

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.16820 of 2015

K. Rama Chandran

... Petitioner

vs.

1. The State of Tamilnadu
rep. by its Secretary to Government
Department of Excise and Prohibition
Fort St. George, Chennai.
2. Tamilnadu State Marketing
Corporation Ltd. (Tasmac)
Rep. by its District Manager
MRS Complex, Dayalan Street
Goundampalayam
Coimbatore - 641030.
3. The District Manager
Tamilnadu State Marketing
Corporation Ltd. (TASMAC)
Udhagamandalam 643200
Nilgiris District.
4. The Assistant Manager
Accountant Section
Tamilnadu State Marketing Corpn.
Ltd. (TASMAC)
Udhagamandalam 643200
Nilgiris District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus to call for the records of the proceedings of the third respondent in the impugned order of termination dated 21.01.2014 in proceedings in Na.Ka.Si.En.000159/ 2013, quash the same and consequently direct the respondents to reinstate the petitioner as Assistant Salesman.

For Petitioner : Mr.P.V.Ravichandran

For Respondents : Mrs.M.E.Rani Selvam
Addl. Govt. Pleader for R1
Mr.S.Muthuraj
Standing Counsel (TASMAC) for R2-R4.

O R D E R

The petitioner was a Salesman in TASMAC Shop No.8285, Nilgiris District. On 17.09.2013, a flying squad visited the shop where he was working and found some irregularities.

2. Based on the irregularities found by the flying squad, a Charge Memo dated 18.09.2013 was issued making certain allegations. The petitioner gave an explanation denying the charges. According to him, he was not present on 17.09.2013 when the flying squad inspected the shop. He requested the respondents-authorities to look into the Attendance Register to verify the correctness of the same.

3. Thereafter, an enquiry was conducted. According to the petitioner, neither any witness was examined nor any document was marked on the side of the department in the enquiry. The enquiry was closed recording the statement of the petitioner. Based on the report of the Enquiry Officer, the third respondent passed the dismissal order dated 21.01.2014

4. The petitioner has filed this writ petition seeking to quash the aforesaid order. When the matter came up for admission on 15.06.2015, this Court passed the following order:

"Learned counsel for the petitioner submits that before passing the dismissal order, an enquiry was held in which no departmental witnesses were examined and no documents were marked. The enquiry was closed simply recording the statement from the petitioner.

In these circumstances, Mr.Muthuraj, learned Standing Counsel, who takes notice for TASMAC, is directed to produce the enquiry file including the report of the Enquiry Officer to ascertain the correctness of the assertions made by the learned counsel for the petitioner.

Post on 23.06.2015."

5. While so, the learned Standing Counsel for TASMAC has submitted that the petitioner may be permitted to file an appeal and the issues as to whether any witness was examined and any document was marked and as to whether he was present on 17.09.2013 could be gone into by the appellate authority.

6. At this juncture, the learned counsel for the petitioner has submitted that the petitioner has already made a representation against the dismissal order to the Regional Manager, Coimbatore. In any event, he has submitted that the petitioner may be permitted to file an appeal.

7. It is well settled that if an enquiry was conducted without examining any witness and without marking any document, then the findings based on such enquiry is totally perverse.

8. In these circumstances, the writ petition is disposed of with liberty to the petitioner to file an appeal against the dismissal order dated 21.01.2014 before the Regional Manager, TASMAC, Coimbatore within a period of two weeks from the date of receipt of a copy of this order. The Regional Manager, Coimbatore is directed to consider the issues, more particularly the issue as to whether the petitioner was present on the date of inspection and also as to whether any witness was examined and any document was marked on the side of the department in the enquiry and pass an order on merits and in accordance with law within a period of eight weeks from the date of filing of the appeal. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ATR

Copies to

1. The Secretary to Government
State of Tamilnadu
Department of Excise and Prohibition
Fort St. George, Chennai.

2. The District Manager
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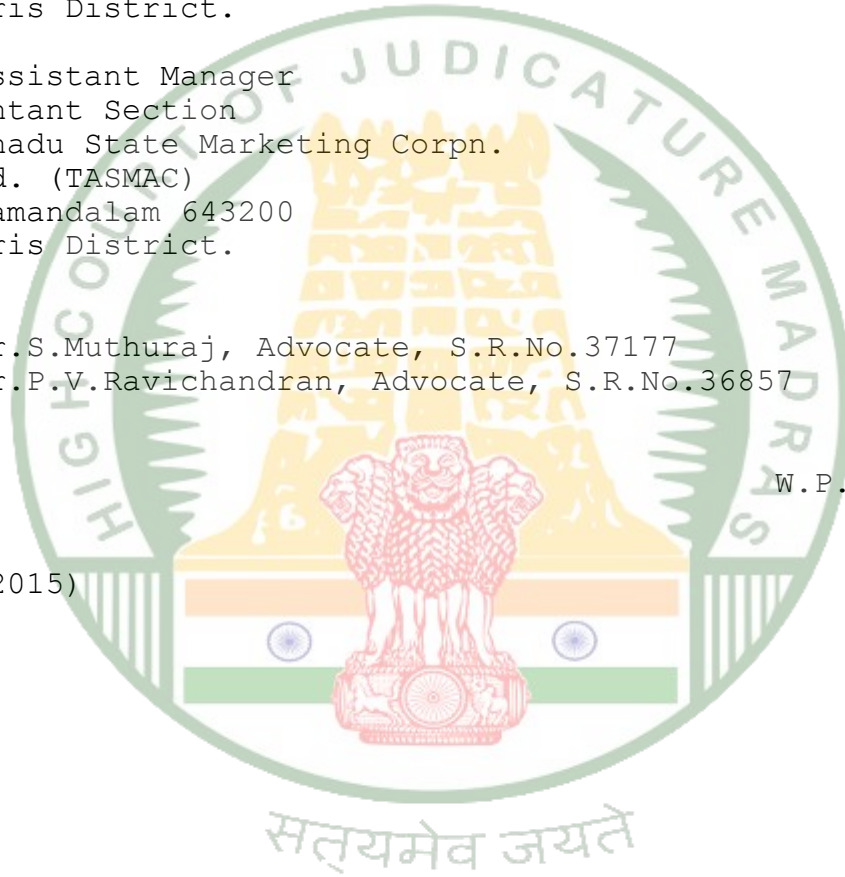
4. The Assistant Manager
Accountant Section
Tamilnadu State Marketing Corpn.
Ltd. (TASMAC)
Udhagamandalam 643200
Nilgiris District.

+1cc to Mr.S.Muthuraj, Advocate, S.R.No.37177

+1cc to Mr.P.V.Ravichandran, Advocate, S.R.No.36857

W.P.No.16820 of 2015

NM(CO)
CA(28/07/2015)



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