IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.10471 of 2020
and
W.M.P.Nos.12725 and 12726 of 2020

E.Pushpa Flora Princess ...Petitioner

-Vs-

1.The State of Tamil Nadu,
Rep.by its Secretary,
Commercial Taxes and Registration Department,
Fort St.George, Chennai-9.

2.The Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-5.

3.The Joint Commissioner, (ST),
Trichy Division, Trichy-620 001. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in connection with the impugned G.O(D).No.79 dated 29.05.2020, in so far as the punishment has been modified into one of "Censure" instead of completely allowing the appeal setting aside the penalty appealed against in full exoneration quash the same and direct the 2nd respondent to promote the petitioner as

Commercial Tax Officer with effect from the same date as the petitioner's immediate junior Mrs.Poonguzhali, found in S.No.121 was promoted in the panel bearing Proc.No.P1/16092/2018 dated 22.11.2018 with all consequential seniority and Monetary benefits.

For Petitioner : Mr.K.Krishnamoorthy

For Respondents 1 to 3 : Mr.Vasantha Mala
Government Advocate (Taxes)

ORDER

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in connection with the impugned G.O(D).No.79 dated 29.05.2020, in so far as the punishment has been modified into one of "Censure" instead of completely allowing the appeal setting aside the penalty appealed against in full exoneration quash the same and direct the 2nd respondent to promote the petitioner as Commercial Tax Officer with effect from the same date as the petitioner's immediate junior Mrs.Poonguzhali, found in S.No.121 was promoted in the panel bearing Proc.No.P1/16092/2018 dated 22.11.2018 with all consequential seniority and Monetary benefits.

2. The case of the petitioner is that she joined in the services of the 2nd respondent Department on 25.02.1993 as Junior Assistant having been recruited directly through TNPSC in the open competitive examination.Thereafter, the petitioner was promoted to the post of Assistant on 27.06.2005 and she was recruited through transfer to the post of Deputy Commercial Tax Officer on 24.09.2012 and have been working as such in the same post without any blemish. Thereafter, the petitioner was issued Show Cause Notice dated 04.03.2016 by the Assistant Commissioner (C.T.), Palakkari-I, Assessment Circle making certain allegations and the petitioner gave reply on 31.03.2016 and the issue was put to rest. The petitioner was about to promote to the post of CTO, the 3rd respondent had issued Show Cause Notice dated 22.02.2018 purportedly under Rule 17(a) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules on the same cause of action which was believed to be put on rest in the year 2016 itself. The petitioner gave explanation and the same resulted by order dated 13.07.2018 imposing in a punishment to stoppage of increment for 6 months with cumulative effect in the appeal, the petitioner preferred before the 2nd respondent on 16.08.2018 and the same was ended in confirming the orders passed by the 3rd respondent vide order dated 12.02.2019. The Government,

namely, the 1st respondent upon the advice of TNPSC has concluded that the petitioner did not commit any misconduct. However, imposed a punishment of Censure vide G.O.(D).No.79dated 29.05.2020. Aggrieved by the above order passed by the 1st respondent, the petitioner has come forward with the present writ petition.

3. The learned counsel appearing for the petitioner would submit that when the petitioner was about to be promoted to the post of Commercial Tax Officer (CTO), the 3rd respondent issued Show Cause Notice on 27.02.2018 under Rule 17(a) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules. The learned counsel would further submit that while the petitioner was working as Deputy Commercial Tax Officer (Dy.CTO), in the office of the Aassistant Commissioner, Palakkari-I, Assessment Circle in the year 2015, she was directed to submit a verification report based on a returned Security Deposit demand Notice bearing the address 'TVL.GHARINI & CO., A BLOCK, GROUND FLOOR, No.49, St.Pauls Complex, Bharathiyar Salai, Cantonment, Trichirappali-01'. The reason for such verification arose as the said notice sent by speed post was returned unserved with the postal endorsement "NO SUCH ADDRESSEE". The petitioner accordingly verified the place of business 'TVL.GHARINI & CO., A BLOCK, GROUND FLOOR, No.49, St.Pauls Complex, Bharathiyar Salai, Cantonment,

Trichirappali-01' and **she had submitted her verification report stating "No such business in the address. Place is in the possession of Catholic Mission". Based on the verification report, the TIN Number granted to the dealer was cancelled.** The dealer preferred revision before the 2nd respondent for restoration of his Registration. Later it was learnt that the dealer name was G.HARINI & Co. and is running a petrol bunk at No.49, Bharathiyar Salai, Cantonment, Trichirappali-01. The petitioner was given a memo by the Assistant Commissioner on 04.03.2016 and she gave her explanation on 31.03.2016 itself. The security deposit demand notice was thereafter duly served on the dealer and the issue was put to rest.

4. The learned counsel for the petitioner would further submit that this being so, the 2nd respondent had called for the list of all the eligible Deputy Commercial Tax Officers (DCTO) from all parts of Tamil Nadu who are qualified as on 01.03.2018 which letter was communicated to the 3rd respondent. In order to deprive the petitioner from getting promotion, she was again issued with another show cause notice in RC 1201/2016-A2 dated 22.02.2018 though under Rule 17(a) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules on the same set of facts for which the petitioner

had again submitted her explanation on 04.04.2018. The 3rd respondent passed the impugned order in RC.1201/2016/A2 dated 13.07.2018 holding that the charges levelled against the petitioner stood proved and she was awarded the punishment of stoppage of increment for 6 months without cumulative effect. Therefore, the petitioner preferred an appeal dated 16.08.2018 before the 2nd respondent and the 2nd respondent without appraising the facts in detail had hurriedly passed the order vide Proceedings No.EE2/27266/2016 dated 12.02.2019. Meanwhile, on 22.11.2018, the 2nd respondent issued proceedings dated 22.11.2018, promoting 141 DCTOs to the post of Commercial Tax Officers (CTO), on ad-hoc basis in which panel the petitioner's name was not included and the petitioner availed the opportunity of filing 2nd appeal before the Government and the Government sought for the advice of Tamil Nadu Public Service Commission. The 1st respondent Government have accepted the views of Tamil Nadu Public Service Commission and modified the punishment of "Stoppage of increment for 6 months without cumulative effect" into a punishment of "Censure".

5. In the meanwhile, the 2nd respondent has issued proceedings for promotions viz., Proc.No.PI/16092/2018 dated 06.03.2019 in which 73

DCTOs were given ad-hoc promotion to the post of CTO. The petitioner gave representation to the 2nd respondent seeking to include her in the Ad-hoc promotion as given to her juniors. The 2nd respondent also issued other proceedings for ad-hoc promotions to the post of CTO vide Proc.No.P1/16092/2018 dated 19.09.2019.All the DCTOs who are Junior to the petitioner were promoted to the post of CTO and she was not given the promotion for 3 times on account of the minor punishment. The petitioner is senior to one Mrs.R.Poonguzhali whose name is found in Sl.No.121 of the Proc.No.P1/16092/2018 dated 22.11.2018 and the petitioner had been denied promotion thrice on account of 'minor punishment'. The 1st respondent issued G.O.(D).No.79 recorded its findings in favour of the petitioner and the same is extracted hereunder for ready reference and as follows:

> "On thorough scrutiny of file, the petitioner has stated in her explanation that she had physically verified the address mentioned in the office note of the Assistant Commissioner (Commercial Taxes), also she has stated that the Registered post was returned with no such addressee i.e., Tvl.GHARINI and CO, A Block, Ground Floor, No.49, St.Pauls Complex, Bharathiyar Salai, Cantonment,

Tiruchirapalli-1" and she found that there was no name board in the said place and no business was being carried on there and also enquired about the said dealer into the other commercial establishments operating in the said commercial complex and said that no such dealer in that complex. Since she has submitted her report that 'No such business dealer available in the address".

6. Though the Government was pleased to record the findings in her favour, unfortunately held that she failed to record a statement from the owner of the place of business resulted in imposing a punishment of Censure. Therefore, the petitioner was deprived of her promotion in the ad-hoc panel of 22.11.2018, 06.03.2019 and 17.09.2019. Hence, the impugned G.O(D).No.79, dated 25.06.2020 issued by the 1st respondent is liable to be quashed insofar as modifying the punishment into Censure instead of exonerating the petitioner absolutely from the charges and grant her promotion.

7. The learned counsel would further submit that the punishment of Censure was imposed on the petitioner only based on the observations that the petitioner failed to record the statement from the owner of the complex. The impugned order did not take into account the fact that there was no instruction by the superior officer to record the facts from owner. Therefore, the question of failing to record the facts from the owner could not be faulted in the given circumstances and therefore the impugned punishment of Censure is liable to be quashed.

8. The learned counsel for the petitioner would further submit that the show cause notice dated 22.02.2018 and the punishment imposed on 13.07.2018 is a colourable exercise of power by the 3rd respondent aiming at her promotion and thus deprived her the opportunity to become CTO in the panel of 22.11.2018 and till date. Hence, the petitioner prays to allow the writ petition.

9. The counter affidavit was filed on behalf of the respondents on 01.10.2020. The learned Government Advocate appearing for the respondents would submit that the petitioner who was working as Deputy State Tax Officer / Manager, Office of the Appellate Deputy Commissioner

(ST), Trichy had committed the following lapses while she was working as Deputy State Tax Officer, Palakkarai-I Assessment Circle.

10. In the notice in TIN 33053521649/O.R.No.92/2014-2015 dated 25.09.2015 of the Assistant Commissioner (ST), Palakkarai-I Circle, Tvl.G.Harini & Co., Bharathiyar Salai, Cantonment, Trichy (TIN 33053521649) were directed to show cause why the Security deposit to the tune of Rs.10000 could not be demanded from them, as they failed to file the returns for the months of June and July 2015. The said notice sent by Speed Post was returned unserved with postal endorsement "NO SUCH ADDRESSEE". Therefore, the petitioner, the then Deputy State Tax Officer, Palakkarai-I Assessment Circle, was directed to inspect the place of business in person as per tapal order dated 12.10.2015 of the Assistant Commissioner (ST), Palakkarai-I Circle. Accordingly, the petitioner has verified the place of business and put up note as followed as on 26.10.2015:

"No such business in the address place is in the possession of catholic mission".

Relying on the verification made by the petitioner and the report submitted by her, the TIN of the dealer was ordered to be cancelled in the proceedings No.Pdl.178/2015-A2, dated 29.10.2015 of the Assistant Commissioner (ST), Palakkarai-I Circle.

11. The learned Government Advocate would further submit that aggrieved against the order of cancellation of TIN, the dealer filed Revision Petition before the Joint Commissioner (ST), Trichy Division, While processing the said revision petition, the Joint Commissioner (ST), Trichy Division in O.R.No.7/2016/A2 dated 22.01.2016 had instructed the Assistant Commissioner (ST), Palakkarai-1 to personally verify the place of business and to submit report. Accordingly, when the Assistant Commissioner, Palakkarai-1, verified the place of business on 27.01.2016, she found that the business was actually being carried on at the place which was in contravene to the report given by the petitioner who was the then Deputy State Tax Officer, and submitted the report to the Joint Commissioner (ST), Trichy Division on 28.01.2016.

12. He would further submit that based on the verification report dated 28.01.2016, the Joint Commissioner (ST), Trichy Division has remanded the Revision petition filed by the dealer and directed the Assistant Commissioner

(ST) to restore the TIN of the dealer. From the above, it was construed that the petitioner had not gone to the place of business and verified the existence of the dealer at the place of business. The petitioner has not recorded any statement from the owner of the place of business for having verified the place of business on 26.10.2015 but has submitted false report to the Registering Authority stating that "No such business in the address place is in the possession of catholic mission" and misled her superiors by submitting false report. Because of the lapses done by the petitioner, the Registration Certificate of the dealer incorrectly cancelled and the dealer had to file Revision Petition to restore his Registration Certificate, which amounting to harassment to the dealer. The petitioner has thus failed to maintain devotion to duty and absolute integrity, which is unbecoming of a Government Servant and thereby, violated Rule 20(1) of Tamil Nadu Government Servant Conduct Rules 1973. Therefore, the disciplinary action was initiated against the petitioner and show cause notice under Rule 17(a) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules was issued to her in the reference of O/o. The Joint Commissioner in Rc.1201/2016-A2 dated 22.02.2018. The show cause notice was served on the official on 08.03.2018.

The official had submitted her explanation on 04.04.2018 to the Joint Commissioner (ST), Trichy.

13. The learned Government Advocate would further submit that the first charge against the charged officer was that she had not gone to the place of business of Tvl.G.Harini and Co., Trichy and verified the existence of the business there. The petitioner who was the charged officer has defended herself stating that the name and address mentioned in the notice given to her on 12.10.2015 for verification by the Assistant Commissioner (ST), Palakkarai-I Assessment Circle, Trichy was different from the place verified subsequently by the Assistant Commissioner (ST), Palakkarai-I on 27.01.2016. The contentions of the charged officer were verified. The place mentioned in the notice dated 25.09.2015, which was returned unserved, upon which the Assistant Commissioner (ST), Palakkarai-I made a tapal order to the charged officer was as follows:

"Tvl.Gharini and Co., A Block, ground Floor, Door No.49, St.Paul's Complex, Bharathiar Salai, Cantonment, Trichy-620 001."

The place subsequently verified by the Assistant Commissioner (ST), Palakkarai-I Circle, herself was "Tvl.G.Harini and Co., Door No.49, Bharathiar Salai, Cantonment, Trichy-620 001."

14. The learned Government Advocate would further submit that there was no change in the Door Number, Street Name and area of the dealer. It was Door No.49, Bharathiar Salai, Cantonment, Trichy-620 001." The cause of action for making verification was that the notice/tapal sent to the dealer was returned. Therefore, the Head of the Office-cum-Registering Authority, viz., the Assistant Commissioner (ST), Palakkarai-I Assessment Circle, had directed the charged Officer to inspect the place of business in person. As such, the petitioner who was the charged officer should have gone to the place that is Door No.49, Bharathiar Salai, Cantonment, Trichy-620 001 to find out whether the dealer was actually doing business and left the said place. It is pertinent to mention here that the dealer is not a small dealer but a petrol bunk and his average turnover for a month is Rs.1.96 Crores approximately.

15. The learned Government Advocate would further submit that before going to the place of business, the petitioner who is the charged officer should have verified the "A" Register (Register of Registered dealers) available in her office, has she done so, she would have noticed that the dealer was a petrol bunk dealer and in such a situation, it might not have been difficult for the petitioner to locate the petrol bunk which is in the heart of the city, just opposite to the Head Post Office, Trichy, and where lot of people are coming to fill petrol and diesel to their vehicles day in and day out. But, she has miserably failed to do so. The petitioner is the charges officer in her verification report dated 26.10.2015 had given her findings as follows:

"No such business in the address. Place is in the possession of catholic Mission".

16. She would further submit that in many ways are there before the petitioner to verify the place of the business of a dealer, the petitioner having found that there was no such business in the said place, should have contacted the owner of the place of business and recorded a statement from the owner. Had the petitioner done so, the owner of the place, in this case,

the person-in charge of the Catholic Mission, would have informed her that the business was actually being carried on in the said place by Tvl.G.Harini & Co., and would have helped the charged officer in identifying the petrol bunk. Therefore, the fact remains that the petitioner who was the charged officer has failed to record a statement from the owner of the place of business and the contention of the petitioner that she could not record a statement from the Father of the Mission, as he was out of station, was only an after thought to escape from the clutches of the charge, as nothing prevented the petitioner from conducting enquiry with the Father of the Mission the next day (27.10.2015) or on subsequent days. Further, the petitioner should have made enquiry with the other dealers in that area. Had the petitioner done so, the neighbours the other dealers would have informed her about the existence of the petrol bunk. The petitioner had miserably failed on this count too.

17. The petitioner who was the charged officer, being the Assessing Officer of Palakkarai-I Assessment Circle, might have known and must be aware of what the Registering Authority would do and what is the further course of action to be taken on the basis of her verification report. As the petitioner has submitted report to the effect that there was no such business

in the said place, the Registering Authority in this case, the Assistant Commissioner (St), Palakkarai-I Circle, had no other go but to accept such false and misleading verification report of the charged officer and unfortunately, relying on the false report submitted by the charged office, the the Registering Authority proceeded further and cancelled the Registration Certificate of the dealer and the dealer was not able to file the return for subsequent month and also could not make any further purchases and he had to file Revision petition before the Joint Commissioner (ST), Trichy Division for restoration of his TIN.

18. The learned Government Advocate would further submit that the crucial date for all the temporary promotion list was 01.03.2018. Though the petitioner has completed the statutory period of two years of assessment service as on 01.03.2018 in the cadre of Deputy Commercial Tax Officer, at the time of consideration, i.e., on 22.11.2018 she was awarded punishment of 'Stoppage of increment for 6 months without cumulative effect vide 3rd respondent proceedings in RC.1201/2016/A2 dated 13.07.2018 and the punishment was given effect from 1.1.2019 to 30.06.2019 as her Due date for increment falls on 01.01.2019 and therefore, the petitioner was not

included in the temporary promotion lists drawn by the CCT, as the currency of punishment was in force while drawing the panel.

19. It is further submitted that as per proceedings of the Additional Chief Secretary / Commissioner of Commercial Taxes in Proc.No.P1/16092/2018 dated 22.11.2018, orders were issued for temporary promotion to the DCTOs who are found fit for promotion as CTO as on 01.03.2018. Though, the petitioner has completed the statutory period of two years of assessment service as on 01.03.2018 in the cadre of Deputy Commercial Tax Officer, as she was awarded punishment of 'Stoppage of increment for 6 months without cumulative effect vide Joint Commissioner (ST) Trichy Division Proceedings in RC.1201/2016/A2 dated 13.07.2018, when her name was not taken up for consideration for the temporary promotion drawn on 22.11.2018. Therefore, the petitioner was not included in the temporary promotion in CTO list drawn by the CCT on 22.11.2018.

20. In a review petition, the Government have modified the punishment of 'Stoppage of increment for six months without cumulative effect' into a punishment of "Censure", as per G.O(D).No.79 CT & R(A1)

Department dated 29.05.2020. Now, in the current scenario, in view of the Censure being awarded, the name of the petitioner would not find a place in the temporary promotion of CTOs drawn by CCT in Proc.No.P1/16092/2018 dated 22.11.2018, as censure imposed on a member of service after the crucial date but before actual promotion or appointment shall be held against the petitioner and hence not considered. Therefore now the petitioner becomes eligible to be considered for the temporary promotion which was drawn by CCT Proc.No.P1/16092/2018 dated 6.3.2019 retrospectively. Now the petitioner has been given temporary promotion as CTO in CCT's Proceedings No.P1/7900/2019 dated 19.09.2020, with effect from 6.3.2019 the promotion date in which she would have been ordinarily placed and her pay will be fixed under FR.27(17). Since the promotion ordered on 6.3.2019 was purely temporary, her name would also be considered for placement above her immediate junior, as and when regular lists are drawn, based on the revision of inter-se seniority, which is under process following the direction given by this Court in W.P.Nos.12708 of 2018 and 479 of 2018 in a separate issue. Therefore, the respondents prayed this Court to dismiss the writ petition.

21. Heard the learned counsels for both sides and perused the materials available on record.

22. In the case on hand, the petitioner was working as Deputy State Tax Officer (Manager) of the office of the Appellate Deputy Commissioner (ST), Trichy and she has committed the following lapses while she was working as Deputy STO, Palakkarai-I Assessment Circle.

23. In the notice in TIN 33053521649/O.R.No.92/2014-2015 dated 25.09.2015 of the Assistant Commissioner (ST), Palakkarai-I Circle, Tvl.G.Harini &Co., Bharathiyar Salai, Cantonment, Trichy (TIN 33053521649) were directed to show cause why the Security deposit to the tune of Rs.10000 could not be demanded from them, as they failed to file the returns for the months of June and July 2015. The said notice sent by Speed Post was returned unserved with postal endorsement "NO SUCH ADDRESSEE". Therefore, the petitioner, the then Deputy State Tax Officer, Palakkarai-I Assessment Circle, was directed to inspect the place of business in person as per tapal order dated 12.10.2015 of the Assistant Commissioner

(ST), Palakkarai-I Circle. Accordingly, the petitioner has verified the place of business and put up note as follows on 26.10.2015:

"No such business in the address place is in the possession of catholic mission".

Relying on the verification made by the petitioner and the report submitted by her, the TIN of the dealer was ordered to be cancelled in the proceedings No.Pdl.178/2015-A2, dated 29.10.2015 of the Assistant Commissioner (ST), Palakkarai-I Circle.

24. Aggrieved against the order of cancellation of TIN, the dealer filed Revision Petition before the Joint Commissioner (ST), Trichy Division, While processing the said revision petition, the Joint Commissioner (ST), Trichy Division in O.R.No.7/2016/A2 dated 22.01.2016 had instructed the Assistant Commissioner (ST), Palakkarai-1 to personally verify the place of business and to submit report. Accordingly, when the Assistant Commissioner, Palakkarai-1, verified the place of business on 27.01.2016, she found that the business was actually being carried on at the place which was in contravene to the report given by the petitioner who was the then

Deputy State Tax Officer, and submitted the report to the Joint Commissioner (ST), Trichy Division on 28.01.2016.

25. Based on the verification report dated 28.01.2016, the Joint Commissioner (ST), Trichy Division has remanded the Revision petition filed by the dealer and directed the Assistant Commissioner (ST) to restore the TIN of the dealer. From the above, it was construed that the petitioner had not gone to the place of business and verified the existence of the dealer at the place of business. The petitioner has not recorded any statement from the owner of the place of business for having verified the place of business on 26.10.2015 but has submitted false report to the Registering Authority stating that "No such business in the address place is in the possession of catholic mission" and misled her superiors by submitting false report. Because of the lapses done by the petitioner, the Registration Certificate of the dealer incorrectly cancelled and the dealer had to file Revision Petition to restore his Registration Certificate, which amounting to harassment to the dealer. The petitioner has thus failed to maintain devotion to duty and absolute integrity, which is unbecoming of a Government Servant and thereby, violated Rule 20(1) of Tamil Nadu Government Servant Conduct

Rules 1973. Therefore, the disciplinary action was initiated against the petitioner and show cause notice under Rule 17(a) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules was issued to her in the reference of O/o. The Joint Commissioner in Rc.1201/2016-A2 dated 22.02.2018. The show cause notice was served on the official on 08.03.2018. The official had submitted her explanation on 04.04.2018 to the Joint Commissioner (ST), Trichy.

26. The first charge against the charged officer was that she had not gone to the place of business of Tvl.G.Harini and Co., Trichy and verified the existence of the business there. The petitioner who was the charged officer has defended herself stating that the name and address mentioned in the notice given to her on 12.10.2015 for verification by the Assistant Commissioner (ST), Palakkarai-I Assessment Circle, Trichy was different from the place verified subsequently by the Assistant Commissioner (ST), Palakkarai-I on 27.01.2016. The contentions of the charges officer were verified. The place mentioned in the notice dated 25.09.2015, which was returned unserved, upon which the Assistant Commissioner (ST), Palakkarai-I made a tapal order to the charged officer was as follows:

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The place subsequently verified by the Assistant Commissioner (ST), Palakkarai-I Circle, herself was "Tvl.G.Harini and Co., Door No.49, Bharathiar Salai, Cantonment, Trichy-620 001."

27. Hence, the charge against the petitioner are:

i) The petitioner did not go to the place of business for verification which was a prime work.

ii) The petitioner failed to record any statement from the place of business.

iii) The petitioner submitted a false report, thereby mis-lead her higher officials that because of cancellation of Registration Certificate of the dealer is nothing bus a harassment of the dealer.

iv) Because of her fault to maintain the devotion in work, thereby she violated Rule 20(1) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1973, is clearly established and proved beyond any doubt by the respondents.

28. It is crystal clear and evident that the petitioner had miserably failed in her duty to verify the place of business and she has not gone for the inspection as contended by the respondents if she has verified the 'A' Register (Register of Registered dealers) before she would have come to know that the dealer is a petrol bunk. There was no change in the door number, street name, and area of the dealer. Hence, the charges against the petitioner are proved.

29. With regard to the above charges, initially the petitioner was imposed with the punishment of stoppage of increment of 6 months with cumulative effect while proceedings of the 3rd respondent in RC.1201/2016/A2 dated 13.07.2018 and the punishment was given effect from 01.01.2019 to 30.06.2019 as her due date for increment falls on 01.01.2019 and hence, the petitioner was not included in the temporary promotion lists drawn by the CCT, as the currency of punishment was in force while drawing the panel.

30. Though the petitioner has completed the statutory period of two years of assessment service as on 01.03.2018, the petitioner was awarded a

punishment of "Stoppage of increment fox six months without cumulative effect" on 13.07.2018 for the proven charges against he petitioner. Against the above said punishment, the official preferred an appeal before the Additional Chief Secretary / Commissioner of Commercial Taxes and the said appeal was dismissed as devoid of merits. Aggrieved against the above said order, the petitioner has submitted a revision petition before the Government. The Government have carefully and independently examined the petition of the petitioner, DCTO along with original records, and based on the view of the TNPSC, the Government had modified the punishment of "Stoppage of increment for six months without cumulative effect" ordered by the Joint Commissioner on the petitioner and reduced it to punishment of "Censure", by proceedings of the 1st respondent vide G.O.(D).No.79 dated 29.05.2020 as she has failed to record a statement from the owner of the place of business.

31. Therefore, the petitioner has become eligible for consideration for temporary promotion which was given by CCT in proceedings in P1/16092/2018 retrospectively and the petitioner was given temporary promotion as CTO in CCTs proceedings No.P1/7900/2019 dated 19.09.2020,

with effect from 06.03.2019, the promotion date in which she would have been ordinarily placed and her pay will be fixed under FR.24(17).

32. **The order passed by the first respondent imposing punishment of "Censure" on the petitioner is correct and sustainable in view of the above facts and circumstances of the case**.

33. For the reasons stated above, this Court is of the considered view that the order passed by the First Respondent in G.O.(D).No.79 dated 29.05.2020 in so far as the punishment has been modified into one of "Censure" is liable to be confirmed. Accordingly, the same is confirmed.

34. In the result, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

10.01.2025

ssn
Index : Yes/No
Speaking/Non Speaking order

To

1.The Secretary,
Commercial Taxes and Registration Department,
Fort St.George, Chennai-9.

2.The Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-5.

3.The Joint Commissioner, (ST),
Trichy Division, Trichy-620 001.

J.SATHYA NARAYANA PRASAD, J.,

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