BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.2318 of 2019

R.Muthulakshmi ... Petitioner

-vs-

1.The Principal Secretary to Government
State of Tamil Nadu
Commercial Taxes and
Registration Department
Fort St.George, Chennai-600 009

2.The Inspector General of Registration
100, Santhome High Road
Pattinampakkam
Chennai-600 028 ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the impugned order issued by the second respondent in proceedings in No.63285/Aa2/2011 dated 22.02.2016 and the consequential impugned order passed by the first respondent in G.O.(D).No.16, Commercial Taxes and Registration (K)

Department, dated 23.01.2018 and the consequential impugned order passed by the first respondent herein in GO(D).No.338 (Commercial Taxes and Registration (K) Department) dated 08.10.2018, quash the same as illegal. (Amended *vide* Court order dated 16.10.2024 passed in W.M.P.(MD) No.20771 of 2024.

For Petitioner	:	Mr.H.Mohammed Imran
For Respondents	:	Mr.M.Siddharthan Additional Government Pleader

O R D E R

This writ petition has been filed challenging the order dated 22.02.2016, passed by the second respondent and the consequential orders dated 23.01.2018 and 08.10.2018, passed by the first respondent.

2. The petitioner has been imposed with a punishment of stoppage of increment for three years with cumulative effect, which has been challenged by her in this writ petition. The petitioner is a Sub Registrar. In the disciplinary proceedings initiated against the petitioner, charges were framed against her for having returned the registered document to the executant, despite the fact that on account of deficit stamp duty, the document was referred to the District Collector under Section 47-A of the Indian Stamp Act, 1899. The petitioner has challenged the impugned punishment order, on the ground that erroneously, by total non-application of mind, despite the fact that the Enquiry Officer had found that the petitioner is not guilty of the charges, the Disciplinary Authority had ignored the findings of the Enquiry Officer by imposing the aforesaid punishment on the petitioner. The petitioner had also filed an appeal before the Appellate Authority (first respondent) aggrieved by the order of the Disciplinary Authority (second respondent) and the first respondent had also rejected the appeal by confirming the order of the second respondent. Aggrieved by the same, this writ petition has been filed.

3. A counter affidavit has been filed by the respondents reiterating the findings rendered in the impugned orders passed by the second respondent and the first respondent respectively. They have also contended that an opportunity of personal hearing was afforded to the petitioner and only after receiving her explanation with regard to the charges framed against her, the punishment was imposed on her.

4. It is an admitted fact that subsequent to the passing of the impugned order by the Disciplinary Authority (second respondent) imposing a punishment of stoppage of increment for three years with cumulative effect on the petitioner, the executant of the document had paid the deficit stamp duty on 14.09.2016. Therefore, there is no loss of revenue to the respondents. It is also an admitted fact that the petitioner is not involved in any other charges apart from the present one and there are no other disciplinary proceedings pending against her and the same is also confirmed by the learned Additional Government Pleader appearing for the respondents on instructions.

5. Admittedly, in the case on hand, the Enquiry Officer appointed for the purpose of adjudicating the charges framed against the petitioner for having returned the original document presented for registration to the executant, despite the fact that the said document was not duly stamped, has held that the charges framed against the petitioner were not proved. However, the Disciplinary Authority (second respondent) has ignored the said findings, after issuing a show cause notice to the petitioner and after receiving an explanation from her, by holding that the petitioner is guilty of the charges framed against her and he has imposed upon the petitioner the punishment of stoppage of increment for three years with cumulative effect. Subsequent to the passing of the punishment order by the Disciplinary Authority (second respondent), the executant of the document has paid the deficit stamp duty to the respondents on 14.09.2016. The said fact is also not disputed by the learned Additional Government Pleader appearing for the respondents on instructions. The petitioner has also referred the document, which was presented for registration, to the Collector under Section 47-A of the Indian Stamp Act, 1899, on account of deficit stamp duty. She has followed the procedure as contemplated under Section 47-A of the Indian Stamp Act, 1899. She has also obtained an endorsement from the executant of the document, while returning the original document that incase it is found that there is a building on the land, for which the executant is liable to pay additional stamp duty, the executant shall pay the additional stamp duty to the respondents. Admittedly, there is no revenue loss caused to the respondents on account of the admitted fact that subsequent to the passing of the punishment order by the Disciplinary Authority, the executant of the document has paid the deficit stamp duty. The petitioner has also alleged in this writ petition that she was not afforded with the personal hearing before passing of the punishment order by the Appellate Authority (first respondent).

6. This Court, after careful consideration of the aforementioned facts, is of the considered view that the impugned punishment orders have to be quashed for the following reasons:

(a) The Enquiry Officer, who conducted the enquiry in the disciplinary proceedings initiated against the petitioner, has categorically held that the charges framed against the petitioner have not been proved.

(b) There is no revenue loss caused to the respondents, in view of the fact that subsequent to the passing of the punishment order by the Disciplinary Authority, the executant of the document had paid the deficit stamp duty to the respondents, which is also admitted by the respondents.

(c) The petitioner is not involved in any other irregularities and there are no pending disciplinary proceedings apart from the one, which is the subject matter of this writ petition initiated against her by the respondents for any irregularity committed by her.

(d) Admittedly, no opportunity of personal hearing was afforded to the petitioner in the appeal proceedings before the first respondent.

(e) The petitioner has followed the procedure as contemplated under Section 47-A of the Indian Stamp Act, 1899, by referring the case of deficit stamp duty to the Collector on the presentation of the document by the executant. She has also obtained an endorsement from the executant of the document that incase a building is found on the land, the executant of the document is liable to pay the additional stamp duty and an undertaking has also been obtained from the executant of the document by the petitioner to that effect.

(f) The punishment imposed on the petitioner is not based on any evidence, as the Enquiry Officer has categorically held that the petitioner is not guilty of the charges framed against her in the disciplinary proceedings.

7. For the foregoing reasons, the impugned order dated 22.02.2016, passed by the second respondent and the consequential impugned orders dated 23.01.2018 and 08.10.2018, passed by the first respondent, are hereby quashed and this writ petition is allowed. No costs.

16.10.2024

(2/2)

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

Note to Office:
Issue copy of this order, after the amendment of prayer is carried out.

krk

To:

1.The Principal Secretary to Government,
State of Tamil Nadu,
Commercial Taxes and
Registration Department,
Fort St.George, Chennai-600 009.

2.The Inspector General of Registration,
100, Santhome High Road,
Pattinampakkam,
Chennai-600 028.

ABDUL QUDDHOSE, J.

krk

W.P.(MD) No.2318 of 2019

16.10.2024

(2/2)