



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 02.12.2016

CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALA

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W.P (MD) No.16942 of 2014
and
M.P (MD) No.1 of 2014

R.Govindaraj

... Petitioner

vs.

The District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC),
Trichy District, Trichy.

... Respondent

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the Impugned order passed by the respondent in Na.Ka. 232/RV-3/2013 dated 31.07.2013 and quash the same.

For Petitioner : Mr.R.V.Rajkumar
For Respondent : Mr.M.Muniasamy

ORDER

This Writ of Certiorari has been filed, calling for the records pertaining to the impugned order passed by the respondent in Na.Ka. 232/RV-3/2013, dated 31.07.2013, by which, order of reversion has been passed by the respondent and to quash the same.

2.The petitioner was appointed as Salesman in the respondent TASMAC by proceedings dated 20.11.2003 with the salary of Rs.1,000/- per month. He was called upon to deposit Rs.15,000/- as security deposit and he deposited the same.

2.1. Thereafter, he was promoted as a Shop Supervisor by the proceedings of the respondent dated 04.05.2004. At the time of promotion to the post of Shop Supervisor, the petitioner remitted a sum of Rs.35,000/- towards security deposit in addition to his earlier deposit of Rs.15,000/-.

2.2. While so, the Managing Director, Tamil Nadu State Marketing Corporation Limited, Chennai, has issued the proceedings in S.M.No.11757/R2/2013, dated 09.07.2013 to all the District Managers of TASMAC to the effect that the service in TASMAC is on temporary basis and that employees are not entitled to be considered in higher category or on promotion and that if any appointment/promotion from Bar Tender/Assistant Salesman to Salesman or Salesman to Supervisor is made, the same should be cancelled immediately. Citing the said proceedings, the impugned



order of reversion has been passed, reverting the petitioner to the post of Salesman. Hence, petitioner has filed this writ petition challenging the order of reversion.

3. It is submitted by the learned counsel for the petitioner that the petitioner has already been promoted as a Shop Supervisor and therefore, if any reversion is to be ordered, the petitioner ought to have been given notice. In support of his contention, he has relied upon an order passed by this Court dated 26.08.2013 in W.P(MD)No.14181 of 2013, whereunder, this Court set aside the similar reversion orders on the ground of violation of principles of natural justice. It is relevant to extract paragraphs 2 to 6 of the abovesaid order:-

'2. While deciding the validity of the identical/similar orders of the Managing Director, Tamil Nadu State Marketing Corporation Limited, Chennai, in S.M.No.11757/R2/2013, dated 09.07.2013 and the consequential order of the District Manager, Tamil Nadu State Marketing Corporation Limited, Perambalur District in Na.Ka.No.573/C.V/2013/A1, dated 20.07.2013, in W.P.Nos.20321 to 20328 of 2013. The Hon'ble Mr. Justice D.HARIPARANTHAMAN held that the orders of reversion without hearing the petitioners therein is a blatant violation of the principles of natural justice, resulting civil consequences and accordingly set aside the orders of reversion. The learned Judge has granted liberty to the District Manager, Tamil Nadu State Marketing Corporation Limited, Perambalur District, the second respondent therein, to provide an opportunity of hearing to the petitioners therein.

3. In this writ petition, the petitioner has been appointed through employment exchange by the District Selection Committee, as Salesmen and thereafter, promoted as Supervisor. By the impugned proceedings, dated 09.07.2013, the Managing Director, Tamil Nadu State Marketing Corporation Limited, Trichy District, has ordered reversion, on the ground that promotion granted earlier was irregular. The petitioner was appointed as Salesman on 28.11.2003 and promoted as Supervisor from 04.05.2004. He has been reverted, to the post of Salesmen, by the Managing Director, TASMAL, Chennai on 09.07.2013.

4. In M.A.Hameed v. State of A.P. reported in (2001) 9 SCC 261, the correctness of an order of reversion of the appellant therein was tested by the Hon'ble Apex Court. In the reported case, the reversion was ordered after 11 years. On the facts and circumstances of the case, the Hon'ble Supreme Court held as follows:

<https://hcservices.ecourts.gov.in/hcservices/> The reversion of the appellant after he held the higher post for more than a decade was



wholly unjustified. If his appointment was temporary or irregular in any manner he should have been reverted within a reasonable period. Even after the reversion order was passed the appellant continued to hold the post till 1985 under the stay order granted by the Tribunal. So, the reversion of the appellant from the post of District Inspector of Local Funds (Accounts) after a period of 11 years has done more harm than good."

5. In the case of M.Sasikumar v. State of Tamil Nadu reported in (2009) 5 MLJ 167, the petitioner therein was appointed as a Draftsman and that he continued in the said post for sometime. Without giving an opportunity, he was reverted as Office Assistant. When, the correctness of the order of reversion was tested, The Hon'ble Mr.Justice K.CHANDRU by placing reliance on the decision of the Honourable Supreme Court in Union of India and another v. Narendra Singh (2008) 2 SCC 750, set aside the order of reversion, on the ground that the same had been passed without notice to the petitioner. However, the learned Judge has granted liberty to the respondents to pass orders, after giving notice to the petitioner therein. At this juncture, it is also worthwhile to extract paragraphs 32 to 34 of the above-said judgment of the Hon'ble Apex Court as hereunder:

"32. It is true that the mistake was of the Department and the respondent was promoted though he was not eligible and qualified. But, we cannot countenance the submission of the respondent that the mistake cannot be corrected. Mistakes are mistakes and they can always be corrected by following due process of law. In ICAR v. T.K.Suryanaraya it was held that if erroneous promotion is given by wrongly interpreting the rules, the employer cannot be prevented from applying the rules rightly and in correcting the mistake. It may cause hardship to the employees but a Court of law cannot ignore statutory rules.

33. As observed by us, statutory rules provide for passing of departmental examination and the authorities were right in not relaxing the said condition and no fault can be found with the authorities in insisting for the requirement of law. In the circumstances, the action of the authorities of correcting the mistake cannot be faulted.

34. True it is that before such an action is



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taken and a person in actually reverted, he must be given an opportunity to show cause why the proposed action should not be taken. He may be able to satisfy the authorities that there was no such mistake. But even otherwise, principles of natural justice and fair play require giving of such opportunity to him."

6. In the light of the decisions of the Hon'ble Apex Court and having regard to the facts that the petitioner has also worked as Supervisor for more than 9 years reportedly since 2004, it is incumbent on the part of the Managing Director, Tamil Nadu State Marketing Corporation Limited, Chennai to have caused a notice to the petitioner before ordering reversion. It is apparent on the face of record, that the impugned orders have been passed in violation of the principles of natural justice.''

4.Facts and circumstances of the present case are also similar to the abovesaid order dated 26.08.2013 made in W.P(MD)No.14181 of 2013 and therefore, the said decision squarely applies to this case also.

5.At this juncture, the learned counsel for the respondent submitted that the amount of Rs.3,00,000/- and odd is due from the petitioner towards shortage of stock and unless that amount is paid, the petitioner will not have the locus to seek the present prayer.

6.Replying to the above submission, learned counsel for the petitioner would submit that payment of Rs.3,00,000/- and odd is the subject matter of enquiry before the authority concerned. Therefore, it is a matter which cannot be the subject matter of decision in this case.

7.In the light of the order dated 26.08.2013 made in W.P(MD) No.14181 of 2013, the impugned order is set aside. It is open to the respondent to follow the principles of natural justice and to take further action in respect of proposed reversion if any.

With the above direction, this Writ Petition is allowed. No costs. Consequently, M.P(MD)No.1 of 2014 is closed.

Sd/-

Assistant Registrar(Co)

/True copy/

Sub Assistant Registrar



To
The District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC),
Trichy District, Trichy.

+1 cc to Mr.R.V.Rajkumar, Advocate, SR.No:79635

nbi
AE/BS/10.02.2017/5P/3C

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