IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.21107 of 2021
and W.M.P.No.22364 of 2021

P.Karunakaran ... Petitioner

Vs.

1.The Principal Secretary to Government,
Department of Commercial Taxes and Registration,
Fort St. George, Chennai.

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

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the second respondent in his proceedings in No.E1/36982/2013-I dated 17.10.2018 and consequential order of the first respondent in G.O(Ms).No.225, Commercial Taxes and Registration Department, dated 19.11.2019 and quash the same and consequently, direct the respondents to permit the petitioner to retire from service with effect from 31.03.2016 with all pensionary benefits.

For Petitioner : Ms.P.Mahalakshmi

For Respondents : Ms.K.Vasanthamala, GA

<u>O R D E R</u>

This Writ Petition has been filed for quashment of the order passed by the second respondent in his proceedings in No.E1/36982/2013-I dated 17.10.2018 and consequential order of the first respondent in G.O(Ms).No.225, Commercial Taxes and Registration Department, dated 19.11.2019 and consequently, to direct the respondents to permit the petitioner to retire from service with effect from 31.03.2016 with all pensionary benefits.

2.Heard the learned counsel on either side and also perused the materials available on record.

3.The case of the petitioner herein is similar to that of the dispute which arose in the Civil Appeals in C.A.Nos.1763-1764 of 2022 (*the State of Karnataka and another Vs. Umesh*). In the said Civil Appeals, the Hon'ble Supreme Court has passed the following order:

"17. In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether: (i) the rules of nature justice have been complied with; (ii) the finding of misconduct is based on some evidence; (iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and (iv) whether the findings of the disciplinary authority suffer from perversity; and (v) the penalty is disproportionate to the proven misconduct. However, none of the above tests for attracting the interference of the High Court were attracted in the present case. The Karnataka Administrative Tribunal having exercised the power of judicial review found no reason to interfere with the award of punishment of compulsory retirement. The Division Bench of the High Court exceeded its jurisdiction under Article 226 and trenched upon a domain which falls within the disciplinary jurisdiction of the employer. The enquiry was conducted in accordance with the principles of nature of justice. The findings of the inquiry officer and the disciplinary authority are sustainable with reference to the evidence which was adduced during the enquiry. The acquittal of the respondent in the course of the criminal trial did not imagine upon the

authority of the disciplinary authority or the finding of misconduct in the disciplinary proceeding."

4. The subject matter in issue is also similar to that of the Civil Appeals filed in C.A.Nos.1763-1764 of 2022, in which the aforesaid order has been passed.

5. In the light of the order passed by the Hon'ble Supreme Court in the Civil Appeals as stated supra, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

13.11.2024

vkr
Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

To

1.The Principal Secretary to Government,
Department of Commercial Taxes and Registration,
Fort St. George, Chennai.

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

VIVEK KUMAR SINGH, J.

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