

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.16111 of 2014 and
M.P.No.2 of 2014

M.Dharuman

... Petitioner

Vs

1.The Senior Regional Manager,
TASMAC Ltd., Coimbatore.

2.The District Manager,
Retail Vending, TASMAC Ltd.,
Erode.

.... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified mandamus, calling for the records connected with the proceedings of the 2nd respondent in Na.Ka.No.1904/2007/R5 dated 01.09.2008 and confirming the order passed by the first respondent in Pa.Mu.4438/2008/A1 dated 16.12.2008 and quash the same and consequently direct the respondents herein to reinstate the petitioner as Salesman.

For Petitioner : Mr.P.Muthukrishnan

For Respondents : Mr.S.Muthuraj

सत्यमेव जयते
O R D E R

The petitioner was appointed as Salesman by Tamil Nadu State Marketing Corporation Limited (hereinafter referred to as TASMAC) on 02.01.2004. The appointment was made by the second respondent. The petitioner was attached to Shop No.3428, Dharapuram in the district of Tiruppur.

2. According to the petitioner, the second respondent issued notice to him alleging that he mixed water with liquor and sold to the customers. Thereafter, the petitioner was terminated from service on 01.09.2008. According to the petitioner, charge was not framed before terminating his service. Similarly, enquiry was not conducted in the manner known to law. The petitioner, therefore,

challenges the termination order on the ground that it was made without conducting enquiry.

3. The learned Standing Counsel for TASMAL was directed to produce the enquiry file to show that before terminating the service of the petitioner, proper enquiry was conducted after framing charge. The matter was adjourned twice for producing the enquiry file. The respondents failed to file counter affidavit also to meet the allegations and averments made in the affidavit filed in support of the writ petition.

4. The petitioner has taken up a substantial contention that specific charge was not framed against him and that enquiry was not conducted before passing the order of termination. The respondents have not denied the said submission, either by producing records or by filing counter affidavit. Therefore, the submissions made by the petitioner has to be accepted, meaning thereby, he was dismissed from service without conducting enquiry. I am therefore of the view that the petitioner must succeed.

5. In the result, the impugned order dated 01.09.2008 is set aside and the second respondent is directed to permit the petitioner to join duty forthwith. Even though the petitioner would be given the benefits of earlier service, he would not be entitled to backwages. The second respondent is directed to pass consequential order permitting the petitioner to join service, within a period of two weeks from the date of receipt of a copy of this order.

6. The writ petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

svki

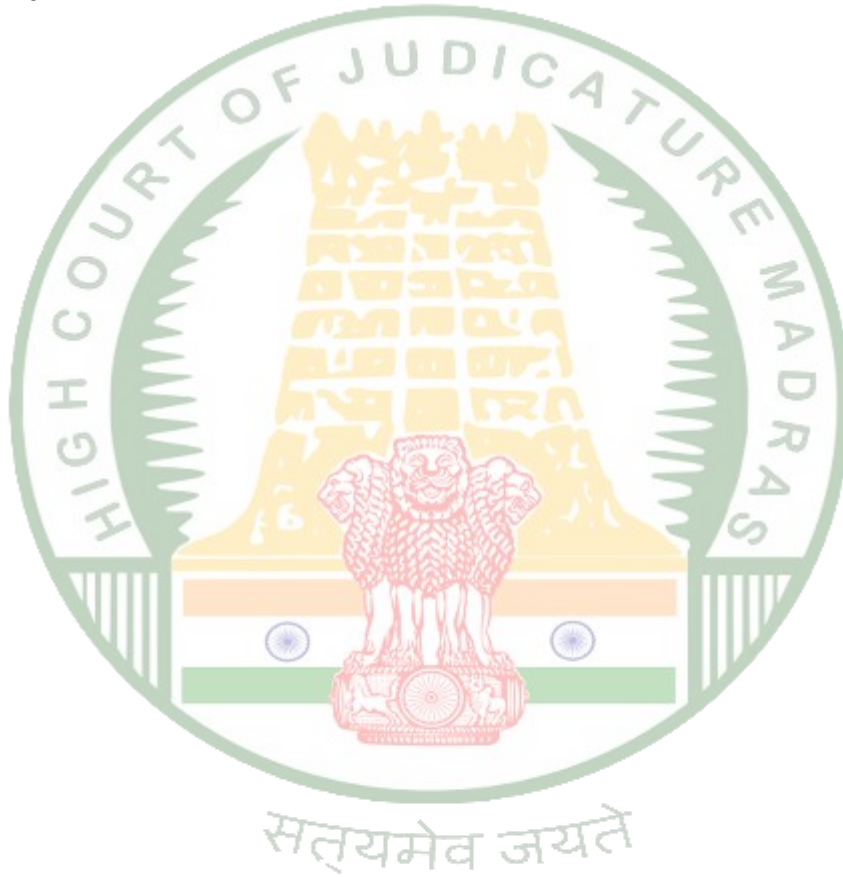
To

1.The Senior Regional Manager,
TASMAL Ltd., Coimbatore.

2.The District Manager,
Retail Vending, TASMAL Ltd.,
Erode.

1 cc to Mr.P.Muthukrishnan ,Advocate, SR.No.17582
Writ Petition No.16111 of 2014

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pmk.9.4.2015



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