

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.7605 of 2016
and
W.M.P.No.6833 of 2016

M.Maduprakash

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Marketing
Corporation Ltd., CMDA Tower II,
IV Floor, Gandhi Irwin Road,
Egmore, Chennai-600 008.

2.The Senior Regional Manager,
Tamil Nadu State Marketing
Corporation Ltd, (Coimbatore Region),
Coimbatore.

3.The District Manager,
Tamil nadu State Marketing
Corporation Ltd.,
Udhagamandalam, Nilgiris District.

.... 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 entire records which culminated in issuing the proceedings in Na.Ka.No.62/2015 A3 dated 14.12.2015 and Na.Ka.62/2015 A4 dated 29.01.2016 on the file of the third respondent and to quash the same in respect of the petitioner herein and consequently, to direct the respondents herein to reinstate the petitioner with all consequential and attendant benefits.

For Petitioner : Mr.B.K.Girish Neelakantan

For respondents : Mr.B.Nedunchezhiyan

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the proceedings in Na.Ka.No.62/2015 A3 dated 14.12.2015 and Na.Ka.62/2015 A4 dated 29.01.2016 on the file of the third respondent and to quash the same in respect of the petitioner herein and

consequently, to direct the respondents herein to reinstate the petitioner with all consequential and attendant benefits.

2. In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows:-

2-1. On 09.01.2004, the petitioner was appointed as the Shop Salesman Shop No.8407 in the TASMAR Retail Outlet. He received consolidated pay of Rs.4,200/- per month. However, as a precondition, he was directed to deposit a sum of Rs.15,000/- as security deposit and the same was also deposited by him. Subsequently, he was transferred to Shop No.8403. According to the petitioner, right from the date of his appointment, he has been discharging his duties sincerely.

2-2. While the petitioner was working in Shop No.8278 at Bombay Castle, Ooty, The Nilgiris District, a surprise inspection was conducted by the 2nd respondent along with his officials. After verification of stocks, it was allegedly found that there was shortage of stock to the tune of Rs.5,41,159/- and for the shortage of stock, it is alleged that four persons were responsible, including the petitioner. Thereafter, by proceedings of the 3rd respondent dated 20.05.2015, the petitioner was placed under suspension.

2-3. It is further stated by the petitioner that the 3rd respondent was regularly inspecting the shop and made an endorsement in the inspection Book. The 2nd respondent conducted inspection on 18.05.2015 and found shortage of amount to the tune of Rs.4,62,627/-. On the next day i.e., on 19.05.2015 the 2nd respondent conducted inspection and found shortage of amount to the tune of Rs.5,41,159/-. Therefore, according to the petitioner, the audit report was not clear and it is only motivated against the petitioner. The petitioner made an objection against the audit report and the same was rejected by the respondents. The 3rd respondent got signature of the petitioner in blank paper and insisted the petitioner to pay the shortage amount. However, the said amount was deposited by the Shop Supervisor Mr.T.Rajan.

2-4. It is the case of the petitioner that by proceedings dated 15.07.2015, the 3rd respondent asked the petitioner to give explanation. The petitioner has also submitted his explanation denying the charge. Thereafter, by proceedings dated 04.08.2015, the 3rd respondent framed four charges against the delinquents, including the petitioner. Thereafter, the 3rd respondent appointed one Mr.S.Rajkumar as Enquiry Officer and the petitioner was asked to appear for an enquiry on 12.08.2015 at 11.30 am. The petitioner attended the enquiry and submitted his explanation. Thereafter, an enquiry report dated 31.08.2015 was submitted by the Enquiry Officer. Based on the Enquiry Report, the petitioner was asked to submit his further explanation and accordingly, the petitioner has also submitted his further explanation. In the

meantime, the alleged shortage amount of Rs.5,41,160/- was paid in four instalments.

2-5. However, not accepting the explanation given by the petitioner, the 3rd respondent has passed the impugned order dated 29.01.2016 dismissing the petitioner from service. Aggrieved over the same, the petitioner has come forward with the present writ petition.

3. When the matter is taken up for consideration, it is the only submission made by the learned counsel appearing for the petitioner that the enquiry was not conducted in a proper manner; moreover, the alleged shortage of amount was also deposited by the Shop Supervisor. Thus, the learned counsel for the petitioner sought for suitable direction to the respondents.

4. Countering the submission made by the learned counsel for the petitioner, the learned counsel appearing for the respondents, by filing a detailed counter, would contend that it is incorrect to state that the petitioner's signature was obtained in a blank paper forcibly; in fact, enquiry was conducted in accordance with the principles of natural justice and sufficient opportunity was given to the petitioner to submit his explanation and he was given chance to examine the witnesses to defend his case. It is further submitted by the learned counsel for the petitioner that the petitioner had also admitted his guilty before the Enquiry Officer; but, now he has come forward with the present writ petition, with false allegations. Thus, the learned counsel for the respondents sought for dismissal of the writ petition.

5. I have carefully heard the submissions made on either side and perused the materials available on record.

6. The learned counsel for the petitioner sought for quashing the impugned orders on the ground that the enquiry was not conducted in proper manner and the alleged shortage amount was also deposited. But, it is seen that except making the bald submission that enquiry was not conducted in proper manner, he has not given particulars as to how the enquiry was not conducted properly. In fact, it is the assertive submission of the learned counsel appearing for the respondents that the petitioner was given ample opportunity and the petitioner has also admitted his guilt before the Enquiry Officer. Therefore, I am of the opinion, based on the bald submission made by the learned counsel for the petitioner, the impugned orders cannot be quashed. The next contention of the learned counsel for the petitioner that the alleged shortage amount was also deposited by the Shop Supervisor. But, the depositing of the amount will not absolve the petitioner from the guilt. Hence, absolute I do not find any merit in the writ petition and the writ petition is liable to be dismissed.

In fine, the writ petition fails and the same is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssv

To,

- 1.The Managing Director,
Tamil Nadu State Marketing
Corporation Ltd., CMDA Tower II,
IV Floor, Gandhi Irwin Road,
Egmore, Chennai-600 008.
 - 2.The Senior Regional Manager,
Tamil Nadu State Marketing
Corporation Ltd, (Coimbatore Region),
Coimbatore.
 - 3.The District Manager,
Tamil nadu State Marketing Corporation Ltd.,
Udhagamandalam, Nilgiris District.
- + 1 cc to Mr.R.C. Girish Neelakantan, Advocate SR.69338

W.P.No.7605 of 2016
and

सत्यमेव जयते W.M.P.No.6833 of 2016

GJ(CO)
EU 12.1.17

WEB COPY