IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.2108 of 2025
and
W.M.P.No.2477 of 2025

B. Rekha ... Petitioner

Vs

1. The Secretary to Government,
Commercial Taxes & Registration Department,
Secretariat,
Chennai – 600 009.

2. The Principal Secretary to Government,
Commercial Taxes & Registration Department,
Secretariat,
Chennai – 600 009.

3. The Principal Secretary / Commissioner of
Commercial Taxes,
Chepauk,
Chennai – 600 005.

4. The Joint Commissioner of Commercial Taxes,
Coimbatore. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the 2nd respondent in G.O.(D)No.323 dated 13.11.2024 and quash the same as illegal.

For Petitioner	:	M/s.Reshmi Christy
For Respondents	:	Mr.G.Nanmaran Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned order passed by the 2nd respondent in G.O.(D)No.323 dated 13.11.2024, whereby the appeal filed by the petitioner before the 1st respondent was rejected by the 2nd respondent, confirming the order of the 3rd respondent, imposing a punishment of stoppage of increment for six months without cumulative effect on B. Rekha / petitioner.

2. The case of the petitioner is that, she was appointed as a Junior Assistant in the 3rd respondent office on 16.06.2014 and later promoted

as Assistant in the 3rd respondent office on 08.03.2021. She was assigned with the work relating to the initiation of disciplinary proceedings under the Tamil Nadu Civil Services (Discipline & Appeal) Rules, against the officials in the cadre of Assistant Commissioners in the Commercial Taxes Department. In 2012, the 4th respondent had initiated disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, against one Thiru K.P.Selvaraj. During the pendency of the said proceedings, the Government requested the 3rd respondent to furnish a report on the above said issue. In response to the Government's request, the 4th respondent sent a detailed report vide Letters dated 02.08.2022 and 18.10.2022, concluding that no permanent revenue loss was involved in this issue as alleged against Thiru. K.P.Selvaraj. Based on the report of the 4th respondent, the petitioner prepared a draft report. However, the 3rd respondent issued a show cause notice to the petitioner on 18.04.2023, alleging lapses in the noting. Despite the petitioner's explanation that, the report was prepared based on the 4th respondent's findings, the 3rd respondent imposed a punishment of stoppage of increment for six months without a personal hearing. Hence, the petitioner preferred an appeal before the 1st respondent on

06.11.2023. The 2nd respondent, without considering the merits of the case or giving a personal hearing, has passed the order in G.O.(D)No.323 dated 13.11.2024, confirming the punishment imposed by the 3rd respondent. Aggrieved by the said order, the petitioner has filed this writ petition before this Court.

3. The Learned Special Government Pleader filed a counter affidavit and submitted that, the petitioner, an Assistant in the office of Commissioner of Commercial Taxes, was assigned to initiate disciplinary proceedings against officials. In 2012, disciplinary proceedings were initiated against Thiru K.P.Selvaraj, formerly Assistant Commissioner (CT), for lapses in his duties, including failure to watch early realization of cheques and take action against erring officials. The charges against Thiru K.P.Selvaraj included failure to properly watch early realization of cheques, failure to take action against officials who failed to note cheque numbers, and failure to take action under the Negotiable Instrument Act. The petitioner has submitted a misleading note in File No. CD1/41097/2012 stating that there was no permanent revenue loss involved, hence the departmental proceedings were against her under

Rule 17(a) of Tamil Nadu Civil Services (Discipline and Appeal) Rules and subsequently, the award of punishment of stoppage of increment for six months, was imposed on her. The Learned Special Government Pleader further submitted that, challenging the award of punishment, the petitioner filed an appeal before the 1st respondent, but her appeal was rejected on the ground that, her explanation was a lame excuse for the lapses and that there were no vital points to exonerate her from the lapses. The 2nd respondent, after careful and independent examination on the appeal preferred by the petitioner along with all connected records of the case and views of Tamil Nadu Public Service Commission, has decided to reject the Appeal Petition as devoid of merits and confirm the punishment imposed by the 3rd respondent. Hence, the Learned Special Government Pleader submitted that, this writ petition is without merit and is liable to be dismissed.

4. The learned counsel appearing for the petitioner would submit that, the 2nd respondent has not provided the petitioner an opportunity for a personal hearing, which is against the principles of natural justice.

5. On perusal of the impugned order, it is apparent that, the petitioner was not given an opportunity of personal hearing to put forth his claim, which violates the principles of natural justice. Hence, this Court is inclined to set aside the impugned order dated 13.11.2024 and remit the matter back to the Appellate Authority for complying the principles of natural justice.

6. Accordingly, the impugned order dated 13.11.2024 is set aside and the matter is remitted back to the Appellate Authority for fresh consideration for following the principles of natural justice. The 2nd respondent is directed to give an opportunity of personal hearing to the petitioner and pass orders, on merits and in accordance with law, within a period of sixteen weeks from the date of receipt of a copy of this order.

7. With the aforesaid direction, this writ petition stands allowed Consequently, connected miscellaneous petition is closed. No costs.

31.01.2025

raja
Index : Yes/No
Internet: Yes / No

To

1. The Secretary to Government,
   Commercial Taxes & Registration Department,
   Secretariat, Chennai – 600 009.

2. The Principal Secretary to Government,
   Commercial Taxes & Registration Department,
   Secretariat,
   Chennai – 600 009.

3. The Principal Secretary / Commissioner of
   Commercial Taxes,
   Chepauk, Chennai – 600 005.

4. The Joint Commissioner of Commercial Taxes,
   Coimbatore.

V.BHAVANI SUBBAROYAN, J.

raja

W.P.No.2108 of 2025

31.01.2025