IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23.09.2016
CORAM
THE HONOURABLE MR. JUSTICE R.SUBBIAH
Writ Petition No.17486 of 2015
and
M.P.No.1 of 2015

M.Soundararajan ... Petitioner

vs.

The District Manager (incharge),
Tamilnadu State Marketing Corporation Limited,
Arakonam, Vellore District ... Respondent

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus, to call for the records of the respondent in Che. Mu. Ka.ka.A2/507/ C.V./ 2014 dated 29.08.2014 (received by the petitioner on 28.05.2015) and quash the same and consequently direct the respondent to reinstate the petitioner back into service with all consequential and attendant benefits.

For Petitioner : Mr.V.Rajinikanth

For Respondents : Mr.C.Kasirajan,

ORDER

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

2. The petitioner has come up with the present writ petition for a certiorarified mandamus to call for the records of the respondent in Che.Mu.Ka.ka.A2/507/C.V./2014 dated 29.08.2014 and quash the same and consequently direct the respondent to reinstate the petitioner back in service with all consequential and attendant benefits.

3. It is the case of the petitioner that the petitioner was appointed as Shop Salesman and initially was posted in Pogainallur. Thereafter, he was transferred to Shop No.11017, at Panapakkam, Vellore District. While he was working at Panapakkam, on 03.04.2014, a flying squad visited the shop, though they have not found out any irregularities committed by the petitioner, in general, they found that there was a shortage

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of the amount to the tune of Rs.28,200/- and also alleged that certain liquor bottles found to have been mixed with water. At the instance of the flying squad, the petitioner along with a supervisor and another shop salesman were placed under suspension. Since subsistence allowance was not paid, the petitioner filed W.P.No.13815 of 2014 before this Court and this Court passed a final order on 21.05.2014 directing the respondent to proceed with the enquiry and complete the same within a period of 3 months and directed to pay the subsistence allowance to the petitioner and also directed to reinstate the petitioner in the event of enquiry not completed within 3 months.

4. Inspite of the direction of this court, not a single pie was paid to the petitioner from the date of his suspension till the impugned order was passed. On 02.07.2014, a charge memo containing 4 articles of charges has been issued. On denial of the charges by the petitioner, enquiry officer was appointed. On 25.08.2014, enquiry officer has submitted a report holding that the charges leveled against the petitioner is not proved as there was no evidence to substantiate the same. Even though forensic report has been obtained, the same has not been marked at the time of enquiry. But, the respondent placing reliance on the alleged forensic report had terminated the service of the petitioner by proceedings dated 29.08.2014. Hence, left with no other alternate or effective remedy, the petitioner has come forward with the present petition.

5. When the matter was taken up for consideration the learned counsel for the petitioner submitted that the criminal case filed against the petitioner ended in acquittal. Further the learned counsel for the petitioner submitted that Writ Petition filed by the shop supervisor for reinstatement was allowed by this Court on 22.09.2015 in W.P.No.27837 of 2015. Hence, following the same the Writ Petition may be allowed.

6. The learned counsel for the respondent vehemently opposed to reinstate the petitioner, stating that as against the W.P.No.27837 of 2015, the respondent has already filed a Writ Appeal.

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7. Considering the facts and circumstances of the case and considering the submissions made on either side, as the petition enquiry was conducted without furnishing forensic report to the petitioner, I find that the matter could be remitted back to the respondent to conduct fresh enquiry after furnishing forensic report to the petitioner.

8. Accordingly, impugned order of the respondent in Che.Mu.Ka.A2/507/C.V/2014 dated 29.08.2014 is set aside and

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consequently, this matter is remitted back to the respondent directing him to conduct fresh enquiry by furnishing forensic report to the petitioner and conclude the same within a period of 8 weeks from the date of receipt of a copy of this order. So far as the subsistence allowance of the petitioner is concerned, he is at liberty to make a representation to the respondent. On receipt of the same, the respondent is directed to pass appropriate order regarding payment of subsistence allowance.

9. With the above direction, this petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

mrp

To

The District Manager,
Tamilnadu State Marketing Corporation Limited,
Arakonam, Vellore District

+1 CC to M/s. V. Rajinikanth, Advocate Sr.No.54421

W.P.No.17486 of 2015

SM (CO)
MD : 06/10/2016

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