IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.N.MANJULA

WP.No.1358 and 1362 of 2020
WMP.Nos.1615 and 1616 of 2020

1. M.Selvakumar — Petitioner-WP.1358/2020
2. C.Rajendran — Petitioner-WP.1362/2020

Vs

1. The Principal Secretary to Government
Department of Commercial Taxes and Registration
Chennai

2. The Additional Chief Secretary/ Commissioner
of Commercial Taxes, Chennai-5 — Respondents in both WPs

Prayer:- These Writ Petitions have been filed, under Article 222 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd Respondent relating to the proceedings in No.E136982/2013-IV and No.E136982/2013-III, dated 17.10.2018 and the consequential order of the 1st Respondent in GO.Ms.No.228 and 227 Commercial Taxes and Registration Department, dated 19.11.2019 respectively and to quash the same and consequently to direct the Respondents to permit the Petitioners to retire from service with effect from 31.08.2018, with all pensionary benefits.

For Petitioners : Mr.J.Pooventhera Rajan

For Respondents : Mrs.K.Vasanthamalar, GA

ORDER

1. These Writ Petitions have been filed to issue a Writ of Certiorarified

Mandamus, to call for the records of the 2nd Respondent relating to the proceedings in No.E136982/2013-IV and No.E136982/2013-III, dated 17.10.2018 and the consequential order of the 1st Respondent in GO.Ms.No.228 and 227 Commercial Taxes and Registration Department, dated 19.11.2019 respectively and to quash the same and consequently to direct the Respondents to permit the Petitioners to retire from service with effect from 31.08.2018, with all pensionary benefits.

2. The Petitioners were working in the Respondent Department as a Typist and Record Clerk respectively. On an inspection by the Vigilance Department, the Petitioners were found to be in possession of various amounts, which were claimed by the Petitioners to be Deepavali Gifts and pursuant to the same, appropriate disciplinary proceedings were initiated against them. After conclusion of the enquiry, the Petitioners were found guilty of the charges levelled against them and consequently, they were imposed with a punishment of dismissal from service by the impugned order and the appeal filed as against the same by them were also dismissed, confirming the punishment of dismissal from service, by the impugned order. Hence, these Writ Petitions have been filed, seeking the relief as stated above.

3. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.

4. According to the learned counsel for the Petitioners, the punishment of dismissal from service imposed on the Petitioners is disproportionate to the nature of charges levelled against them. In similar facts and circumstances,

involved in WP.Nos.13221 to 13224 of 2021, by order of this Court, dated 13.12.2023, which was passed following the earlier orders of this Court made in similar circumstances, similarly placed employees, who were imposed with the punishment of dismissal from service, were given lesser punishment of stoppage of increment for two years with cumulative effect. Considering the similar facts and circumstances of those cases, the same yardstick may be adopted in the present cases also.

5. There is a direct similarity between the cases relied on by the learned counsel for the Petitioners and the cases on hand. In these cases, the Petitioners were not trapped, while they were demanding money. It was not a trap, but an Inspection. On such inspection, they were found to be in possession of Deepavali Gift in terms of money. Even without demand, if such gifts are offered to the Petitioners, they ought not to have accepted the same. However, taking into consideration of the extraneous circumstances involved in these cases and also considering the relief of reduction of punishment of removal from service to stoppage of increment for two years with cumulative effect granted to the similarly placed persons, by the orders of this Court in similar cases, as stated above, this Court deems it fit to apply the same logic to the cases on hand also.

6. Accordingly, in the present cases, the impugned orders are set aside. The impugned punishments of removal from service imposed on the Petitioners herein have been reduced to stoppage of increment for two years with cumulative effect. If the Petitioners herein have not attained the age of

superannuation, they will be reinstated into service, without any back wages,

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but with all other attendant benefits. If the Petitioners herein have reached the age of superannuation, they shall be reinstated and allowed to retire from service with all other attendant benefits.

7. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, the connected MP are closed.

14.02.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

1. The Principal Secretary to Government, Department of Commercial Taxes and Registration, Chennai-9

2. The Additional Chief Secretary/ Commissioner, of Commercial Taxes, Chennai-5

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