

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 28.09.2016

Delivered On : 29.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.34404 of 2015

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

B.Muthuvel

.. Petitioner

vs.

1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Salem.

2.The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
No.62/70, Anna Salai,
Tiruvannamalai-606 601.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the respondent in connection with their proceedings in Na.Ka.R.V.2/1920/2014 dated 08.04.2015 passed by the second respondent and Se.Mu.No.3275/2015/A dated 04.09.2015 passed by the first respondent and quash the same and consequently, direct the respondents to reinstate the petitioner in service with all service, monetary and attendant benefit.

For Petitioner : M/s.J.Lesi Saravanan

For Respondents : Mr.B.Nedunchezhiyan
Standing Counsel for TASMAC

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus calling for the records in connection with the proceedings in Na.Ka.No.R.V.2/1920/2014 dated 08.04.2015 passed by the second respondent and Se.Mu.No.3275/2015/A dated 04.09.2015 passed by the first respondent and quash the same and consequently, direct the respondents to reinstate the petitioner in service with all service, monetary and attendant benefits.

2. The petitioner was initially appointed as Supervisor on contract basis for a consolidated sum of Rs.2,000/- in the respondent organization and thereafter, he was posted to Shop No.9284. While so, on 17.03.2014, the District Manager

conducted surprise inspection in Shop No.9284 and found certain irregularities like water mixing etc., for which the petitioner and others were issued with charge memo dated 18.03.2014 by the same District Manager calling for explanation and the petitioner and others were placed under suspension by the District Manager on 14.06.2014. An Enquiry Officer was appointed to conduct enquiry and during the enquiry, wherein no witness was examined and no documents were marked and the Enquiry Officer held that charges 1 to 4 were not proved and charges 5 to 8 were held to be proved against the petitioner and without even serving the Enquiry officer's report, the second respondent, vide order dated 08.04.2015 dismissed the petitioner from service. Aggrieved by the same, the petitioner preferred an appeal before the first respondent, who vide order dated 04.09.2015, has confirmed the order of dismissal passed by the second respondent dated 08.04.2015. Challenging the same, the petitioner has come forward with this writ petition.

3. When the matter is taken up for consideration, the learned counsel appearing for the petitioner submitted that at the time of inspection, the District Manager has acted as an eyewitness to the incident since there was no independent witness and having acted as an eyewitness, he should not have passed the order of dismissal against the petitioner and the enquiry was not conducted in the manner known to law and therefore, there is a clear violation of the principles of natural justice and absolutely there is no admission of the alleged guilt whatsoever by the petitioner and hence, prays for quashing the impugned order.

4. Per contra, Mr.B.Nedunchezian, learned Standing Counsel appearing for the respondents/TASMAC would submit that enquiry was conducted in a fair manner and only on the basis of enquiry officer's findings, the petitioner was terminated from service by the second respondent and there is no violation of the principles of natural justice and prays for dismissal of the writ petition.

5. Keeping the submission made on either side, I have gone through the entire materials available on record.

6. The main submission of the learned counsel appearing for the petitioner is that the District Manager is the complainant and he himself has assumed the role of judge and passed the order of dismissal from service and therefore, the impugned order is liable to be set aside. This Court, in an identical situation in W.P.No.28066 of 2014 dated 05.03.2015, has set aside the order of dismissal for the simple reason that the respondent in that case who detected the irregularities himself passed the ultimate order of dismissal and thus directed the respondent therein to reinstate the petitioners therein into

service forthwith without backwages and further granted liberty to the respondents to conduct fresh enquiry in accordance with the Regulations, if so advised. The above cited order is squarely applicable to the facts of the present case.

7. In the light of the above cited order dated 05.03.2015 made in W.P.No.28066 of 2014, this Writ Petition is allowed and the impugned order of the second respondent in Na.Ka.No.R.V.2/1920/2014 dated 08.04.2015, as confirmed by the first respondent in Se.Mu.No.3275/2015/A dated 04.09.2015 are set aside and the respondents are directed to reinstate the petitioner into service forthwith without backwages and it is open to the respondents to conduct fresh enquiry in accordance with the Regulations, if they are so advised. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

jvm

To

- 1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Salem.
- 2.The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
No.62/70, Anna Salai,
Tiruvannamalai-606 601.

+1 cc to M/s.Lesi Saravanan Advocate sr 56299

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