

In the High Court of Judicature at Madras

Dated: 15.10.2015

Coram:

The Hon'ble Mr.Justice M.Jaichandren

Writ Petition No.16366 of 2012

A.Sakthivel

..Petitioner

Vs.

The District Manager-II,
[Retail Selling],
TASMAC Ltd.,
Angaripalayam
Tirupur Dist.

.. Respondent

Prayer: Petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus, to call for and quash the proceedings of the respondent in Na.Ka.No.44/A1 dated 17.1.2006 and consequently direct the respondent to reinstate the petitioner as Salesman in the respondent's TASMAC shop.

For petitioner : Mr.K.Thilageswaran

For respondent : Mr.C.Kasirajan

O R D E R

Heard the learned counsels appearing on behalf of the parties concerned.

2. This Writ Petition has been filed praying that this Court may be pleased to issue a Writ of Certiorarified Mandamus, to call for and to quash the proceedings of the respondent, in Na.Ka.No.44/A1, dated 17.1.2006, and to consequently direct the respondent to reinstate the petitioner, as a Salesman, in the TASMAC shop bearing No.1855, in Negamam village, near Pollachi.

3. According to the petitioner, he had been employed as a Salesman, in the TASMAC shop bearing No.1855, in Negamam village, by an order, dated 29.11.2003. The petitioner had been asked to deposit a sum of Rs.15,000/-, as security deposit. Even though the petitioner had been working for a period of nearly three years, without any blemish, the respondent had terminated the service of the petitioner, by an order, dated 17.1.2006. The learned counsel appearing on behalf of the petitioner had submitted that the impugned order passed by the respondent, terminating the service of the petitioner, is arbitrary and illegal. In spite of the fact that the petitioner had

been carrying on his duties to the best of his abilities, the service of the petitioner had been terminated, without any notice being issued to him. Hence, the impugned order of termination is liable to be set aside. The learned counsel had placed reliance on the decision of this Court, in W.P.No.405 of 2008, dated 5.1.2008, and the decision of the Madurai Bench of the Madras High Court reported, in CDJ 2006 MHC 1454 [V.L.Lakshmanakumar v. The District Manager, TASMALtd., Madurai District and another], in support of his submissions.

4. Per contra, the learned counsel appearing on behalf of the respondent had submitted that the petitioner had been appointed, as the Salesman, in the TASMAL shop bearing No.1855, in Negamam village, only on a temporary basis, due to shortage of staff in the said shop. It is made clear in the order of his appointment, dated 29.11.2003, that the appoint is only temporary in nature. The petitioner had been terminated from service, as he was not required any more. Since, no charges had been framed against him, no notice had been issued to him, so as to give him an opportunity of hearing before the termination of his service.

5. The learned counsel had further submitted that the Writ Petition filed by the petitioner is belated in nature, as the impugned order of termination, challenged by the petitioner, had been issued, as early as, on 17.1.2006. However, the petitioner had filed the present Writ Petition only, in the year, 2012.

6. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, it is clear that the appointment of the petitioner, on 29.11.2003, is only temporary in nature. No rules of recruitment had been followed, while appointing the petitioner, as the Salesman, in the TASMAL shop bearing No.1855, in Negamam village. Since, no charges had been levelled against him, the service of the petitioner had been terminated, without issuing any notice to him. Further, it is noted that the impugned order of termination had been issued, by the respondent, on 17.1.2006, and that the petitioner had preferred the present Writ Petition, before this Court, only during the year, 2012, belatedly. In such circumstances, this Court is of the view that the present Writ Petition, filed by the petitioner, stands dismissed, as it is devoid of merits. No costs. M.P.No.1 of 2012 is closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub-Assistant Registrar

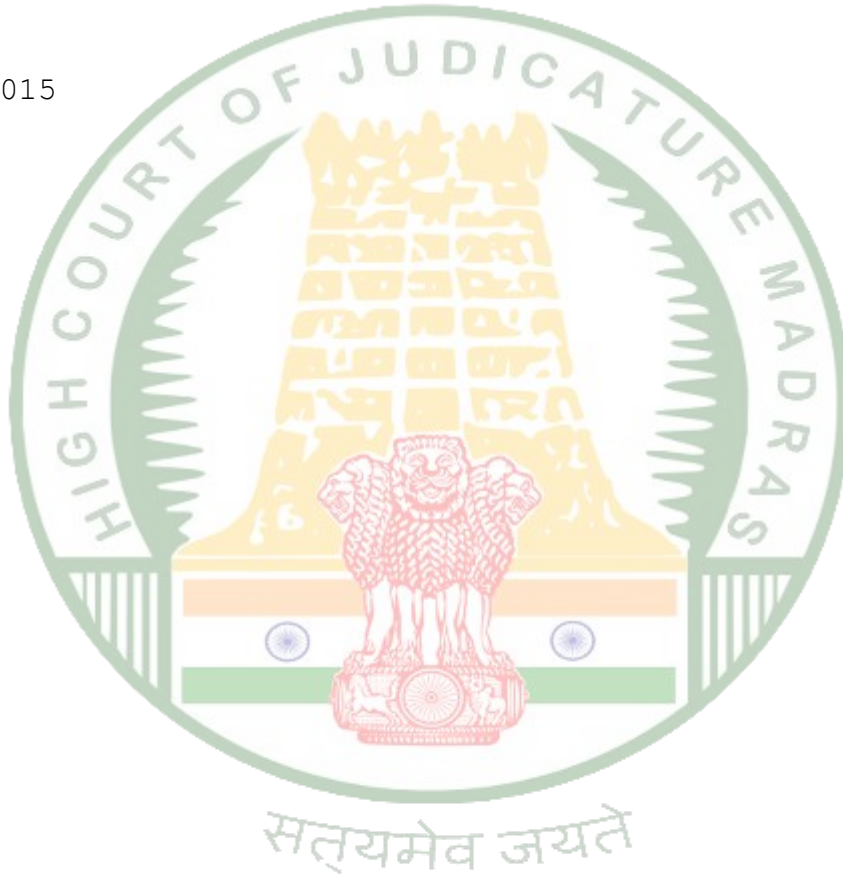
To

The District Manager-II,
[Retail Selling],
TASMAC Ltd.,
Angaripalayam
Tiruppur District

+1 C.C. To MR.C.Kasirajan, Advocate in SR.NO.57055

W.P.No.16366 of 2012

VGI(CO)
sd : 19/11/2015



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