

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.37991 of 2016
and
W.M.P.No.32580 of 2016

A.Narayanan

... Petitioner

Vs.

- 1.The Managing Director,
Tamil Nadu State Markeing Corporation Ltd.,
CMDA Tower II, 4th Floor,
Gandhi - Irwin Bridge Road,
Egmore, Chennai-600 008.
 - 2.The District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
No.59A, Chennai Trunk Road,
Ware House Corporation Complex,
Villupuram-605 602
- ... Respondents

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 connected with the proceedings issued in Na.Ka.No.Rv.03/10/(Enq)2014, dated 14.10.2016 passed by the 2nd respondent and to quash the same and consequently, to direct the respondents to reinstate the petitioner into service with all attendant benefits.

For Petitioner : Mr.S.Ilamvaludhi

For respondents : Mr.B.Nedunchezian for TASMAC

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorarified Mandamus, to call for the records connected with the proceedings in Na.Ka.No.Rv.03/10/(Enq)2014, dated 14.10.2016 issued by the 2nd respondent and to quash the same and consequently, to direct the respondents to reinstate the petitioner into service with all attendant benefits.

2.It is stated by the petitioner that the petitioner joined as Salesman in Tamil Nadu State Marketing Corporation Ltd., (TASMAC), on 05.01.2004. He was posted as Salesman in Shop No.11625, and subsequently, as additional charge, he has

been deputed to Shop NO.11532 on 03.02.2014. While so, on 13.04.2015 by the impugned proceedings of the 2nd respondent, the petitioner was placed under suspension on the reason that on 08.04.2015 an inspection was conducted at Shop No.11625 and an amount of Rs.4,176/- was found in excess and on the inspection day, the petitioner did not attend the work. Thereafter, a charge-memo was issued to the petitioner containing nine charges against the petitioner. An Enquiry Officer was appointed and after conducting enquiry, the Enquiry Officer submitted his report holding that the charges levelled against the petitioner were not proved. However, the Appointing Authority after considering the enquiry report has concluded to exonerate the petitioner from charges No.1 to 7 and kept in abeyance Charge No.8, but he has not reached the conclusion as regard Charge No.9. In spite of the same, the Appointing Authority has imposed a fine of Rs.17,000/- on the petitioner. Challenging the imposing of fine, the petitioner has already filed a writ petition in W.P.No.31059 of 2015 and this Court by order dated 01.10.2015 has granted interim stay of the order imposing fine on the petitioner.

3.It is further stated by the petitioner that subsequently, one of his colleagues who was placed under suspension for the very same set of reasons was reinstated into service. Hence, the petitioner made a representation dated 04.10.2016 to the respondents seeking to reinstate him into service. But, the 2nd respondent by the impugned order has rejected the representation of the petitioner. Hence, the petitioner has come forward with the present writ petition.

4.Though the present writ petition has been filed for a larger relief, when the matter is taken up for consideration, the learned counsel for the petitioner submitted that the petitioner is prepared to give a fresh representation and if a direction is given to the respondents to pass appropriate orders in the light of the Hon'ble Supreme Court in Ajay Kumar Choudhary v. Union of India [(2015) 7 SCC 291], that would suffice.

5.Heard the submissions made by Mr.B.Nedunchezian learned counsel appearing for the respondents also and perused the entire materials available on record.

6.In view of the limited scope of the prayer sought for by the learned counsel for the petitioner, this Court directs the petitioner to give a fresh representation to the 2nd respondent, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the 2nd respondent is directed to consider the same, in the light of the decision of the Hon'ble Supreme Court in Ajay Kumar Choudhary v. Union of India [(2015) 7 SCC 291], and to pass appropriate orders on merits and in accordance with law, within a period of three weeks thereafter. It is made clear that this Court has not

expressed any opinion on the claim made by the petitioner and it is for the 2nd respondent to pass orders wholly on merits and in accordance with law.

With the above directions, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

ssv

To

- 1.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
CMDA Tower II, 4th Floor,
Gandhi - Irwin Bridge Road,
Egmore, Chennai-600 008.
- 2.The District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
No.59A, Chennai Trunk Road,
Ware House Corporation Complex,
Villupuram-605 602

1 cc to Mr.B. Nedunchedzhiyan, Advocate, Sr. 63350

1 cc to Mr.S. Ilamvaludhi, Advocate, Sr. 62745

सत्यमेव जयते

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