

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 8626 of 2009 (W)

PETITIONER(S):

E.I.SUNNY ABKARI WORKER FL 1 SHOP
KSBC KOLANCHERRY.

BY ADVS.SRI.DEEPU THANKAN
SMT.G.RANJITA

RESPONDENT(S):

1. KERALA STATE BEVERAGES (M&M)CORPORATIO LTD,
SASTHAMANGALAM, THIRUVANANTHAPURAM
REP.BY ITS MANAGING DIRECTOR.

2. MANAGING DIRECTOR,
KERALA STATE BEVERAGES (M&M) CORPORATION LTD.
SASTHAMANGALAM, THIRUVANANTHAPURAM.

3. REGIONAL MANAGER,
KERALA STATE BEVERAGES (M& M) CORPORATION LTD.
REGIONAL OFFICE, CENTRAL ZONE, ERNAKULAM.

R, BY ADV. SRI.C.S.AJITH PRAKASH,SC,BEVERAGES CORP
R BY SRI.ELVIN PETER.P.J, SC,BEVERAGES CORPN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-09-2015, ALONG WITH WPC. 9967/2009, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 8626 of 2009 (W)

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: TRUE COPY OF THE DISCHARGE SUMMARY ISSUED BY THE SAID HOSPITAL, DT 14.3.2008

EXT.P2: TRUE COPY OF THE FIR NO. 136/2008 DT 10.3.2008

EXT.P3: TRUE COPY OF THE MEMO ISSUED TO THE PETITIONER DT 3.4.2008

EXT.P4: TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER ON 12.4.2008

EXT.P5: TRUE COPY OF THE CHARGE MEMO AND STATEMENT OF ALLEGATIONS ALONG WITH THE CHARGE MEMO DT 21.5.2008

EXT.P6: TRUE COPY OF THE CHARGE MEMO AND STATEMENT OF ALLEGATIONS ALONG WITH THE CHARGE MEMO DT 21.5.2008

EXT.P7: TRUE COPY OF THE REPLY DT 9.6.2008 SUBMITTED BY THE PETITIONER

EXT.P8: TRUE COPY OF THE NOTICE TO THE PETITIONER DT 17.7.2008

EXT.P9: TRUE COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT ON 25.8.2008

EXT.P10: TRUE COPY OF THE NOTICE DT 30.8.2008 ISSUED BY THE 3RD RESPONDENT

EXT.P11: TRUE COPY OF THE SHOW CAUSE NOTICE DT 6.1.2009

EXT.P12: TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER

EXT.P13: TRUE COPY OF THE LETTER DT 28.2.2009

RESPONDENTS EXHIBITS: NIL

TRUE COPY

P.A TO JUDGE

jma

K. VINOD CHANDRAN, J

W.P(C) Nos. 8626 of 2009 & 9967 of 2009

Dated this the 30th day of September, 2015

J U D G M E N T

The petitioners are respectively an Abkari worker and Shop Assistant, the latter, who was in charge of a FLI shop on 10.03.2008. The subject matter is with respect to a theft which occurred of the money that was being transferred from the FL-I shop to the Bank.

2. The petitioner in W.P(C) No.8626/2009 the abkari worker was carrying the money on instructions, of the shop-in-charge; being the petitioner in W.P(C)No. 9967/2009. The abkari worker was waylaid and the amounts were stolen from him. Police had registered a crime and proceedings were taken up against the accused. It is also submitted that certain amounts were recovered from the accused. In any event, the writ petitions deal with the enquiry proceedings initiated against the abkari worker and the shop-in-charge for violation of the regulations which mandate the cash to be carried in a particular manner and also the cash being carried by the Abkari worker who was not authorized so to do.

3. Without going into the merits of the matter, it is to be noticed that Ext.P11 in W.P(C) No.8626/2009 and Ext.P4 in W.P(C) No.9967/2009 are the notices issued by the disciplinary authority after conclusion of the enquiry proceedings, proposing a punishment. Though other contentions are raised with respect to the sustainability of the disciplinary enquiry itself, as of now, it is an admitted fact that the enquiry report was not supplied to the petitioner. Supply of the enquiry report is an essential concomitant of the principles of natural justice. It has been reiterated by this Court and the Hon'ble Supreme Court that, in the event of such defect in proceedings being found, the Court exercising under Article 226 has to necessarily direct the resumption of proceedings from the stage from which the defect occurred.

4. In such circumstance, Exts.P11 and P4 in the respective writ petitions would stand set aside. The disciplinary authority is directed to serve a copy of the enquiry report to the petitioners and invite objections on that aspect before deciding the guilt or otherwise of the petitioners. The petitioners shall also be afforded with an opportunity of hearing. The petitioner would be entitled also to urge any defect in the conduct of enquiry and the same shall be left open to be

considered by the disciplinary authority.

Writ petition hence would stand allowed, directing the disciplinary authority to initiate the proceedings as directed herein above. It is made clear that the recovery also shall not be made until the disciplinary proceedings conclude, finding the petitioners guilty. Ext.P13 and P6 also shall be set aside, leaving liberty to the petitioner to urge all contentions before the disciplinary authority.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge