



WEB COPY



WP No. 37659 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-03-2026

CORAM

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP No. 37659 of 2016

and

WMP Nos. 32280, 32279 of 2016

A.Periakaruppan,
S/o.Akkini Thevar,
No.124-A, Thiruppur Road,
Kangayam- 638 701, Tiruppur District

..Petitioner(s)

Vs

1. Tamil Nadu State Marketing Corporation Ltd,
Rep. by its Managing Director,
M.M.D.A.Annex, IV Floor,
Egmore, Chennai-600 008.
2. The District Manager, (Retail Sales)
Tamil Nadu State Marketing Corporation Ltd,
Bhavani Road, Erode- 638 004.

..Respondent(s)

Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the entire records relating to the Impugned Orders passed by the 2nd respondent in his Proceedings in Na.Ka.1362/ 2014/ R1 dated 27.08.2015 and quash the same and consequently direct the respondents to refund the Security Deposit of Rs.50,000/- to the Petitioner with interest calculated at 8% p.a from the date of deposit till its refund.



WP No. 37659 of 2016

WEB COPY

For Petitioner(s):

Mr.K.Premkumar

For Respondent(s):

Mr.V.Ajith

for Mr.M.Sekar

Standing counsel for TASMACH

ORDER

This Petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the entire records relating to the Impugned Orders passed by the 2nd respondent in his Proceedings in Na.Ka.1362/ 2014/ R1 dated 27.08.2015 and quash the same and consequently direct the respondents to refund the Security Deposit of Rs.50,000/- to the Petitioner with interest calculated at 8% p.a from the date of deposit till its refund.

2.1.The petitioner was appointed as a Shop Supervisor in TASMACH Shop No.3622 at Kangeyam on 01.11.2003. On 09.03.2005, the shop was inspected by the authorities in his absence and some liquor bottles were found mixed with water. Therefore charges were framed against the petitioner and five other persons. The petitioner denied the allegations namely causing loss, violating the orders of superior and clause 4 & 5 of Contract of Service in his explanation dated 28.03.2005. Thereafter the 2nd respondent passed an order on 07.05.2005, dismissing him from service and forfeiting his security deposit. Aggrieved by



the same, the petitioner filed a writ petition in W.P.No.25830 of 2006 and the same was allowed on 24.11.2008 by setting aside the dismissal order with a direction to reinstate him with backwages and continuity of service. Since the Respondents have not complied with the same, the petitioner filed a contempt petition. Meanwhile, the Appeal filed by the 2nd Respondent in W.A.No.1474 of 2010 against the petitioner was dismissed by the Division Bench of this Court on 03.08.2010. Thereafter, on 20.05.2011, the petitioner was reinstated into service, where he was forced to give up his claim for backwages and continuity of service and was posted to work at Gobichettypalayam. However, his request for posting at Kangeyam was rejected.

2.2.Due to sudden illness, the petitioner submitted his resignation through letter dated 25.06.2011 by registered post with a request to refund his security deposit of Rs.50,000/-. But the same was not refunded. The petitioner again requested the same through letter dated 18.04.2012. After four years, on 25.05.2015, the 2nd respondent issued a charge memo alleging that the petitioner had remained absent from duty from 04.06.2011. Even though the petitioner replied that he had already resigned from service on 25.06.2011, the 2nd respondent passed an order vide Na.Ka.1362/2014/R1 on 27.08.2015,



WP No. 37659 of 2016

dismissing him from service and forfeiting his security deposit. Hence this
Petition.

3.The second Respondent filed a counter affidavit stating that the petitioner had an alternative remedy of filing an appeal before the Senior Regional Manager, Coimbatore, but he failed to do so. The present petition was filed after more than one year, from the date of dismissal order and is liable to be dismissed for delay. The petitioner was earlier dismissed from service on 07.05.2005 and after the direction of this Court, he was reinstated on 20.05.2011 and posted as Supervisor at the IMFS Depot, Erode. After joining duty, he went on leave on 04.06.2011 and did not turn up. An enquiry was conducted during the year 2015, in which the petitioner admitted his unauthorised absence from 04.06.2011, and therefore, the enquiry officer found that the charges framed against the petitioner are proved and submitted a report on 18.06.2015. Based on the enquiry report and after issuing a second show cause notice, the second respondent passed the dismissal order dated 27.08.2015. The petitioner was also informed about his right to file an appeal within a period of 30 days, which he failed to avail.



WP No. 37659 of 2016

4. Heard the learned counsel for the petitioner and the learned counsel for the Respondents and perused the available records.

5. The claim of the writ petitioner is to refund a sum of Rs.50,000/- which has been deposited by him as caution deposit. The counter filed by the 2nd Respondent is only a narration of facts. In the impugned order passed by the 2nd respondent in his Proceedings in Na.Ka.1362/ 2014/ R1 dated 27.08.2015, it was ordered as under:

“4) மேலே சொன்ன காரணங்களின், அடிப்படையில் கோப்புகளில் உள்ள ஆவணங்களின் அடிப்படையிலும் தனியார் நிரந்தர பணிநீக்கம் செய்யப்பட்டவர். மாண்புமிகு சென்னை உயர்நீதிமன்ற தீர்ப்பின்படி மீளப்பணியிடம் பெற்றவர் ஒரே நாளில் பணியில் இருந்து நின்றவிட்டதன் மூலம் இவர் தமிழ்நாடு மாநில வாணிப கழகம் மேற்பார்வையாளர் பணிக்கு பொருத்தமற்றவர் என்பது தெளிவாகிறது. எனவே தனியார் மீளப்பணியிடம் கோரிய விண்ணப்பம் நிராகரிக்கப்படுகிறது. தனியார் கிடங்கு உதவி மேலாளருக்கு அளித்த விளக்கம் மற்றும் கிடங்கு மேலாளரிடம் அளித்த வாக்குமூலம் விசாரணை அலுவலரிடம் அளித்த வாக்குமூலம் ஆகியன பரிசீலிக்கப்பட்டது. அதில் மாறுபட்ட விளக்கம் மற்றும் வாக்குமூலம் ஆகியன அளித்துள்ளது உறுதியாகிறது. எனவே முன்னாள் மேற்பார்வையாளர் திரு.அ.பெரியகருப்பன் என்பவரை தமிழ்நாடு மாநில வாணிபகழக பணியிலிருந்து நிரந்தரமாக பணிநீக்கம் செய்து



WP No. 37659 of 2016

WEB COPY

கழகத்திற்கு செலுத்திய காப்புத்தொகை ரூ.50,000/-ஐ தமிழ்நாடு

மாநில வாணிப கழகத்திற்கு பறிதல் செய்து

உத்தரவிடப்படுகிறது.”

Pursuant to the above said impugned order, the Writ Petitioner was removed from service.

6. There is no allegation against the writ petitioner with regard to embezzlement. The earlier order of dismissal issued by the Respondents was challenged by the Writ Petitioner in W.P.No.25830 of 2006 and the same was decided in favour of the writ Petitioner. Thereafter he joined duty and then resigned it. Taking the above facts into consideration, the impugned order is hereby set aside. The writ petitioner is entitled to refund of amount deposited by him as caution deposit. Accordingly, the respondents are directed to repay a sum of Rs.50,000/-, without interest, to the writ petitioner which was earlier paid by the petitioner as caution deposit, within a period of four weeks from the date of receipt of a copy of this order.

7. In fine, the Writ Petition is partly allowed with a direction to the Respondents to pay a sum of Rs.50,000/- to the writ petitioner, without interest,



WP No. 37659 of 2016

within a period of four weeks from the date of receipt of a copy of this order.

No costs. Consequently, connected Miscellaneous Petitions are closed.

06-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

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WP No. 37659 of 2016

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WP No. 37659 of 2016
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Page 8 of 8