BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2023

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.1471 of 2016
and
W.M.P.(MD).No.1224 of 2016

B.Isabeevi .. Petitioner

Vs.

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

2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records relating to the orders in G.O.(D)No.169 Commercial Tax and Registration (K) Department dated 07.05.2015 and the consequential G.O.(D)No.416 Commercial Tax and Registration (K) Department dated 12.10.2015, passed by the first respondent and to quash the same and direct the respondents to pay the petitioner all her terminal benefits in full, together with the promotion of the petitioner, due from 1996-1997 or such date when the promotion to the petitioner became due, within a time frame as may be fixed by this Court.

For Petitioner : M/s.P.Jessi Jeeva Priya

For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

The present Writ Petition is filed challenging the orders in G.O.(D)No.169 Commercial Tax and Registration (K) Department dated 07.05.2015 and the consequential G.O.(D)No.416 Commercial Tax and Registration (K) Department dated 12.10.2015, passed by the first respondent and to direct the respondents to pay the petitioner all her terminal benefits in full, together with the promotion of the petitioner, due from 1996-1997 or such date when the promotion to the petitioner became due, within a time frame as may be fixed by this Court.

2. The writ petitioner was working as a Sub Registrar (Incharge) at Boothalur in Thanjavur District. She had been appointed to that post on 03.05.2005. During that time, she was working as Sub Registrar, Grade-II. The facts of the case reveal that the District Inspection Cell together with

the Vigilance Department conducted a surprise inspection at the Boothalur Sub Registrar Office on 22.08.2005. During the time of inspection, it came to light that there was excess cash amount of Rs.5,579/- in the possession of the writ petitioner.

3. According to the respondents, the writ petitioner was called upon to explain this amount, but since no explanation was forthcoming, the respondents proceeded further. According to the writ petitioner, such an explanation was never sought for and the excess cash had been retained for the purpose of taking x-ray of her son, who had then been admitted to a nursing home in Thanjavur.

4. Be that as it may. It is on record that the Vigilance Department was not satisfied with the stand taken by the petitioner and therefore, referred the matter to the Tribunal for disciplinary proceedings. The Tribunal took up the case as T.D.P.No.23 of 2007 and came to a conclusion that the petitioner was guilty. Accordingly, the Tribunal referred the matter to the Government for passing appropriate orders. The Government did not permit the petitioner to retire from service on her attaining the age of superannuation

on 30.04.2007. Her tenure was extended in terms of the order of the Inspector General of Registration dated 26.04.2007.

5. The matter was pending with the Government and finally, by an order dated 07.05.2015, which is impugned before me, the petitioner was imposed with a punishment of compulsory retirement.

6. Heard M/s.P.Jessi Jeeva Priya, learned counsel for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents.

7. According to the learned counsel for the petitioner, the petitioner was never heard, nor was her explanation received by the Vigilance Department. Therefore, she would say that the entire proceeding of the Government is vitiated by non-application of mind.

8. I would have accepted the argument of the learned counsel for the petitioner, if not for the proceedings of the Tribunal for disciplinary enquiry in T.D.P.No.23 of 2007. An independent Tribunal constituted by the

Government had gone into the petitioner's explanation and did not find any truth in the statement of the petitioner. Therefore, sitting under Article 226 of the Constitution of India, I am not in a position to interfere with this finding of fact. Further, the Government has taken a lenient view of retiring the petitioner compulsorily instead of imposing a higher penalty. This has been done taking into consideration the long service of the petitioner in the Department. It was directed for payment of 2/3rd pension to the writ petitioner. Therefore, I am not inclined to interfere with the impugned order imposing punishment of compulsory retirement.

9. Further, the learned counsel for the petitioner submitted that the withhold of gratuity is not permissible and therefore, the impugned order has to be set aside, insofar as that portion is concerned.

10. In order to clarify this position, I requested Mr.P.Gunasekaran, learned Standing Counsel from the office of the Accountant General to bring forth the relevant rule under which the gratuity to the extent of 1/3 had been withheld. He drew my attention to Rule 39 of the Tamil Nadu Pension Rules, under which the said power has been granted to the Government at the time of passing orders of compulsory retirement.

11. In the light of the above discussion, I do not find any merits in the Writ Petition. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

08.11.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

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

2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028

V.LAKSHMINARAYANAN,J.

Lm

W.P.(MD).No.1471 of 2016

08.11.2023