

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.9465 of 2016 and
W.M.P. No.8480 of 2016

T.Rajan

.. 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

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the entire records which culminated in issuing the proceedings in Na.Ka.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 quash the same in respect of the petitioner herein and consequently direct the respondents herein to reinstate the petitioner with all consequential and attendant benefits.

For Petitioner : Mr.B.K.Girish Neelakantan

O R D E R

This writ petition has been filed by the petitioner, challenging the impugned orders Na.Ka.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 directing the respondents herein to reinstate him with all consequential and attendant benefits.

2.The petitioner was appointed as the Shop Supervisor on 09.01.2004 in the TASMAR Retail Outlet. While he was working at Bombay Castle, Nilgiris District, an inspection was conducted by the Senior Regional Manager, Coimbatore/the second respondent herein along with his officials. After verification of stocks, it was found that there was shortage of stock to the tune of Rs.5,41,159/-. Therefore, by proceedings dated 20.05.2015 passed by the third respondent, the petitioner was suspended from service.

3.Learned counsel appearing for the petitioner, assailing the impugned order, contended that during the course of regular inspection of the shop in which the petitioner was working, the third respondent, after completing the inspection, made an endorsement in the inspection book. Subsequently, the second respondent also conducted inspection and found out shortage amount of Rs.4,62,2627/-. On the next day i.e. on 15.05.2015, the second respondent has conducted one another inspection and found out Rs.5,41,159/- as a shortage amount. In view of the above shortage found out by the second respondent during the course of inspection, charge memo has been issued against the petitioner calling for explanation. On receipt of the charge memo, the petitioner has submitted his detailed explanation, denying the charges. However, the third respondent, finding that the explanation offered by the petitioner was not satisfactory, appointed one S.Rajkumar as enquiry officer, who after conducting enquiry, filed a report on 31.08.2015 holding that the charges were proved against the petitioner.

4.As the petitioner has also admitted the charges, based on the enquiry report, the petitioner was called upon to submit his further explanation and in the meantime, he was directed to deposit the entire shortage amount of Rs.5,41,160/- in four instalments. The petitioner, in anticipation of reinstatement in service, has paid the said amount. Although the said amount has been paid, the third respondent passed an order of dismissal on 29.01.2016, based on the enquiry report and also directed the petitioner to pay 50% of the misappropriated amount as fine amount. In spite of such payment made by the petitioner, the third respondent, by his proceedings in Na.Ka.62/2015 A3 dated 14.12.2015 and Na.Ka.62/2015 A4 dated 29.01.2016, dismissed the petitioner from service. He would contend that although entire amount has been paid by the petitioner, the respondents cannot refuse to re-instate him in service.

5.There is no merit in the submission made by the learned counsel for the petitioner. The reason is that when the enquiry report shows that the petitioner has admitted that he is responsible for the shortage amount, the disciplinary authority, as a matter of fact, directed the petitioner to pay not only the

shortage amount but also the 50% of the misappropriated amount by way of fine. Since the order is appealable within 30 days, it is open to the petitioner to work out his remedy in the manner known to law.

6. Since the petitioner has got statutory remedy, this Court is not inclined to entertain this petition, by invoking Article 226 of the Constitution of India to issue a writ of certiorari mandamus, in favour of the petitioner. Accordingly, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected M.P. is also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Managing Director,
Tamil Nadu State Marketing
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3. The District Manager,
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Nilgiris District.

+1cc to Mr.B.K.Girish Neelakandan, Advocate sr.16521

W.P. No.9465 of 2016

sv(CO)
srg(27/05/2016)