BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 06.01.2025

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

WP(MD)No.25124 of 2019
and
WMP(MD)No.21724 of 2019

R.Mahendran ... Petitioner

versus

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

2. The Commissioner of Commercial Taxes,
O/o. The Commissioner of Commercial
Taxes,
Chepauk,
Chennai – 600 005.

3. The Director of Vigilance and Anti Corruption,
Government of Tamil Nadu,
Chennai.
(R3 is suo motu impleaded vide order
dated 20.11.2024) ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order in G.O.(D)No.177, Commercial Taxes and Registration (A1) Department, dated 26.09.2019 on the file of the respondent No.1 and quash the same as illegal.

For Petitioner	:	Mr.S.Louis
For R1 and R2	:	Mr.G.V.Vairam Santhosh, Additional Government Pleader
For R3	:	Mr.S.Ravi, Additional Public Prosecutor

ORDER

The petitioner, who was working as Assistant Commissioner of Commercial Taxes, was placed under suspension for certain allegations. He was issued with a charge memo dated 30.06.2016 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, levelling three charges as against him that he failed to look into the corrections made in the Government records by one L.Subramanian, a Deputy Commercial Tax Officer and failed to submit the weekly diaries for the period from 06.03.2014 to 10.09.2014 and thereby, violated the Commercial Tax Acts and Rules. The petitioner has submitted his reply to the charges on 04.07.2017. Thereafter, an Enquiry Officer was appointed. After the enquiry, the Enquiry Officer has filed his report on 25.10.2017. Based on the enquiry report, the Government, vide its letter dated 10.12.2018, issued a second show cause notice to the petitioner on the proposed punishment to be imposed against him and directed him to submit his further explanation. The petitioner has also submitted his further representation on 28.03.2019. Considering the enquiry report and the further representation of the petitioner dated 28.03.2019, the Government, vide G.O.(D)No.177, Commercial Taxes and Registration (A1) Department, dated 26.09.2019, imposed a punishment of stoppage of increment for a period of three months with cumulative effect as against the petitioner. Challenging the same, the present writ petition has been filed.

2. The learned counsel appearing for the petitioner submits that the charges have not been proved. The first charge itself is that one L.Subramanian, a Deputy Commercial Tax Officer, has made certain corrections in the Government Records and the petitioner has failed to note the same. For the corrections made by the said Subramanian, the Deputy Commercial Tax Officer, the petitioner was penalized by imposing the punishment. With regard to the second charge, the learned counsel for the petitioner has taken a plea that the weekly diaries from

24.08.2014 to 10.09.2014 alone were not submitted on time. Therefore, the charge of not submitting the weekly diaries from 06.03.2014 to 10.09.2014 is erroneous.

3. The learned Additional Government Pleader appearing for the respondents 1 and 2 submits that the petitioner, the then Assistant Commissioner of Commercial Taxes along with one L.Subramanian, the then Deputy Commercial Tax Officer, demanded a bribe of Rs.3,000/- from a Vermicelli Company for allotting TIN number. Based on the complaint given by that Semiya Company, a trap was arranged by the Vigilance and Anti-Corruption Department. The petitioner and the co-delinquent L.Subramanian were trapped and arrested by the Vigilance and Anti-Corruption Department on 10.09.2014. The petitioner was remanded to judicial custody on 11.09.2014. The Investigating Agency has also filed the charge sheet before the Chief Judicial Magistrate, Srivilliputhur in Spl.C.C.No.1 of 2016 and the same is pending. Based on the above materials, the Department has verified with the records and initiated disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules against the petitioner and

issued a charge memo by framing three charges against him. After the enquiry, the Enquiry Officer has filed a enquiry report that all the charges have been proved. Based on the enquiry report and the further representation of the petitioner, the Government has passed the order of punishment as against the petitioner and therefore, there is no reason to interfere with the order of punishment.

4. The learned Additional Government Pleader further submits that the co-delinquent, namely, L Subramaniam, the then Deputy Commissioner of Commercial Tax Officer, who has been dealt with in the criminal case and also in the departmental proceedings, has challenged the similar order of punishment imposed by the Government in G.O.(D)No.178, Commercial Taxes and Registration (A1) Department, dated 26.09.2019, in W.P.(MD)No.188 of 2020 and the same was dismissed by this Court by order dated 05.12.2022.

5. This Court considered the rival submissions made and also perused the materials placed on record.

6. The petitioner, the then Assistant Commissioner of Commercial Taxes is said to have demanded a bribe of Rs.3,000/- from one Balasubramanian, who applied for TIN number for running a Vermicelli Company. Before allotting the TIN number, the authorities are expected to conduct a pre-registration inspection. Therefore, a pre-registration inspection was conducted by L.Subramanian, the then Deputy Commercial Tax Officer on 27.08.2014. Thereafter, the petitioner and the said L.Subramanian said to have demanded a sum of Rs.3,000/- from the applicant for allotting TIN number. On the complaint given by the applicant, a trap was arranged by the Vigilance and Anti Corruption Department on 10.09.2014 and the petitioner and the said L.Subramanian were arrested on 11.09.2014. In the new Registration checklist, the date of pre-registration inspection was also corrected as 28.08.2014 instead of 27.08.2014. Therefore, the petitioner was issued with a charge memo dated 30.06.2016 for the following charges:

> "Charge No.1:
>
> You, Thiru.R.Mahendran, AC(CT) (under suspension) while working as AC(CT), Rajapalayam-I Assessment Circle, during the period from 06.03.2014 to 10.09.2014, have visited place of

Thiru.M.Balasubramanian (who had applied for new TIN) at his residence at No.201, Ponnagaram PACR Salai, Rajapalayam – 1 along with Thiru.L.Subramanian, DCTO (now under suspension), Rajapalayam-1 Assmt. Circle, has enquired on 27.08.2014, but Thiru.L.Subramanian, DCTO (now under suspension) has recorded it as on 28.08.2014 in the inquiry report. Hence, you have failed to look into the illegitimate corrections made in the Govt. records by Thiru.L.Subramanian, DCTO (now u/s) and connived with the act of the official, for monetary gains.

Thus, you have violated TNCS (D&A) Rules by misusing your official position for personal gains.

Charge No.2:

You, Thiru R.Mahendran, AC(CT) (under suspension) while working as AC (CT), Rajapalayam I Assessment Circle, Tirunelveli Division, during period from 06.03.2014 to 10.09.2014 have failed to submit the weekly diary to the Deputy Commissioner (CT), Sivakasi, which is mandatory and required to be filed to the controlling authority in a periodical manner.

Thus, you have violated TNCS (D&A) Rules in discharing the official duties with a dishonest motive.

Charge No.3:

You, Thiru R.Mahendran, AC(CT) (under suspension) while working as AC(CT), Rajapalayam-I

> Assessment Circle, Tirunelveli Division during the aforesaid period by your aforesaid lapses, of culpable negligence and recklessness in the discharge as an assessing officer, has violated the CT Acts and Rules, thereby, acted in a manner unbecoming of a Government Servant, violative of Rule 20(1) of the Tamil Nadu Government Servants Conduct Rules, 1973."

7. Insofar as the first charge is concerned, the case of the petitioner is that it is the correction made by the said L.Subramanian, for which, he was penalized by imposing the punishment. However, the petitioner, in his further representation, has admitted the visit of business place of the applicant on 27.08.2014 and the said L.Subramanian has also admitted this lapse. By recording the admission of the correction of the inspection date, this Court, by order dated 05.12.2022, dismissed the writ petition filed by the said L.Subramanian as against the order of punishment. Therefore, this Court is not inclined to accept the case of the petitioner.

8. The second charge as against the petitioner is that he failed to submit the weekly diary to the Deputy Commissioner of Commercial

Taxes for the period from 06.03.2014 to 10.09.2014, thus, he has violated the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The petitioner, in his reply, stated that due to his work pressure, he was unable to submit the diary report only for the period from 24.08.2014 to 10.09.2014.

9. The third charge as against the petitioner is that he has violated the Commercial Taxes Acts and Rules and thereby, acted in a manner unbecoming of a Government Servant, violative of Rule 20(1) of the Tamil Nadu Government Servants Contract Rules, 1973. Since the charge Nos.1 and 2 are proved, automatically, the charge No.3 is also found to be proved as against the petitioner.

10. The scope of judicial review in matters relating to disciplinary proceedings is very limited. It is meant to ascertain as to whether due process was followed and whether a fair opportunity was accorded to the employee concerned. The power of Courts is limited to reviewing the decision making process, rather than the merits of the decision itself. This is to ensure fairness in treatment and not the fairness of the

conclusion. The Courts should not interfere with the findings of the fact arrived at in the departmental enquiry proceedings, except in cases of mala fide or perversity.

11. In the case on hand, the petitioner has not made out any case that there was any violation of procedures as contemplated under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules or any mala fide or perversity. In the absence of any contravention of any of the procedures as contemplated under the Rules, this Court, in the writ jurisdiction, is not inclined to interfere with the impugned order of punishment by appreciating / re-appreciating the evidence.

12. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06.01.2025

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

To

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   Commercial Taxes and Registration
   (A1) Department,
   Secretariat, Fort St. George,
   Chennai – 600 009.

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B.PUGALENDHI, J.

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