IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.18314 of 2011

M.Radhakrishnan ...Petitioner

Vs

1.State of Tamilnadu,
Rep. by the Secretary to Government,
Department of Commercial Taxes and Registration,
Secretary,
Chennai – 600 009.

2.Principal Secretary/
Commissioner of Commercial Taxes,
Ezhilagam,
Chepauk,
Chennai – 600 005.

3.Joint Commissioner (CT),
Commercial Taxes Building,
Court Compound Cantonment,
Trichy – 620 001.

4.Assistant Commissioner (CT),
Office of the Assistant Commissioner
of Commercial Tax,
Mayiladuthurai – I Assessment Circle,
Door No.8, First Floor,
South Saliya Street, Koranadu,
Mayiladuthurai. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a

Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent culminated in the Seniority List Proc.No.P2/319/2011 dated 20.07.2011 and quash the same and direct the 2nd respondent to revise the said seniority list by including the name of the Petitioner and consequentially accord him due promotion to the post of Assistant Commercial Tax Officer (now redesignated as Deputy Commercial Tax Officer) with all the monetary and service benefits with effect from the date of promotion given to his juniors.

For Petitioner : Mr.P.Siddarth for Mr.BFS Legal

For Respondents : Mr.K.Vasantha Mala, Government Advocate, Tax

ORDER

The Writ Petition is filed calling for the records of the 2nd Respondent culminated in the Seniority List Proc.No.P2/319/2011 dated 20.07.2011 and quash the same and direct the 2nd respondent to revise the said seniority list by including the name of the Petitioner and consequentially accord him due promotion to the post of Assistant Commercial Tax Officer (now redesignated as Deputy Commercial Tax Officer) with all the monetary and service benefits with effect from the date of promotion given to his juniors.

2.The case of the petitioner is that petitioner was appointed as Junior Assistant and he joined in the office of Deputy Commercial Taxes Officer, Kumbakkonam on 06.06.1983. He was promoted to the post of Assistant with a transfer to the office of the Commercial Tax Office, Uraiyur Circle. When he was working as Sales Tax Collection Inspector in the office of Commercial Tax Officer, Kumbakonam – IV, a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (D&A) Rules was issued against him on 22.11.2002. The charge is that he received illegal gratification from the persons who presented R.C.Renewal application. He submitted his explanation, denying the allegation. But his explanation was not accepted. Without conducting a proper enquiry, he was imposed the punishment of "stoppage of increment for two years with cumulative effect. Since, he was 56 years, he did not challenge the punishment. 2nd respondent issued a letter dated 23.06.2011 setting out the seniority list of persons for consideration for promotion to the post of Assistant Commercial Tax Officer (now redesignated as Deputy Commercial Tax Officer). Petitioner's name was found in Sr.No.2 in the seniority list for Trichy Division. Petitioner was under the impression that his punishment would be over in August 2011, he would included in the list and promoted. However, he was not promoted. Therefore, this Writ Petition is filed.

2.1.It is the submission of the learned counsel for the petitioner that when petitioner's name was included in the seniority list for Trichy Division for the promotion to the post of Assistant Commercial Tax Officer, ommision to promote the petitioner by citing currency of punishment is against the law. Therefore, he prays for quashing the impugned order in Seniority List Proc.No.P2/319/2011 dated 20.07.2011and promote the petitioner to the post of Assistant Commercial Tax Officer, with all the attendant benefits.

3.In reply, learned counsel for the respondents submitted that petitioner was imposed with the punishment of "stoppage of increments for two years with cumulative effect". This punishment was passed on 08.06.2009. The currency of punishment gets over only on 31.03.2012. The list dated 23.06.2011 is only a draft list and it is not approved list. Petitioner got superannuated on 31.12.2011.

4.Considered the rival submissions and perused the records.

5.From the admitted case of the parties, it is not in dispute that petitioner was imposed with the punishment of stoppage of increment for two years with cumulative effect. It appears that his increment date is 1st of April. That is the reason why it is submitted by the learned counsel for the respondent that currency of the punishment gets over only on 31.03.2012. Assuming that the order imposing the punishment of stoppage of increment for two years with cumulative effect was communicated to the petitioner on 08.06.2009 itself and the punishment came to effect on 08.06.2009, the currency of punishment gets over only on 31.03.2012. The letter No.P2/319/2011, dated 23.06.2011 states that “it is only a Nomination Roll/Record Sheets/Seniority list of all qualified/Not qualified Assistants from all divisions, who are coming up for consideration for promotion to the post of ACTO. This list was communicated only for the purpose of soliciting information from all concerned Assistants to inform if the names have been omitted, to be sent by their respective JCs. Therefore, on the basis of this communication petitioner cannot claim that, he is entitled for consideration for the post of promotion to the post of ACTO. It is not in dispute that, on the crucial date panel preparation i.e., 01.03.2011, the punishment was in force. His punishment gets over only on 31.03.2012. Meanwhile, petitioner got retired on attaining the age of superannuation on 31.12.2011. In such circumstances, the prayer of the petitioner to quash the impugned order in Seniority List Proc.No.P2/319/2011 dated 20.07.2011 cannot be considered.

Accordingly, this Writ Petition is dismissed. No costs.

14.03.2024

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

G.CHANDRASEKHARAN, J.

gd

To
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