

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 11.09.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.28723/2015

T.Elangovan

..

Petitioner

Versus

The District Manager
Tamilnadu State Marketing Corporation Ltd.,
Tiruvarur District. ..

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus calling for the records in respect of the order Na.Ka.No.198/2015/A1 dated 05.05.2015 passed by the respondent, quash the same and direct the respondent to reinstate the petitioner in service.

For Petitioner : M/s.A.Sulochana

For Respondent : Mr.C.Kasirajan

O R D E R

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

2 The petitioner was appointed as Bar Supervisor by the respondent - Corporation vide order dated 16.1.2014 and was put in-charge of Liquor shop No.9623 at Peralam village, Nannilam Taluk, Thirvarur District and a surprise inspection was conducted by the officials of the respondent - Corporation and it was found that one of the salesman, viz., A.Kesavan, was selling liquor by adulterating it with water and it was a "loose sale". However, the petitioner was placed under suspension vide order of the respondent dated 05.05.2015 on alleged suspicion. Though nearly 4 months had elapsed, the order of suspension is yet to be reviewed and hence, the petitioner came forward to file this writ petition.

3 Heard the learned counsel for the petitioner and Mr.C.Kasirajan, learned counsel who accepts notice on behalf of the respondent - Corporation.

4 Though the petitioner has sought for a larger relief, this Court, in the light of the above facts and circumstances, permits the petitioner to submit a representation to the respondent for

reviewing/revoking the suspension order within a period of two weeks and the respondent, on receipt of the same, is directed to consider the said representation on merits and in accordance with law, in the light of paragraph 14 of the Judgment [extracted below] reported in [2015] 3 CTS 119 SC [Ajay Kumar Choudhary Vs. Union of India and others] and pass orders within a further period of six weeks thereafter and communicate the decision taken to the petitioner.

"...

14 We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Charge sheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us."

5 The writ petition is disposed of accordingly. No costs.

AP

s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

The District Manager
Tamilnadu State Marketing Corporation Ltd.,
Tiruvarur District.

+ 1 cc Mr.A.Sulochana, Advocate SR 49744

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