

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

WP.Nos.858 to 861 of 2016

&

WMP.Nos.668 to 671 of 2016

1.D.Vijay ..Petitioner in WP.858/2016
2.M.Sivaprakasam ..Petitioner in WP.859/2016
3.N.Elumalai ..Petitioner in WP.860/2016
4.K.Pasupathy ..Petitioner in WP.861/2016

Vs.

1.The Senior Regional Manager, (TASMAC),
Salem Region, 56, Brindhavan Road,
Fairlands, Salem-16.

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

Respondents in All WPs.

Prayer:- These Writ Petitions are 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.3759/2015/A, dated 31.10.2015, Se.Mu.No.3708/2015/A, dated 28.10.2015, Se.Mu.No.4170/2015/A, dated 28.10.2015 and Se.Mu.No.3610/2015/A, dated 23.10.2015 respectively and to quash the same and to direct the Respondents to reinstate the Petitioners into service with continuity of service and all attended benefits.

For Petitioners in ALL WPS. : Mr.K.Sasindran

For Respondents in ALL WPS. : Mr.B.Nedunchezhyian

ORDER

These Writ Petitions are 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.3759/2015/A, dated 31.10.2015, Se.Mu.No.3708/ 2015/A, dated 28.10.2015, Se.Mu.No.4170/2015/A, dated 28.10.2015 and Se.Mu.No.3610/ 2015/A, dated 23.10.2015 respectively 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 common issue raised in all these Writ Petitions is 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 fairly admitted that the same authority, who detected the irregularities, himself passed the final orders and the issue is covered by the orders of this court cited supra, however, the learned counsel would contend that the Competent Authority may be given liberty to initiate fresh proceedings against the Petitioners.

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 Petitioners herein are also in the same footing as that of the Petitioners in the orders of this court, cited supra and following the same, the impugned orders

are set aside. However, it is made clear that this order will not preclude the Competent Authority from taking appropriate action, after giving notice to the parties concerned. Accordingly, these Writ Petitions are disposed of. No costs. Consequently, the connected MPs are closed.

Srcm

Sd/-
Asst.Registrar

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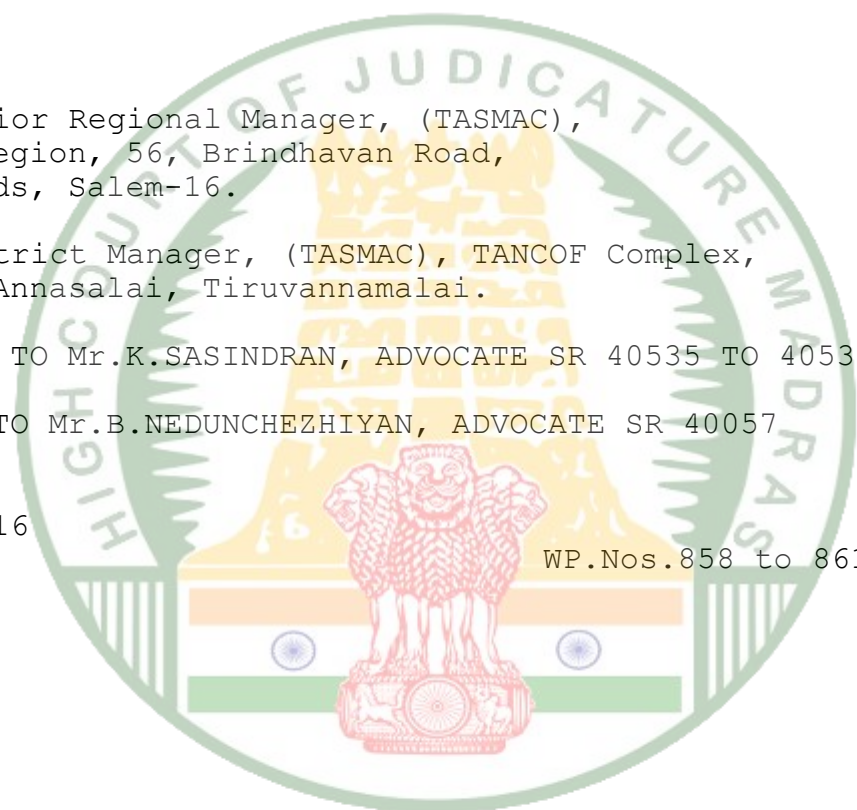
Sub Asst. Registrar

To:

- 1.The Senior Regional Manager, (TASMAC),
Salem Region, 56, Brindhavan Road,
Fairlands, Salem-16.
 - 2.The District Manager, (TASMAC), Tancof Complex,
No.52, Annasalai, Tiruvannamalai.
- + 4 CCS TO Mr.K.SASINDRAN, ADVOCATE SR 40535 TO 40538
- + 1 CC TO Mr.B.NEDUNCHEZHIAN, ADVOCATE SR 40057

KR/1/8/16

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