

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2015

CORAM

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN

W.P.No.34794 of 2013
and M.P.No.1 of 2013

R.PALANIVEL

[PETITIONER]

Vs

1 THE DISTRICT MANAGER
TASMAC LTD. KANCHEEPURAM

2 THE SENIOR REGIONAL MANAGER
TASMAC LTD. ANNA SALAI
CHENNAI - 600 002.

[RESPONDENTS]

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus, calling for the records in Impugned Order dated 26.11.2007 passed by the First Respondent in Na.Ka.No.357/07/R-4 and quash the same consequently direct the respondents to reinstate the petitioner into service in the light of the similar order and on facts and grant such other relief.

For Petitioner : Mr.P.Ganapathy

For Respondents : Mr.S.Muthuraj

ORDER

This writ petition is directed against the order dated 26.11.2007, whereby and whereunder the 1st respondent dismissed the petitioner from service on account of the alleged misconduct.

2. While the petitioner was working as a Salesman in TASMAC Shop No.4330 at Oonamancheri, the 1st respondent inspected the shop and found shortage of Rs.5,96,803/-. According to the petitioner, he was not present on the date of inspection. However, he was suspended along with another employee by name S.Manigandan. It is the grievance of the petitioner that without conducting any enquiry in the matter, he was dismissed from service. The order is therefore challenged in this writ petition on the ground that it was in violation of principles of natural justice.

3. The learned counsel for the petitioner contended that the co-employee by name S.Manigandan filed a writ petition before this Court in W.P.No.7421 of 2011, challenging his dismissal order. This Court was pleased to allow the writ petition and a direction was issued to the respondent to reinstate him in service without backwages. The respondent was given liberty to conduct fresh enquiry with notice to the petitioner therein. According to the learned counsel, the petitioner is also similarly situated and as such he should also be given the benefit of the said order.

4. The learned Standing Counsel for the TASMAL, on instructions, submitted that the respondent has implemented the order passed by this Court in W.P.No.7421 of 2011 and according to him, the petitioner would also be given similar benefits provided he withdraws the claim for backwages.

5. The learned counsel for the petitioner, on instructions, submitted that the petitioner is prepared to forego the backwages, provided he is reinstated in service.

6. This Court has already passed an order in the case of a co-employee in W.P.No.7421 of 2011. The 1st respondent was directed to reinstate the petitioner in the said writ petition without prejudice to the right of the Management to conduct a fresh enquiry. The petitioner is also similarly situated as that of the co-employee. Therefore, I am of the view that the petitioner should also be given the benefit of the earlier passed in W.P.No.7421 of 2011.

7. In the result, the impugned order dated 26.11.2007 is set aside. The 1st respondent is directed to reinstate the petitioner in service without backwages. Such exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order. The respondents are at liberty to conduct fresh enquiry with notice to the petitioner, if they are so advised.

The writ petition is allowed to the extent indicated above. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1 THE DISTRICT MANAGER
TASMAC LTD. KANCHEEPURAM

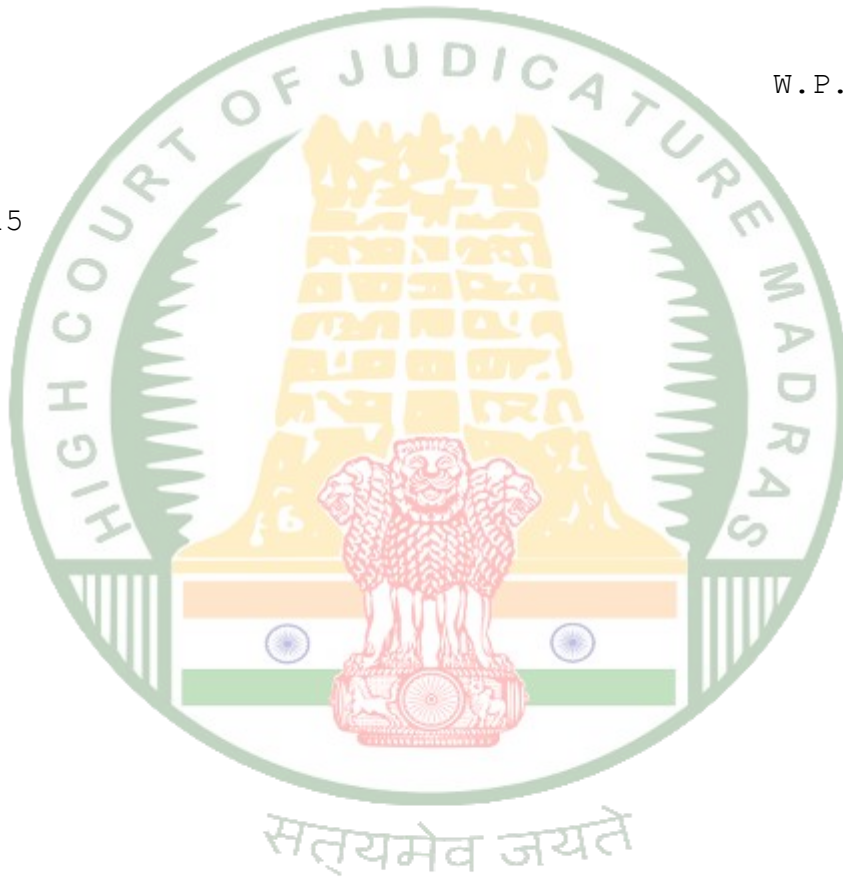
2 THE SENIOR REGIONAL MANAGER
TASMAC LTD. ANNA SALAI
CHENNAI - 600 002.

+ 1 cc to Mr.S. Muthuraj, Advocate Sr.5531

+ 1 cc to Mr.R. Ananathababu, Advocate Sr.5703

W.P.No.34794 of 2013

EV(CO)
Eu 11.02.15



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