

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

WP.No.421 of 2016 &
WMP.No.282 of 2016

M.Velu

..Petitioner

Vs.

1.The Senior Regional Manager, (TASMAC),
Salem Region, No.56, Brindhavan Road,
Fairlands, Salem-16.

2.The District Manager, (TASMAC),
TANCOF Complex, No.52, Anna Salai,
Tiruvannamalai.

..Respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the order of the 2nd Respondent in Na.Ka.RV2/1920/2014, dated 22.04.2015, which is confirmed by the 1st Respondent in Se.Mu.No.3707/2015/A, dated 28.10.2015 and to quash the same and to direct the Respondents to reinstate the Petitioner into service with continuity of service and all attendant benefits.

For Petitioner :Mr.K.Sasindran

For Respondents:Mr.B.Nedunchezhiyan

ORDER

This Writ Petition is filed to issue a Writ of Certiorarified Mandamus to call for the records relating to the order of the 2nd Respondent in Na.Ka.RV2/1920/2014, dated 22.04.2015, which is confirmed by the 1st Respondent in Se.Mu.No.3707/2015/A, dated 28.10.2015 and to quash the same and to direct the Respondents to reinstate the Petitioners into service with continuity of service and all attended benefits.

2. This court heard the learned counsel on either side and also perused the materials placed on record.

3. The Petitioner challenges the impugned order of dismissal mainly on the ground that though the enquiry officer originally submitted a report that there was no charge made out, the authority, when issuing the second show cause notice,

should have clearly spelt out as to why they did not accept the order of the enquiry officer for further enquiry, by giving valid reasons and therefore, further enquiry is vitiated, as has been held by the Honourable Supreme Court in 2013 (3) SCC 342.

4. The Petitioner would also contend that the person (2nd Respondent herein) who detected the alleged irregularity himself issued the charge sheet, conducted enquiry and finally, passed the final orders and hence, it is vitiated, in view of the orders of this court dated 23.8.2010 made in WP (MD)No.2677 of 2010, batch etc. and dated 5.3.2015 made in WP.No.28066 of 2014.

4. The learned counsel for the Respondents has submitted that the authority has given sufficient opportunity to the Petitioner and conducted the case.

5. This court, in WP(MD)No.2677 of 2010, by order dated 23.8.2010, has held as follows:-

" 10. Further, it is admitted that in the first and the second batch of cases, the District Manager was the complainant and on his complaint only, the actions were taken and the same District Manager considered the explanation and passed the final orders. This is also against the principles of natural justice as nobody can be a judge of his own cause..... Further on the basis of the complaint given by the District Manager, dismissal order was passed by the District Manager himself and hence, these orders are liable to be quashed as the orders are passed without following the principles of natural justice."

6. This court, in WP.No.28066 of 2014, by order dated 5.3.2015, has held as follows:-

"6.The Petitioners are correct in their contention that the complainant himself has assumed the role of Judge and passed the order of dismissal. The impugned order is therefore is liable to be quashed for the simple reason that the Respondent who detected the irregularities himself passed the ultimate order of dismissal.

6. Since the authority has not given any reason for not accepting the report of the enquiry officer and since the Petitioner herein is also in the same footing as that of the Petitioners in the orders of this court, cited supra and following the decision of the Honourable Supreme Court cited supra and the orders of this court cited supra, the impugned order is set aside. However, it is made clear that this order will not preclude the Competent Authority from taking

appropriate action, after giving fresh notice to the parties concerned. Accordingly, this Writ Petition is disposed of. No costs. Consequently, the connected MP is closed.

Srcm

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To:

1.The Senior Regional Manager, (TASMAC),
Salem Region, No.56, Brindhavan Road,
Fairlands, Salem-16.

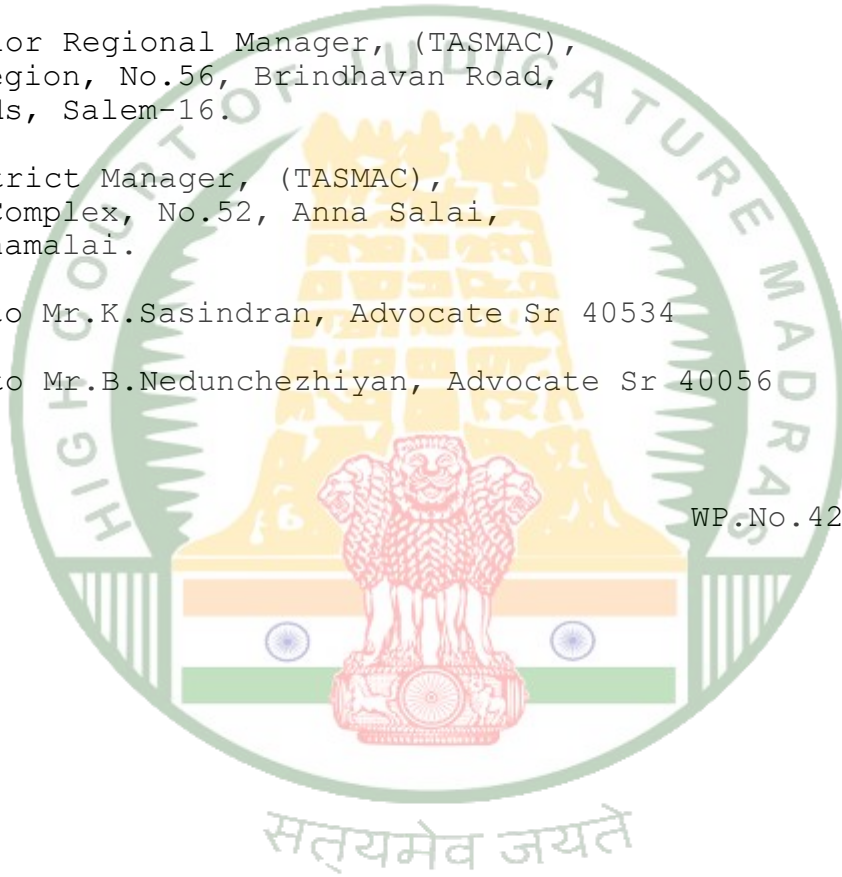
2.The District Manager, (TASMAC),
TANCOF Complex, No.52, Anna Salai,
Tiruvannamalai.

+ 1 cc to Mr.K.Sasindran, Advocate Sr 40534

+ 1 cc to Mr.B.Nedunchezhiyan, Advocate Sr 40056

KR/1/8/16

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