BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2025

CORAM:

THE HONOURABLE MRS JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.A(MD)No.337 of 2025
and
C.M.P.(MD)No.2636 of 2025

1.The Principal Secretary to Government,
Commercial Taxes and Registration (A1)
Department,
Secretariat, Fort St. George,
Chennai-600 009.

2.The Principal Secretary / Commissioner
of Commercial Taxes,
Office of the Commissioner of Commercial
Taxes,
Chepauk, Chennai-600 005.

3.The Deputy Commissioner (State Tax),
Office of the Deputy Commissioner (ST),
Virudhunagar, Virudhunagar District. ... Appellants

Vs.

L.Subramanian ... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the orders of this Court in W.P.(MD)No.4706 of 2020, dated 15.06.2022.

For Appellants : Mr.R.Suresh Kumar
Additional Government Pleader
For Respondent : Mr.S.Louis

JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

The present writ appeal is filed against the order, dated 15.06.2022, passed in W.P.(MD)No.4706 of 2020.

2.The writ petition was filed for issuance of a Writ of Certiorari, to quash the impugned order, dated 04.02.2020. It is alleged that the writ petitioner has demanded bribe from one Balasubramaninan and on that basis charges were levelled against the writ petitioner through the said impugned charge memo imputing two charges that the writ petitioner had claimed illegal gratification. The said charge memo was challenged by the writ petitioner alleging for the same set of facts and same cause of action, the respondents have already issued a charge memo, dated 21.07.2016 and based on the said charge memo, enquiry was conducted, the enquiry officer has held the charges are proved and the disciplinary authority has awarded the punishment of stoppage of increment for a period of one year with cumulative effect through an order, dated 26.09.2019. Hence, the present charge memo for the same set of facts and allegations cannot be sustained, when the writ petitioner was already subjected to disciplinary action for the same set of facts and was awarded punishment.

3. The appellants have taken a stand that the present charge memo is different from the earlier one. The present charges are serious in nature, the Vigilance had recommended to initiate disciplinary action, hence the writ petitioner requires to be enquired for the charge of illegal gratification.

4. The Writ Court has compared and elaborately considered the said two charge memos and has held on comparison of both the charge memos, the charges are one and same, except for some insignificant additions in both the charge memos. The Writ Court has relied on various judgments and has come to the conclusion that law does not permit the employers to conduct disciplinary proceedings in instalment basis for the same set of facts. Further held the cause of action that existed even when the 1st disciplinary proceedings were initiated. On these reasons the writ petition was allowed. Aggrieved over the same, the present writ appeal is preferred by the appellants herein / respondents thereunder.

5.The appellants contended that the allegation against the writ petitioner is serious in nature. Further, it is initiated based on the recommendation from the Vigilance for simultaneous disciplinary action. The said contention of the appellants cannot be accepted, since for the same cause of action, disciplinary proceedings was initiated already and the same ended in imposing punishment.

Further the writ petitioner has already undergone punishment. Therefore, for the same set of facts and same cause of action, another disciplinary proceeding cannot be initiated. The recommendation by the appropriate authority can be at the most an opinion or a recommendation. The Government ought to have taken the decision. The writ petitioner has already under gone punishment for the same set of facts and the same cannot be erased. Once the punishment was undergone and if the writ petitioner is punished again for the same set of facts, definitely it would amount to double jeopardy. As rightly held by the Writ Court, the appellants / respondents cannot initiate disciplinary proceedings in instalments and there is no infirmity in the order. Therefore, this is Court is not inclined to interfere in the order passed by the Writ Court.

6. With the above said observations, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B., J.] **[S.S.Y., J.]**
21.02.2025

Index : Yes / No

Tmg

To

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J.NISHA BANU, J.

and

S.SRIMATHY, J.

Tmg

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