

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2015

CORAM

THE HON'BLE Mr. JUSTICE M.SATHYANARAYANAN

W.P.No. 26459 of 2015

N. Srinivasan

...Petitioner

Vs.

1.The Senior Regional Manager,
Chennai Region,
Tamilnadu State Marketing Corporation Ltd.,
(TASMAC), LLA Buildings,
Anna Salai, Chennai 600002

2.The District Manager,
Tiruvellore District (East)
Tamilnadu State Marketing Corporation Ltd.,
(TASMAC), Tiruvellore. ...Respondents

This petition is filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the first respondent to consider the petitioner's appeal and pass orders on the representation dated 05/11/2014 made by the petitioner within a stipulated time limit.

For Petitioner : M/s.N.S.Kishorekumar

For Respondent : Mr.C.Kasirajan for TASMAC

O R D E R

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

2. The petitioner who is working as a Supervisor in the Tamilnadu State Marketing Corporation Ltd.(TASMAC), was suspended and he challenge the same by filing a writ petition in W.P.No.18076 of 2013 and this Court, disposing of the said writ petition on 04.07.2013 subject to certain observations and the relevant paragraph reads as follows.

"6. For all the aforesaid reasons,
I am of the view that the Writ petition
is liable to be rejected. However,
while rejecting the writ Petition, the

respondents are directed to issue a charge memo, directing the petitioner to give explanation, receive the explanation, hold enquiry by examining the relevant witnesses and give opportunity to the petitioner to cross examine those witnesses and thereafter provide opportunity to the petitioner to let in his evidence. The respondents are further directed to furnish a copy of the report of the enquiry officer and seek the remarks on the representation of the enquiry officer and thereafter to pass a final order. The respondents are directed to hold enquiry as stated above within a period of six months from the dated of receipt of a copy of this order.

7. The writ petition is disposed of accordingly. No costs. "

3. Thereafter, the petitioner was issued with a charge memo vide proceedings of the second respondent dated 10.03.2014. Mr.M.Mathivanan, Assistant Manager was appointed as an Enquiry officer. The Enquiry Officer submitted his report on 10.03.2014 to the disciplinary authority namely, the 2nd respondent who has dismissed the petitioner from service vide order dated 07.10.2014. The petitioner has filed a departmental appeal to the Senior Regional Manager, Chennai Region, namely the first respondent on 05.11.2014 and the petitioner came forward to file this writ petition for early disposal of the said appeal.

4. Heard the submission of the learned counsel for the petitioner who has drawn the attention of the Court to the order of the 2nd respondent dated 07.10.2014 and he would submit that the said order per se in violation of the orders passed in W.P.No.18016/2013 for the reason that the second respondent, disciplinary authority himself has cross examined the petitioner and without cross examining the witnesses, he arrived at a decision to dismiss the petitioner from service. It is also the submission of the learned counsel for the petitioner that since the petitioner has preferred the departmental appeal, it would be suffice to direct the first respondent to dispose of the same on merits and in accordance with law.

5. This Court, herd the submission of the of Mr.C.Kasirajan, learned counsel who accepts notice on behalf of respondents 1 and 2.

6. Though this Court finds considerable force in the submissions made by the learned counsel for the petitioner, as to the course adopted by the second respondent while passing the impugned order, is of the view that it would be suffice to direct the first respondent to consider and dispose of the petitioner's appeal dated 05.11.2014 on merits and in accordance with law within the stipulated time.

7. In the result, the writ petition is disposed of and the first respondent is directed to consider the appeal dated 05.11.2014 submitted by the petitioner on merits and in accordance with law, after taking note of the order dated 04.07.2013 made in W.P.No.18076 of 2013 within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

vsi

To

1.The Senior Regional Manager,
Chennai Region,
Tamilnadu State Marketing Corporation Ltd.,
(TASMAC), LLA Buildings,
Anna Salai, Chennai 600002

2.The District Manager,
Tiruvellore District (East)
Tamilnadu State Marketing Corporation Ltd.,
(TASMAC), Tiruvellore.

1 cc to Mr.C. Kasirajan, Advocate, Sr.45088
1 cc to Mr.N.S. Kishore Kumar, Advocate, sr. 45948

W.P.No. 26459 of 2015

KSJ (CO)
kk 10/9