IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.27638 of 2019

L.Ramachandran .. Petitioner

vs

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

2.The Commissioner,
Tribunal for Disciplinary Proceedings,
Coimbatore. .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent pertaining to his impugned findings in TDP Case No.08/2014 dated 19.02.2018 and consequential impugned punishment order passed by the first respondent in proceedings No.E1/37458/2013-I dated 05.07.2019 and quash the both as illegal and unconstitutional consequently direct the first respondent to permit the petitioner to retire from service as Commercial Tax Officer/State Tax Officer with effect from 31.05.2015 with all monetary and service benefits.

For Petitioner : Mr.J.Pooventhera Rajan

For Respondents : M/s.E.Ranganayaki
Additional Government Pleader

ORDER

Writ petition has been filed in the nature of a Certiorarified Mandamus, seeking records of the 2nd respondent-Commissioner, Tribunal for Disciplinary Proceedings, Coimbatore, relating to findings in TDP Case No.08/2014 dated 19.02.2018 and the impugned punishment order passed by the first respondent-The Additional Chief Secretary/Commissioner of Commercial Taxes, Chepauk, Chennai in proceedings No.E1/37458/2013-I dated 05.07.2019 and quash both the said orders and direct the first respondent to permit the petitioner to retire from service as Commercial Tax Officer/State Tax Officer with effect from 31.05.2015 with all monetary and service benefits.

2. The petitioner had joined service as Junior Assistant in the Commercial Tax Department with effect from 23.09.1982. He was then posted as Commercial Tax Officer at Namakkal Town Assessment Circle. He was also directed to hold Full Additional Charge as Commercial Tax Officer, Tiruchengode (Town) Assessment Circle with effect from 25.07.2013. A surprise

inspection was conducted by the Vigilance and Anti-Corruption Wing Police on 01.11.2013 and a criminal case in Crime No.7/AC/2013 under Section 7 of the Prevention of Corruption Act, 1988 was registered against the petitioner herein. Charge memo was also issued. Two charges were framed, namely, that he had demanded and accepted illegal gratification of Rs.8,000/- and Rs.3,000/- as Deepavali Mamool. It has been stated that the petitioner had employed three individuals to handle office records. Enquiry was conducted and it was held that consequent to the establishment of the charges, the petitioner was inflicted with punishment of dismissal from service.

3. It is contended by the learned counsel for the petitioner that two other similarly placed employees had also been charged with the same offence and thereafter, they had also been inflicted by punishments. They have filed W.P.No.2806 of 2020 and W.P.No.2808 of 2020.

4. The learned counsel for the petitioner sought parity in the punishment as the said individuals.

5. The learned Single Judge decided the said two cases filed in W.P.No.2806 of 2020 and W.P.No.2808 of 2020 and had observed as follows:

> *"6.The charge against the petitioner is that he along with his colleagues had collected Diwali Mamool from the traders and the petitioner's share was Rs.6,000/- from the said collection and therefore, he has failed to maintain absolute integrity and devotion to duty.*
>
> *7. Admittedly, similarly placed employees were given lesser punishment namely two years increment cut with cumulative effect. On the face of the charge framed against the petitioner also, this Court is of the considered view that punishment of dismissal from service imposed on the petitioner is disproportionate to the nature of charge. The petitioner having admitted his guilt by filing a memo before this Court, after giving due consideration to the nature of charge, this Court is of the considered view that the petitioner shall also get the benefit of reduction of punishment instead of dismissal from service as was given to his colleagues who were also involved in the incident of collecting bribe as Diwali Mamool from the traders.*
>
> *8. For the foregoing reasons, this writ petition is disposed of by issuing the following directions:*
>
> *(a) The punishment imposed by the first respondent in G.O.(D).No.229, Commercial Taxes and Registration (A1) Department dated 19.11.2019 is reduced from*

dismissal of service to one of two years increment cut with cumulative effect.

(b) The petitioner shall rejoin the duty within a period of four weeks from the date of receipt of a copy of this order and the respondents are directed to permit the petitioner to rejoin the duty and pay his salary from the date when he rejoins the duty as per his legal entitlement.

9. However, it is made clear that the petitioner shall not make any claim for arrears of past salary and other monetary benefits on account of dismissal from service."

6. In the other writ petition filed in W.P.No.2808 of 2020, the learned Single Judge followed the above cited similar order.

7. The learned counsel for the respondents however stated that the respondents have preferred writ appeals as against the orders passed and have questioned the reasoning of the learned Single Judge.

8. It is a fact that the writ petitioner herein and the two writ petitioners in the aforementioned two writ petitions, suffered the same punishment at the hands of the respondents with the same charge, but when the learned Single Judge had thought it fit that the circumstances warranted that the punishment should be

modified, it may not be prudent on the part of this Court to re-examine the entire issue and take an extremely divergent view. Let the issues be decided and be examined further, but till then in order to maintain consistency, the same order as passed in the aforementioned writ petitions are also applied to the petitioner herein.

9. Accordingly, though the punishment is maintained, the same conditions are imposed namely:-

(a) The punishment imposed by the first respondent in G.O.(D).No.229, Commercial Taxes and Registration (A1) Department dated 19.11.2019 is reduced from dismissal of service to one of two years increment cut with cumulative effect.

(b) The petitioner shall rejoin the duty within a period of four weeks from the date of receipt of a copy of this order and the respondents are directed to permit the petitioner to rejoin the duty and pay his salary from the date when he rejoins the duty as per his legal entitlement.

10. However, it is made clear that the petitioner shall not make any claim for arrears of past salary and other monetary benefits on account of dismissal from service.

11. With the above directions, the writ petition stands disposed of. No costs.

01.08.2023

Index:Yes/No
Neutral Citation:Yes/No
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To

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Chepauk,
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2.The Commissioner,
Tribunal for Disciplinary Proceedings,
Coimbatore.

C.V.KARTHIKEYAN, J.

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