

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.8.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.26269 of 2015 and
M.P.Nos.1 and 2 of 2015

T.Raja

...Petitioner

-Vs-

- 1 The Senior Regional Manager
Tamil Nadu State Marketing Corporation Ltd.
(TASMAC) 56 Bhirunthavanam Salai
Azhaapuram Salem-16.
- 2 The District Manager
Tamil Nadu State Marketing Corporation Ltd.
(TASMAC) 2/92 Santhiyur Village
S. Attaiyampatti Post Salem District. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of order of the 1st Respondent bearing proceedings in Se.Mu.No.3013/2015/A dated 30.06.2015 Which confirmed the order of 2nd respondent in Na.Ka.No.2430/2014/A4/C.V dated 06.04.2015 and quash the same and consequently direct the respondents herein to reinstate the petitioner into service.

For Petitioner : Mr.K.Sasindran

For Respondent : Mr.B.Nedunchezian

ORDER

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner while working as a Salesman at Shop No.7107, Salem town was visited with disciplinary proceedings in the form of charge memo dated 06.10.2014 alleging that a surprise visit was made on 04.09.2014 and three liquor bottles were found open and percentage of alcohol is less than the prescribed minimum. The petitioner has submitted his explanation and enquiry was also conducted and as per the report of the Enquiry Officer dated 27.11.2014, the charge framed against the petitioner has been proved and he was issued with the show cause notice for which also, he submitted his explanation. The second respondent has held the findings recorded by the Enquiry Officer are sustainable and therefore, passed an order of termination

on 06.04.2015. Petitioner challenged the legality of the same preferred an appeal to the first respondent. The first respondent by order dated 30.06.2015 dismissed the appeal confirming the order of termination. Petitioner aggrieved by the same has filed this writ petition.

3. The learned counsel appearing for the petitioner submitted that without any iota of materials whatsoever, findings have been recorded by the Enquiry Officer that charge has been proved and the disciplinary authority without due and proper application of mind has passed the termination order and the Appellate Authority without considering the materials placed before him dismissed the appeal. Hence, the petitioner has come forward with this writ petition.

4. Mr.B.Nedunchezian, who accepts notice on behalf of respondents 1 and 2 would contend that the petitioner herein is having an effective alternate remedy of revision before the Managing Director of the respondent Corporation and it has also been indicated in the impugned order and hence, this writ petition is not maintainable.

5. This Court has carefully considered the rival submissions.

6. As rightly pointed out by the learned counsel for the petitioner, even in the impugned order, it has been indicated that the petitioner is having a remedy of revision before the Managing Director of the Corporation and in the light of availability of effective alternative remedy, this Court is of the view that the writ petition is not maintainable.

7. Therefore, the petitioner is permitted to prefer a revision to the Managing Director of the respondent corporation within two weeks from the date of receipt of a copy of this order and on receipt of the revision, if the papers are otherwise in order, the Managing Director is directed to entertain the revision without putting the issue of limitation and pass orders on merits and in accordance with law within a period of six weeks, thereafter and communicate the decision taken, to the petitioner.

8. In the result, this Writ Petition is dismissed subject to the above said observations. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

kua

To

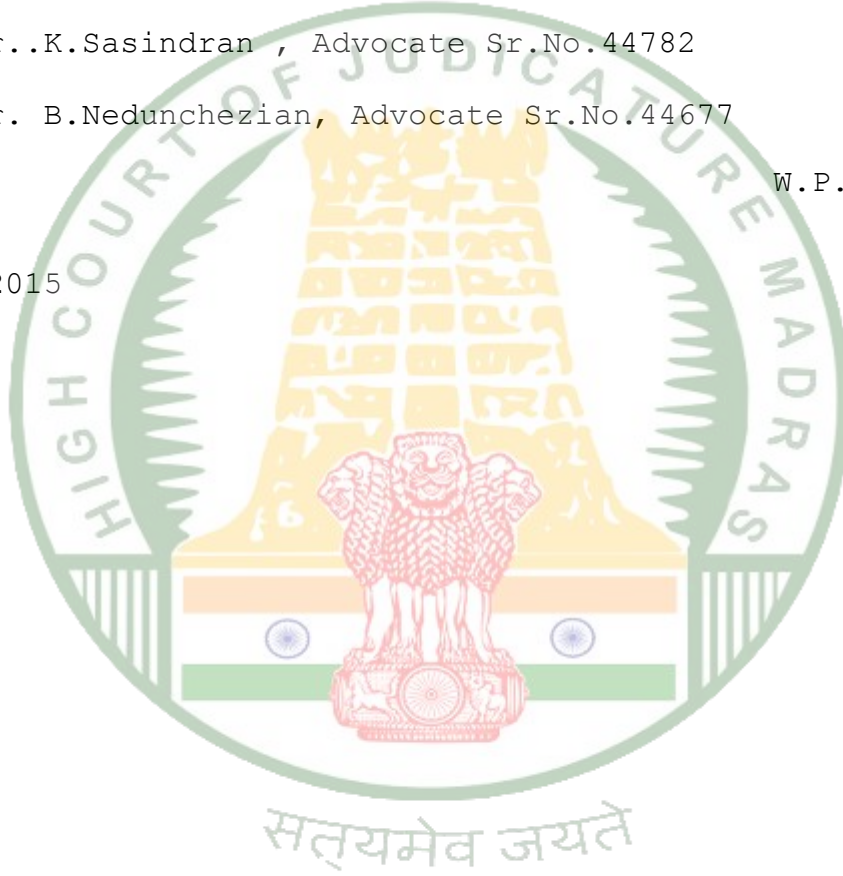
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1 cc to Mr..K.Sasindran , Advocate Sr.No.44782

1 cc to Mr. B.Nedunchezian, Advocate Sr.No.44677

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kv (co)
pmk.10.9.2015



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