

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.28066 of 2014 &
M.P.No.1 of 2014

1.A.Sreenivasan
2.T.Rajasekar
3.E.Udayakumar
4.P.M.Perumal

... Petitioners

Vs.

The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC)
Tiruvallur (East) District, Tiruvallur District.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorarified mandamus, calling for the records on the file of the respondent in connection with his proceedings No.Se.Mu.Ka.No.A4/8889/2014 dated 17.09.2014 and quash the same and consequently direct the respondent to reinstate the petitioners in service with all service, monetary and attendant benefits.

For Petitioners : Ms.Lesi Saravanan
For Respondents : Mr.S.Muthuraj
Standing Counsel

O R D E R

The first petitioner was appointed as Supervisor and petitioners 2 to 4 were appointed as Salesman by Tamilnadu State Marketing Corporation Limited (hereinafter referred to as TASMAC).

2. While the petitioners were working at Shop No.8889, the respondent conducted surprise inspection on 02 February 2014. The respondent alleged that the petitioners have indulged in various acts of irregularities. The petitioners were suspended by order dated 02.02.2014. Thereafter, a charge memo was issued on 11.02.2014. The petitioners have given their explanation to the charge memo. The Enquiry Officer appointed by the respondent submitted his report holding that the charges were proved. The respondent thereafter, in his capacity as disciplinary authority passed an order dated 17.09.2014 dismissing the petitioners from service. The said order is challenged in this writ petition primarily on the ground that the respondent, being the officer, who detected the misconduct himself has passed final orders.

3. Even though sufficient time was given to file counter affidavit, the fact remains that the respondent has not filed counter as on today.

4. The learned counsel for the petitioners contended that the respondent himself conducted inspection on 02.02.2014 and on the basis of the said inspection, disciplinary proceedings were initiated against the petitioners. According to the learned counsel, the respondent, being the officer who conducted the inspection on 02.02.2014, which was the basis for taking action was not expected to pass final orders dismissing the petitioners from service.

5. The learned Standing Counsel for TASMAG 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.

8. In the upshot, I allow the writ petition. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

svki

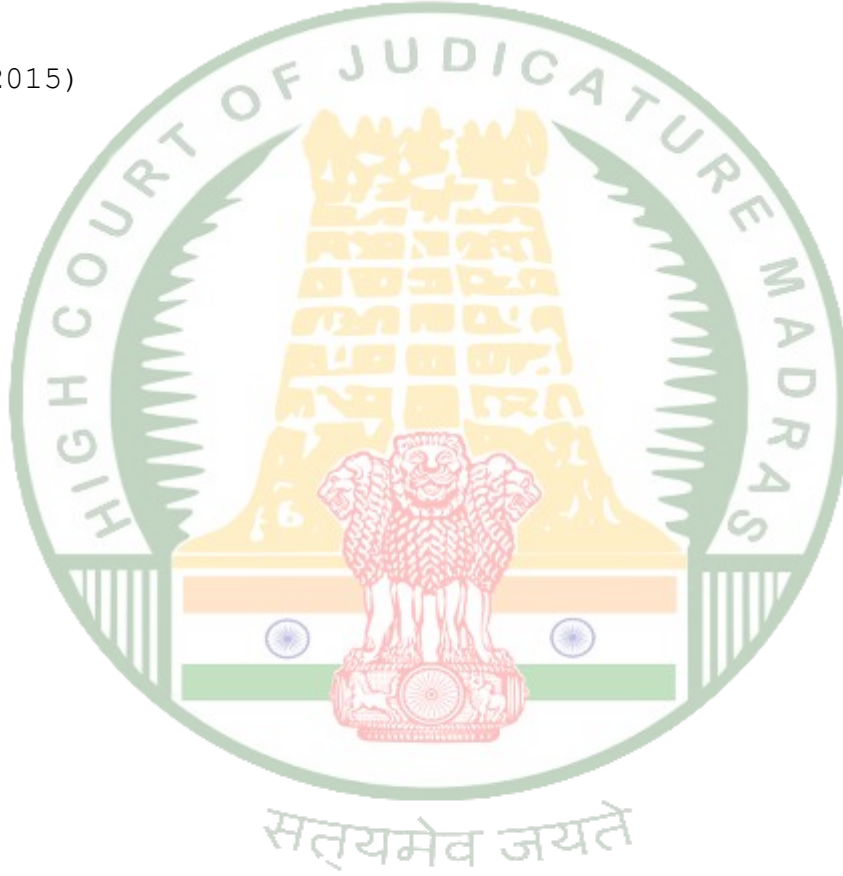
To

The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC)
Tiruvallur (East) District, Tiruvallur District.

+1cc to Mr.S.Muthuraj, Advocate, S.R.No.12397
+1cc to M/s.Lesi Saravanan, Advocate, S.R.No.12374

W.P.No.28066 of 2014

MG(CO)
CA(17/03/2015)



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