

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.3594 of 2016

B.Mohan

.. Petitioner

vs.

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

2.The District Manager,
Tamil Nadu State Marketing
Corporation Ltd. (TASMAC)
Arakonam, Vellore District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the respondents relating to the impugned order of the second respondent bearing reference Sae.Mu.Na.Ka.A2/1046/C.V/2012 dated 22.07.2015 which is confirmed by the first respondent bearing reference Sae.Mu.No.5393/2015/A dated 27.11.2015, quash the same and consequently direct the respondents to reinstate the petitioner in service as a "Supervisor" in the TASMAC shop at Chennai with continuity of service, backwages and all other attendant benefits.

For Petitioner : M/s.P.R.Thiruneelakandan

For Respondents : Mr.C.Kasirajan,
Standing Counsel for TASMAC

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the respondents relating to the impugned order of the second respondent bearing reference Sae.Mu.Na.Ka.A2/1046/C.V/2012 dated 22.07.2015 which is confirmed by the first respondent bearing reference Sae.Mu.No.5393/2015/A dated 27.11.2015, quash the same and consequently direct the respondents to reinstate the petitioner in service as a "Supervisor" in the TASMAC shop at Chennai with continuity of service, backwages and all other attendant benefits.

2. The petitioner was employed as Supervisor sponsored through Employment Exchange during the year 2003 and while he was

working as Supervisor in TASMACH Shop No.11014 at Nemili, Vellore District, an inspection was conducted on 12.12.2012 by the Senior Regional Manager and they allegedly found that liquor were sold in loose sales and based on the inspection, the petitioner was placed under suspension on 17.12.2012 and thereafter, he was charge sheeted on 12.01.2013. The petitioner submitted his explanation on 14.12.2013 denying the charges and the second respondent did not consider his explanation and appointed an Enquiry Officer. The Enquiry Officer, even after receiving his explanation, did not conduct enquiry and no witness was examined and no document was marked to substantiate the charges levelled against the petitioner. The Enquiry Officer has submitted his Enquiry Report, based on which the second respondent dismissed the petitioner from service vide order dated 22.07.2015 and aggrieved by the same, the petitioner preferred an appeal before the first respondent, which was also dismissed, vide order dated 27.11.2015. The petitioner also submitted a representation to the first respondent and since no response was forthcoming, came forward with this writ petition.

3. When the matter was taken up for consideration, the learned counsel appearing for the petitioner would submit that though the Enquiry Officer in the Enquiry Report stated that the petitioner has not admitted the charges levelled against him, on a erroneous conclusion, has passed the impugned order and further during the course of enquiry, no witness was examined and no document was produced and therefore, the principles of natural justice has not been properly followed and prays for dismissal of this writ petition.

4. Countering the same, Mr.C.Kasirajan, learned Standing Counsel for the respondents/TASMACH would submit that the principles of natural justice was strictly followed while conducting enquiry and the petitioner was given sufficient opportunity to put forth his defence and thereafter only, the impugned order came to be passed. The learned Standing Counsel appearing for the respondents/TASMACH would further contend that without exhausting the review remedy, the petitioner has come forward with this petition and prays for dismissal of this writ petition.

5. In response to the same, the learned counsel appearing for the petitioner submitted that the review petition is not a statutory remedy.

6. It appears that during the course of enquiry, no witness was examined and no document was marked and the petitioner was not given sufficient opportunity to put forth his case, which is in clear violation of the principles of natural justice and hence, on the sole ground, the impugned order warrants interference.

7. In the result, this Writ Petition is partly allowed and the impugned order of the second respondent bearing reference Sae.Mu.Na.Ka.A2 /1046/C.V/2012 dated 22.07.2015, as confirmed by the first respondent bearing reference Sae.Mu.No.5393/2015/A dated 27.11.2015 are set aside and the matter is remanded back to the

second respondent for fresh consideration and the second respondent shall conduct enquiry by affording sufficient opportunity to the petitioner and pass orders within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

jvm

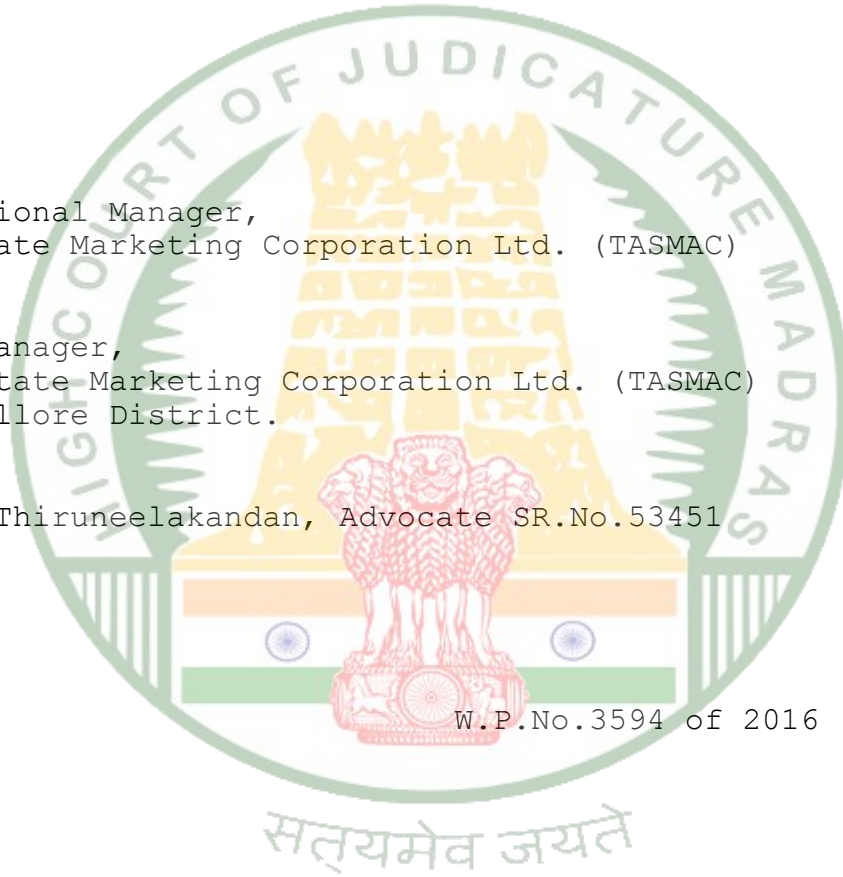
To

- 1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd. (TASMAC)
Salem.
- 2.The District Manager,
Tamil Nadu State Marketing Corporation Ltd. (TASMAC)
Arakonam, Vellore District.

+1 CC to Mr.P.R.Thiruneelakandan, Advocate SR.No.53451

CO-VD

ths : 04.11.2016



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