

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.43169 of 2016
and
W.M.P.No.37002 of 2016

A.Palani

.. Petitioner

Vs

1. The District Manager,
TASMAC, District Manager Officer,
Tamilnadu Warehouse Godown Campus,
No.62/70, Anna Salai,
Thiruvannamalai - 606 601.

2. The Senior Regional Manager,
"TASMAC"
Salem - 16.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for records relating in the impugned order of suspension passed by the 1st Respondent in Na.Ka.R.V.2/4513/13, dated 06.05.2013 and quash the same in respect of similar order quashed in W.P.No.24561 of 2013, dated 09.11.2016, consequently direct the respondents to restore the petitioner into service with all other service benefits.

For Petitioner : Mr.P.Ganapathy

For Respondents : Mr.C.Kasirajan

ORDER

By consent, this writ petition is taken up for final disposal.

2. Mr.C.Kasirajan, learned standing counsel accepts notice on behalf of the respondents.

3. The petitioner was appointed as a Salesman in the services of Tamil Nadu State Marketing Corporation (TASMAC) in the year 2003. He was working as a Salesman in TASMAC shop No.9421. According to the petitioner on 03.05.2003, during night hours, the said shop was set ablaze by some miscreants and in the said incident a sum of Rs.52,770/- got destroyed. Thereafter the case in Crime No.245 of 2013 was registered by Polur police station for the alleged commission of the offence under section 435 of I.P.C. The petitioner was arrested and kept in custody for more than 48 hours. Therefore the first respondent has passed the order of suspension against the petitioner. Challenging the same, the present writ petition is filed.

4. The learned counsel for the petitioner has drawn the attention of this Court to the Judgment of the Hon'ble Supreme Court reported in 2015 (7) SCC 291 (Ajay Choudhry Vs. Union and India) and would submit that the petitioner is placed under suspension for a period of more than three years and without the charge sheet in the criminal case has not been served on the petitioner. While so, the petitioner was served with an Impugned Order dated 06.05.2013 placed him in suspension and challenging the legality of the same, the petitioner is before this Court for quashment of the Impugned Order.

5. Heard the submissions of Mr.C.Kasirajan, learned standing counsel appearing for the respondents, who would submit that in the light of the instructions given by Personnel and Administrative Reforms Department of Government of Tamil Nadu in G.O.Ms.No.143, dated 26.04.2016, the petitioner as a matter of right cannot seek revocation of the order of suspension and since it is deemed suspension, unless and until it is reviewed by the competent authority, it cannot be done and prays for dismissal of this Writ Petition.

6. This Court has considered the rival submissions and also perused the materials placed before it.

7. Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the same permits the petitioner to submit a representation to the first respondent within a period of two weeks from the date of receipt of a copy of this Order and the first respondent upon receipt of the same

is directed to consider the said representation in the light of the above Government Order and pass orders in accordance with law within a further period of eight weeks, thereafter should communicate the decision taken to the petitioner

8. The Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

sd/

Assistant Registrar

/true copy/

Sub Assistant Registrar

vsi2

To

1. The District Manager,
TASMAC, District Manager Officer,
Tamilnadu Warehouse Godown Campus,
No.62/70, Anna Salai,
Thiruvannamalai - 606 601.
2. The Senior Regional Manager,
"TASMAC"
Salem - 16.

+1 CC to Mr. P. Ganapathy, SR 73235

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AD
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