BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.3156 of 2024

V.Mahendhiran ... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to
Government,
Commercial Taxes & Registration
Department,
Secretariat,
Chennai-600 009.

2.The Commissioner of Taxes,
Office of the Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to consider the representation dated 30.10.2023 for promotion and re-fix all other incentives, consequential pecuniary & monetary along with attendant benefits with effect from 05.10.2023 in the cadre of Additional Commissioner on par with his junior S.M.Saraswathy.

For Petitioner : Mr.A.Satheesh Murugan

For Respondents : Mr.R.Ragavendran,
Government Advocate

ORDER

The present writ petition has been filed seeking direction to the 1st respondent to consider the representation dated 30.10.2023 for promotion and re-fix all other incentives, consequential pecuniary & monetary along with attendant benefits with effect from 05.10.2023 in the cadre of Additional Commissioner on par with his junior S.M.Saraswathy.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

The petitioner was appointed as the Assistant Commercial Tax officer on 18.04.1990 through the Tamil Nadu Public Service Commission. He was promoted as the Deputy Commercial Tax officer on 10.08.2001 and further promoted as the commercial tax officer on 15.03.2007. While so, the promoted post of Commercial Tax officer is re-designated as the Assistant Commissioner of Commercial Taxes, vide Government order in G.O. (Ms.) No. 71 dated 30.07.2008. Thereafter, he was promoted as the cadre of Appellate Deputy Commissioner of commercial taxes, Chennai-III (Central) as per G.O. (D) No. 159 dated 16.07.2018. Presently, he is working as the Deputy Commissioner / Additional State representative, Tamil Nadu Sales Tax Appellate Tribunal (AB), Madurai. In the meanwhile, the petitioner's Junior Tmt. S.M. Saraswathi is working in the post of Joint Commissioner (CT) under the commercial taxes department. Hence, the petitioner sent the representation dated 20.03.2023 to the 1st respondent to elevate the petitioner to the post of Joint Commissioner, since all his immediate juniors are elevated as Additional Commissioner. However, the 1st respondent had not taken any action in the case of the petitioner.

(ii) While so, the petitioner's Junior one S.M. Saraswathi has been elevated as the Additional Commissioner (CT) and posted in the office of the Principal Secretary/Commissioner of Commercial Taxes, Chennai- 600 005 and she joined duty with effect from 05.10.2023. Similarly two others Juniors S. Subash Chandra bose and M.Ravi have been elevated as the Additional Commissioner (CT). However, the 1st respondent has not considered the petitioner's name for the promotion to the post of Additional Commissioner. Hence, lastly the petitioner made a representation dated 30.10.2023. Since the same was not considered by the respondents, the present writ petition came to be filed.

4. The learned Government Advocate appearing for the respondents on instructions submitted that vide G.O.(Ms)No.53, dated 09.02.2024, inter-se seniority list has been issued and the petitioner's name has been accomadated in the list.

5. Heard, the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents. Carefully perused the materials available on record.

6. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

7. It is made clear without going into the merits of this case that this Court hereby direct the respondent to consider the representation of the petitioner dated 30.10.2023 and pass appropriate orders in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition stands disposed of. No costs.

14.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

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Secretariat,
Chennai-600 009.

2.The Commissioner of Taxes,
Office of the Commissioner of
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Ezhilagam, Chepauk,
Chennai-600 005.

L.VICTORIA GOWRI, J.

Sml

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