



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 14.06.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA
W.P(MD)Nos.18584 to 18588 of 2015 and
M.P(MD)Nos.1 of 2015(5 Mps)

WEB COPY

1)R.Sethu	... Petitioner in W.P(MD)No.18584/15
2)P.Ganesan	... Petitioner in W.P(MD)No.18585/15
3)C.Alaguraja	... Petitioner in W.P(MD)No.18586/15
4)S.Karuppiiah	... Petitioner in W.P(MD)No.18587/15
5)I.Rajendran	... Petitioner in W.P(MD)No.18588/15

vs.

1)The District Manager,
Madurai South,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC) Madurai,
SIPCOT Complex, Kappalur,
Madurai.

2)A.Hariharan,
The Domestic Enquiry Officer,
Office of the Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC) Madurai,
SIPCOT Complex, Kappalur,
Madurai.

... Respondents in all WPs

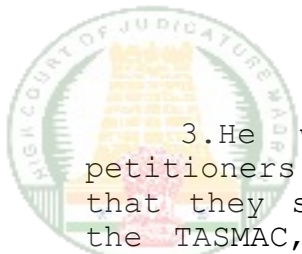
Prayer in all WPs : Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.No.6094/2015/A(iii), Na.Ka.No.6094/2015/A(vii), Na.Ka.No.6094/2015/A(i), Na.Ka.No.6094/2015/A(V) and Na.Ka.No.6094/2015/A(ii) dated 01.10.2015 and quash the same and consequently direct the 1st respondent to reinstate the petitioner into service with all monetary benefits with continuity of service.

For Petitioner(in all WPs)	: Mr.N.Sathish Babu
For R1(in all WPs)	: Mr.M.Gnanagurunathan for Mr.B.Nedunchezian
For R2(in all WPs)	: No appearance

COMMON ORDER

The petitioners who were working as Shop Supervisors in various TASMAC Shops under the control of the 1st respondent, suffered orders of dismissal by the respective impugned orders. Challenging the same, present writ petitions have been laid.

2.Learned counsel for the petitioners submitted that the impugned orders have been issued in violation of rule 6(n) of the Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited-2014, which states that before imposing any punishment, consequent upon the charges proved at the enquiry, the person shall be given an opportunity to make his representation against the punishment proposed to be imposed on him.



3.He would further submit that the allegation on which the petitioners were dismissed from service by way of the impugned orders, is that they sold liquor bottles beyond the Maximum Retail Price fixed by the TASMAC, therefore, in any event, the punishment of dismissal, he pleaded, cannot be imposed on the petitioners, since clause 3 of the Circular in R.C.No.20216/G2/2013 dated 25.08.2015, of the TASMAC, clearly shows that 'in the case of MPR violation, the employees need to pay penalty at the rate of Rs.1000/- for each Rs.1/- violation above the M.R.P., subject to the maximum of Rs.10,000/- at a time and the employee who indulged in such M.R.P. violation shall be immediately transferred to the lowest sale's shop in the district'.

4.Although the learned counsel for the petitioners relying heavily on rule 6(n) of the Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited-2014, submitted that the petitioners were not given reasonable opportunity to make their representations before passing the impugned orders of dismissal, readily agreeing to the said defect committed by the disciplinary authority that the impugned orders have been passed without giving opportunity to the petitioners to make their representations, learned counsel for the 1st respondent sought liberty to the 1st respondent to issue notices to the petitioners on the proposed punishment and thereafter to proceed with the matter.

5.Recording his submission, this Court finding that the impugned orders of dismissal have been passed without issuing notices to the petitioners in violation of rule 6(n) of the Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited-2014, is inclined to set aside the same. Accordingly, the impugned orders are set aside and the 1st respondent is directed to issue show cause notices to the petitioners calling upon them to submit their explanations as to why proposed punishment should not be inflicted on them, and thereafter proceed in accordance with law and on merits.

Accordingly, the writ petitions are disposed of. No costs. Consequently, M.P(MD)Nos.1 of 2015(5 Mps) are closed.

Sd/

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To

- 1)The District Manager,Madurai South,Tamil Nadu State Marketing Corporation Ltd., (TASMAC) Madurai,SIPCOT Complex, Kappalur,Madurai.
 - 2)A.Hariharan,The Domestic Enquiry Officer,Office of the Tamil Nadu State Marketing Corporation Ltd., (TASMAC) Madurai,SIPCOT Complex, Kappalur, Madurai.
- +1CC to M/S. N.Sathish Babu, Advocate, SR.No. 30356
+5CC to M/S.B.Nedunchezian, Advocate, SR.No. 31008 to 31012

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