

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.NO.19483 OF 2015

and

M.P.Nos.1 and 2 of 2015

N.Anbazhagan Petitioner

Versus

The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC)
No.62/70, Anna Salai,
Tiruvannamalai - 606 601. Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in connection with his proceedings Na.Ka.R.V.2/1920/2014 dated 17.04.2015 and quash the same and consequently direct the respondent to reinstate the petitioner in service with all service, monetary and attendant benefits.

For Petitioner : Mr.Lesi Saravanan

For Respondent : Mr.S.Muthuraj, Standing Counsel
for TASMAC

O R D E R

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By consent, this writ petition is taken up for final disposal.

2.The petitioner was an employee in TASMAC Shop No.9285. The respondent made an inspection in the shop. Based on the inspection, he issued a charge memo and he acted as the disciplinary authority dismissing the petitioner from service by an order dated 17.04.2015.

3. This writ petition is filed challenging the aforesaid order dated 17.04.2015 relying on the judgment of this Court dated 05.03.2015 made in W.P.No.28066 of 2014. This Court in the aforesaid order dated 05.03.2015 has recorded the following findings in Paragraph Nos.5 to 7 and the same is extracted hereunder:

"5. The learned Standing Counsel for TASMAC while justifying the impugned order fairly admitted that the respondent only detected the irregularities.

6. The impugned order passed by the respondent clearly shows that he himself has conducted the inspection on 02.02.2014. The respondent having found that the petitioners were involved in various acts of irregularities suspended them from service by order dated 02.02.2014. Thereafter, the respondent himself issued a charge memo on 11.02.2014. The respondent conducted enquiry through another officer and after verifying the final report imposed the punishment of dismissal. The petitioners are correct in their contention that the complainant himself has assumed the role of Judge and passed the order of dismissal. The impugned order is therefore liable to be quashed for the simple reason that the respondent who detected the irregularities himself passed the ultimate order of dismissal.

7. In the result, the impugned order dated 17.09.2014 is set aside. The respondent is directed to reinstate the petitioners into service forthwith without backwages. It is open to the respondent to conduct fresh enquiry in accordance with the Regulations, if he is so advised."

4. While dismissing the petitioner from service, the respondent has stated that the petitioner has an appeal remedy before the Senior Regional Manager, Salem Region.

5. However, the petitioner has not filed appeal so far and the petitioner has approached this Court.

6. In these circumstances, this Writ Petition is disposed of permitting the petitioner to file an Appeal before the Senior Regional Manager, Tamil Nadu State Marketing Corporation, Salem Region and on receipt of the Appeal, the Senior Regional Manager, Tamil Nadu State Marketing Corporation, Salem Region is directed to dispose of the same within a period of six weeks in the light of the judgment of this Court dated 05.03.2015 made in W.P.No.28066 of 2014. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

VSM
To

1.The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC)
No.62/70, Anna Salai,
Tiruvannamalai - 606 601.

2. The Senior Regional Manager,
Tamil Nadu State Marketing Corporation,
Salem Region.

+1 cc to Mr.S.Muthu Raj Advocate sr.33539
+1 cc to Lesi Saravanan Advocate sr.33451

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