IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 08-07-2025

PRNOUNCED ON: 26-08-2025

CORAM

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

WP No. 16689 of 2025
AND
WMP NO. 18883 OF 2025

1. V.Mahendhiran
S/o. S. Venugopal, 114, J.N.Road,
Arumbakkam, Chennai-600106.

Petitioner(s)

Vs

1. The Government Of Tamil Nadu
Principal Secretary To Government,
Commercial Taxes And Registration
Department, Chennai-600 009.

2.The Commissioner Of Commercial
Taxes
Chepauk, Chennai-600 005.

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to direct to quash the G.O. (2D) No.100 dated 12.11.2024 of the Commercial Taxes and Registration (E2), Department and direct the 1st respondent to pay the incremental arrears (from 01.10.2018 to 30.09.2020) until the date of payment to the petitioner together with interest at 18 percent p.a and to pass such or other orders as this Hon'ble court.

For Petitioner(s): Ms.Subhasree

For Respondent(s): Mrs. Vasanthamala
Standing Counsel

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ORDER

The instant writ petition has been filed against the impugned order dated 12.11.2024 by and in which the Appellate Authority has rejected the appeal of the petitioner by confirming the order of the Disciplinary Authority.

2. The brief facts which give rise to the instant writ petition is that based upon the show cause notice dated 16.11.2009, an enquiry proceeding was initiated for the following charges:-

> "CHARGE NO.I
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> On Verification of Web report regarding the scrutiny of returns, it is Eventhough 365 revealed that his performance for the month of January 2008 is zero. Returns have been received in the Office of the Assistant Commissioner(CT), Palakkarai II circle, he had not scrutinized the return even in a single case. Thus, he had failed to discharge his legitimate duty as Assessing Officer. It is the recorded evidence for his lethargic attitude which leads to loss of revenue to the Government.
>
> Hence a show-cause notice was issued to him from this office on 5.3.2008 and the same was served on 13.3.2008 by the Deputy Commissioner (CT), Trichy (Town), wherein he was directed to submit his explanation within seven days from the date of receipt of the show-cause notice. But he had failed to submit his explanation till 12.6.2008 though more than six months have been lapsed. Therefore, a reminder memo dated 13.6.2008 was issued. He had wantonly failed to submit his explanation to the memo dated 5.3.2008 issued by the Joint Commissioner (CT) Tiruchy and thereby shown utter disregard to his superiors.
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> CHARGE NO.II
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> Thiru V.Mahendran, formerly Assistant Commissioner (CT), in the Office of the Assistant Commissioner (CT), Palakkarai-II assessment circle has refused to receive the memo dated 13.6.2008 as the memo was sent by the Joint Commissioner (CT) Trichy division through the Deputy Commissioner (CT), Trichy Town, who in turn send the memo through an Office Assistant, but it was directed by the official to send the memo by post. The Deputy Commissioner (CT), Trichy (Town) again

sent the same by post. The fact of service of the above memo came to know upon receipt of the served copy from the Assistant Commissioner (CT), Palakkarai-II, vide reference dated 09.09.2008, after persistent reminder in-person and through references by the Deputy Commissioner(CT), Trichy (Town) in this regard. (I.e) after a lapse of two and half months. From this it is very clear that he has set a bad precedent to other officials.

CHARGE NO.III

On 18.09.2008, VAT refresher Course Test was conducted by the Joint Commissioner (CT) Tiruchy Division. The question paper consisted of 50 objective type questions carrying one mark each and 5 descriptive type questions carrying 10 marks each. Thiru V.Mahendran, formerly Assistant Commissioner(CT), Palakkarai-II circle had secured 33 marks only out of 100 marks. On perusal of the Answer sheet, he had attended only the objective type question and he had not at all attended any of the descriptive questions. Further, he had not made any attempt to answer the questions and submitted unattended blank part-B answer sheet. Superintendent and Assistant Commercial Tax Officer. Commissioner (CT), Palakkarai-II assessment circle, have got 60 marks and 68 marks respectively. All other officials have taken up the examination in a serious manner, but, Thiru V.Mahendran, formerly Assistant Commissioner (CT), Palakkarai-II circle has taken the exam in a lethargic and careless manner. He has not only exhibit the lack of VAT knowledge, but also behaved in an indiscipline and indifferent manner and thrown all the norms of official decency and decorum into the winds.

CHARGE NO.IV

Thiru V.Mahendran, formerly Assistant Commissioner (CT), Palakkarar II assessment circle had failed to maintain absolute integrity and devotion to duty and conducted himself in a manner of unbecoming of a Government servant and dereliction of duty and thus violated Rule 20(1) of the Tamilnadu Government Servants Conduct Rules 1973

Thiru V. Mahendran, is hereby given an opportunity to make such representation as he may wish to make against the proposal within fifteen days of receipt of this memo.

If he fails to submit his representation within the time stipulated it will be presumed that he has no representation to make and orders will be passed on merits of the case based on the available records."

4. In pursuance of the charge memorandum, an Enquiry Officer was appointed and vide order dated 25.07.2012 based upon the finding that all the charges have been proved, the petitioner was imposed with a punishment of stoppage of increment for two years without cumulative effect. Thereafter, the petitioner preferred an appeal before the Appellate Authority and the Appellate Authority, vide order dated 12.11.2024 have confirmed the finding of the Disciplinary Authority. Against which, the present writ petition has been filed.

5. Heard Ms.Subhasree, learned counsel for the petitioner and Mrs.Vasanthamala, learned Government Advocate for the respondents.

6. The learned counsel for the petitioner would submit that from the date of the charge memorandum, the finding was rendered after a period of 31 months and that the finding of the enquiry officer is contrary to the evidence and that the punishment imposed against the petitioner is disproportionate to the gravity of the charges. It is the specific contention of the petitioner that the 2nd respondent has misused his official position. It is also contended that the Disciplinary Authority did not take into consideration of antecedent nature of action initiated against the petitioner by way of a transfer. Hence, prayed to interfere with the same.

7. Per contra, the learned Government Advocate would contend that the order passed by the Appellate Authority is well merited and taking into consideration of all the material evidences and that there are no perversity in the orders. She would further submit that the adequate punishment has been imposed against the petitioner and there is no disproportionality. Hence, prayed to dismiss the writ petition.

8. I have given my anxious consideration to either side submission.

9. While looking at the charge, it is for failure on the part of the petitioner in scrutinizing 365 monthly returns and his insubordination in not receiving the Memo dated 13.06.2008 and his lethargic attitude. While looking at the order of the Appellate Authority, the Appellate Authority taking into consideration of the defence of the appellant and also material available on records has found that the petitioner did not scrutinize the returns as ordered in the Circular No.9/2008. In this connection, there were five circulars issued against the officials. Apart from that there is an insubordination for not receiving the memo. Though the learned counsel would contend that there is a bias in passing the impugned order, she could not make out any perversity in the order. Further, the learned counsel also could not make out a case that the findings rendered by the Appellate Authority as well as the disciplinary authority, is without any evidence. As rightly submitted that, though there

is a delay between the charge memorandum and the final report, the learned counsel could not project any prejudice on account of such delay.

10. It is well settled principle of law that, unless there is a perversity or any finding without there being any evidence, the question of interference with the order of the Appellate Authority under judicial review does not arise. In the case in hand, the petitioner could not establish any perversity over the findings of the Disciplinary Authority. Apart from that, coming to the proportionality of the sentence, it is well settled principle of law that unless the punishment is shockingly disproportionate, the interference with the punishment becomes illegal. Here, this Court could not find any disproportionately between the gravity of charge and punishment.

11. Taking into consideration of gravity of charge, the Disciplinary Authority and the Appellate Authority have leniently dealt the issue and imposed stoppage of increment, that too without cumulative effect. In such view of the same, this Court does not find any merits in the present writ petition.

12. In the result, this writ petition stands dismissed. There shall be no order as to costs. Consequently, connected WMP is also closed.

26-08-2025

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

WP No. 16689 of 2025

To

1.The Government Of Tamil Nadu
The Government Of Tamil Nadu,
Principal Secretary To Government,
Commercial Taxes And Registration
Department, Chennai-600 009.

2.The Commissioner Of Commercial
Taxes
Chepauk, Chennai-600 005.

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C.KUMARAPPAN J.

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Pre Delivery Order in
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