

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.Nos.28847 and 28848 of 2015

And

M.P.Nos.1 and 1 and 2 and 2 of 2015

V.Radhakrishnan
R.Thirumoorthi

... Petitioner in W.P.No.28847/2015
... Petitioner in W.P.No.28848/2015

Vs.

The Deputy Collector-cum-District Manager
Tamil Nadu State Marketing
Corporation Ltd., (TASMAC)
IMFS Depot Godown No.1
Tamil Nadu Warehouse Corporation
Angeripalayam Road Tiruppur District.

... Respondent in both W.Ps.

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of charge memo issued by the Respondent in Na.Ka.No.582/2014/A dated 02.01.2015 and quash the same.

For Petitioners : Mr.K.Sasindran
For Respondent : Mr.C.Kasirajan

COMMON ORDER

By consent, the writ petitions are taken up for final disposal.

2.The petitioners are working as Supervisor and Salesman respectively, in the services of the respondent Corporation in shop no.2326 at Salem Tiruppur and both of them are placed under suspension on account of their alleged involvement in the act of causing fire to the shop in question. The defence projected by the petitioners is that they have nothing to do with the alleged accident and since they were placed under suspension, prayed for revocation of the suspension and permit them to join duty and challenging the order of suspension, both had filed W.P.Nos.33259 and 33260 of 2013 and this Court vide order dated 25.03.2015 has disposed of the writ petitions by directing the second respondent therein to conclude the disciplinary proceedings initiated against the petitioners as

expeditiously as possible within a period of three months from the date of receipt of a copy of that order and also directed the respondents to pay the arrears of subsistence allowance. The grievance now expressed by the petitioners is that inspite of the pendency of the disciplinary proceedings, attempts have been made to recover the said amount and therefore challenging the vires of the charge memo has come forward to file these writ petitions.

3.The learned counsel appearing for the petitioners would submit that the petitioners are nothing to do with the alleged incident and even in the charge memo, pre-determined conclusion has been arrived as if there was a loss to the tune of Rs.9,89,750/- on account of the delinquency on the part of the petitioners and therefore, no purpose would be served in participating in the disciplinary proceedings and prays for quashment of the same.

4.Per contra, Mr.C.Kasirajan, learned counsel who accepts notice on behalf of the respondent would submit that on account of the act of the petitioners, the respondent Corporation is suffering loss to the tune of Rs.9,89,750/- and therefore, the disciplinary action has been rightly taken and prays for dismissal of the writ petitions.

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

6.It is a well settled position of law that the Enquiry Officer has to arrive at a decision as to the proof of charges framed against the delinquents based on the quality of the evidence rendered by the employer/ Management and hence, there cannot be any pre-determination of mind on the part of the disciplinary authority to hold that the delinquents are guilty of the charges even before the conclusion of the disciplinary proceedings.

7.Though the petitioners had raised very many grounds, this Court is not in a position to appreciate the same for the reason, disciplinary proceedings are pending and therefore, evidence to be tended by the petitioners' Management as well as the defence to be projected by the petitioners cannot be gone into or appreciated by this Court at this stage.

8.Though the petitioners prayed for a larger relief of quashment of the charge, this Court in the facts and circumstances, directs the respondent to conclude the disciplinary proceedings in terms of the earlier order dated 25.03.2015 made in W.P.Nos.33259 and 33260 of 2013 and pass final orders strictly on merits and in accordance with law within a period of three months from the date of receipt of a

copy of this order and communicate the decision taken, to the petitioners.

9.The writ petitions are disposed of accordingly subject to the said observations. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Collector-cum-District Manager
Tamil Nadu State Marketing Corporation Ltd., (TASMAC)
IMFS Depot Godown No.1
Tamil Nadu Warehouse Corporation
Angeripalayam Road Tiruppur District.

+1cc to Mr.C. Kasi Rajan, Advocate, S.R.No.50008
+1cc to Mr.K. Sasindran, Advocate, S.R.No.50083

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