioner was slapped with the punishment of stoppage of increment for three increments without cumulative effect and his probation has also been declared with effect from a later date. As how the relaxation made for Periya Karuppan by issuance of G.O.Ms.No.351, dated 29.08.2018, an another Government order of similar nature should be issued in respect of this petitioner also.

3.In view of the reasons stated above, both the writ petitions are allowed and the impugned orders in G.O.(D) No.82, Commercial Taxes and Registration (A2) Department dated 11.06.2019, Na.Ka.No.A2/853/2016 dated 19.01.2017, Proc.No. EE1/11196/2017 dated 23.02.2018 and G.O.(D) No.181 Commercial Taxes and Registration (A2) Department dated 15.10.2020, are hereby quashed. The 1st respondent is directed to declare the probation of the petitioner on completion of two years of service from the date of joining the service as Junior Assistant, within a period of six weeks from the date of receipt of a copy of this order. No costs.

17.11.2023

Index: Yes / No
Speaking order / Non-speaking order
ssr

R.N.MANJULA ,J.

ssr

To

1.The Principal Secretary to Government of Tamil Nadu,
Commercial Taxes and Registration (A2) Department,
Fort St. George,
Chennai – 600 009.

2.The Additional Chief Secretary/
Commissioner of Commercial Taxes,
Chepauk,
Chennai – 600 005.

3.The Joint Commissioner of
Commercial Taxes (Enforcement)
Vellore Circle,
Vellore.

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