

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.27613 of 2015
and M.P.Nos.1 and 2 of 2015

R.Palani

... Petitioner

-Vs-

The District Manager,
Tamil Nadu State Marketing Corporation, (TASMAC)
Nos.29 & 30, SIDCO Industrial Estate,
Kakkalur (West),
Thiruvallur.

... 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 order in Se.Mu.Ka.No.A8/873/2014 dated 27.07.2015 and quash the same and consequently direct the respondent to reinstate the petitioner in service with all service, monetary and attendant benefits.

For Petitioner : Mr.Lesi Saravanan

For Respondent : Mr.C.Kasirajan

O R D E R

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

2. The petitioner while working as Shop Supervisor with the respondent, was issued with a charge memo dated 01.10.2014 by the respondent alleging misappropriation and other unlawful activities and within 9 days thereafter, an enquiry officer was appointed and according to the petitioner even before the issuance of charge memo, enquiry officer was appointed. The petitioner has submitted his response and the enquiry officer found that charge Nos.1,2 and 4 have been proved and charge No.3 has not been proved and also submitted a report on 27.07.2015 to the disciplinary authority viz., the respondent. The disciplinary authority, on consideration of the same, has passed the impugned order of removal from service, vide impugned order dated 27.07.2015 and challenging the legality of the same, the petitioner came forward to file this writ petition.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that the co-employee viz., Thiru.Umapathy, in his deposition, has categorically admitted that the petitioner has no role to play in the alleged delinquencies and he himself was solely responsible and the extract of Examination Report of the Tiruvallur West & East District would also disclose to that effect. It is also the submission of the learned counsel for the petitioner that even prior to the issuance of charge memo, enquiry officer came to be appointed and therefore, prays for interference.

4. Per Contra, Mr.C.Kasirajan, learned Standing Counsel appearing for the respondent would submit that even in the impugned order, it has been indicated that the petitioner is having an effective alternative remedy in the form of appeal to the Senior Regional Manager, TASMAL Ltd., Chennai Zone, Chennai -2 and therefore, the points urged by him can be agitated by the petitioner in the form of appeal before the said official.

5. This Court has carefully considered the rival submissions and also perused the materials placed before this Court.

6. As pointed out by the learned Standing Counsel appearing for the respondent, even in the impugned order, it has been indicated that the petitioner is having a right of appeal to the Senior Regional Manager, TASMAL Ltd., Chennai Zone, Chennai -2 and since in the light of the said alternative remedy, this Court is of the view that at present, the present writ petition is not maintainable and therefore, it is dismissed. The petitioner is at liberty to file a departmental appeal to the Senior Regional Manager, TASMAL Ltd., Chennai Zone, Chennai -2, within a period of two weeks from the date of receipt of a copy of this order, by raising all the grounds and the said official, on receipt of the same, shall not put into issue the question of limitation and entertain the appeal, if the papers are otherwise in order and dispose of the same on merits and in accordance with law within a further period of six weeks thereafter and communicate the decision taken, to the petitioner.

7. This Writ Petition is dismissed with the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

vsm

To

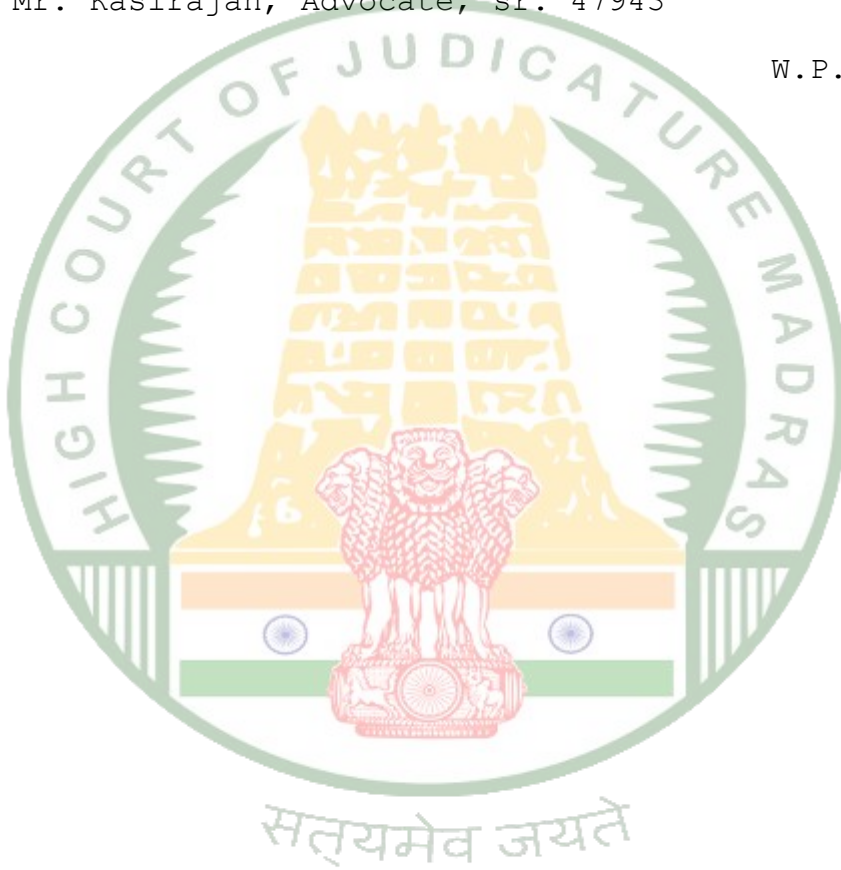
The District Manager,
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Nos.29 & 30, SIDCO Industrial Estate,
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Thiruvallur.

1 cc to Mr. Lesi Saravanan, Advocate, sR. 47866

1 cc to Mr. Kasirajan, Advocate, sr. 47943

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