

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-08-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.23320 of 2015

and

M.P.Nos.1 and 2 of 2015

S.Selvam

.. Petitioner

vs

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

.. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records on the file of the respondent in connection with his proceedings in Na.Ka.No.R.V.2/1920/2014 dated 8.4.2015, and quashing the same and consequently, directing 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

ORDER

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

2.The petitioner claims that he, while working as Supervisor on contract basis, in Shop No.9533, has faced a Disciplinary Proceeding, as the surprise inspection done by the jurisdictional District Manager, revealed certain irregularities like mixing of water, etc., and he was placed under suspension on 14.6.2014, and the seized bottles were also sent for chemical examination. The petitioner would state that he was issued with a charge memo on 18.3.2014, granting two days' time to submit his explanation and it was also submitted, and not satisfied with the same, Enquiry Officer

was appointed, who held that the charges framed against the petitioner, were proved vide report dated 25.6.2014, and the petitioner was issued with another notice dated 13.8.2014, to appear before the respondent.

3.The petitioner would further state that in order to cover up the lacuna caused during the first enquiry, another Enquiry Officer has conducted the second enquiry and no witnesses were examined excepting the Presenting Officer and once again, it was held that the charges were proved excepting charge No.5, and the petitioner was not issued with any show cause notice and after serving the report of the Enquiry Officer, he was removed from service vide order dated 8.4.2015, and challenging the legality of the same, the present writ petition is filed.

4.The learned Counsel appearing for the petitioner, would submit that the charge memo was issued by the District Manager viz. Selvi K.Pushpalatha, and the order of suspension was also passed by her on 14.6.2014, and thereafter, on the same set of charges, the second charge memo was issued by Mr.R.Kothandan, District Manager (In-charge) on 20.6.2014, and after receipt of the enquiry report, the second round enquiry notice was issued by Selvi K.Pushpalatha, District Manager, on 19.2.2015, and she herself passed the impugned order of removal on 8.4.2015, and would further submit that in similar facts and circumstances, this Court vide order dated 5.3.2015, made in W.P.No.28066 of 2014, has set aside the matter with a direction to the authority to reinstate the concerned petitioner and to conduct a fresh enquiry in accordance with the Regulations, and since the petitioner is similarly placed, same kind of order may be passed.

5.Per contra, Mr.S.Muthuraj, learned Standing Counsel, who accepted notice on behalf of the respondent, would submit that the petitioner is having an effective alternate remedy in the form of appeal to the Senior Regional Manager and hence, a direction may be issued to avail the said remedy.

6.This Court has carefully considered the rival submissions and also perused the materials placed before it.

7.As rightly contended by the learned Counsel appearing for the petitioner, the respondent/District Manager has assumed the role of all authorities and he/she started with the issuance of charge memo and actively participated in the Disciplinary Proceedings, which culminated in the impugned order of removal from service.

8.This Court in similar facts and circumstances, has passed an order dated 5.3.2015, in W.P.No.28066 of 2014, and set aside the order of removal passed against the petitioner therein, by granting liberty to the respondent viz. the District Manager, TASMAL, Tiruvallur District, to proceed afresh. In the considered opinion of

the Court, the said order squarely applies to the facts of this case.

9.In the result, the writ petition is partly allowed and the impugned order dated 8.4.2015, passed by the respondent, is set aside and the matter is once again, remanded to the respondent for fresh adjudication strictly in accordance with law/Rules/Regulations and pending culmination of the disciplinary proceedings, the respondent is directed to reinstate the petitioner forthwith. The question of payment of back-wages and conferment of attendant benefits shall be decided subject to the result of the enquiry proceedings. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

nsv

To:

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

+1 cc to M/S.Lesi Saravanan Advocate sr.39681
+1 cc to Mr.S.Muthuraj Advocate sr.40128

W.P.No.23320 of 2015

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