



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.15913 of 2016

C.Sudalai

... Petitioner

-vs-

The District Manager,
TASMAC Ltd.,
Thoothukudi District,
Thoothukudi.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to reinstate the petitioner into service with all service and monetary benefits in view of the order passed by this Court in W.P.(MD) No.51 of 2013 dated 11.01.2013 as well as order of acquittal passed by the Learned Judicial Magistrate, Tiruchendur in C.C.No.359 of 2012 dated 01.09.2015 within the time limit that may be stipulated by this court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondent : Mr.M.Muniasamy

O R D E R

This writ petition has been filed seeking a direction to the respondent to reinstate the petitioner into service with all service and monetary benefits in view of the order passed by this Court in W.P.(MD) No.51 of 2013 dated 11.01.2013 as well as the order of acquittal passed by the Learned Judicial Magistrate, Tiruchendur in C.C.No.359 of 2012 dated 01.09.2015.

2.Heard the learned counsel appearing for the petitioner and the learned counsel for the respondent.

3.According to the petitioner, earlier he has filed a writ petition in WP(MD)No.51 of 2013, challenging the order of suspension dated 01.09.2012. This Court disposed of the said writ petition, by passing the following conditional order on 11.01.2013:

<https://hcservices.ecourts.gov.in/hcservices/>

“(i) If the respondent choose to initiate any disciplinary proceedings against the petitioner, he shall



do so and complete it and pass final orders within a period of three months from the date of receipt of a copy of this order;

(ii) Till then the petitioner shall be paid subsistence allowance; and

(ii) If the respondent do not initiate any proceedings and do not pass any final orders, within the time stipulated above, the petitioner will be entitled to be reinstated into service, after the period indicated above."

4. The learned counsel for the petitioner would submit that charge memo has been issued to the petitioner and he has also submitted his explanation and enquiry officer has been appointed and the enquiry is pending. The learned counsel has relied upon the order of acquittal passed in C.C.No.359 of 2012 by the Judicial Magistrate, Tiruchendur dated 01.09.2015, by which, the petitioner was acquitted of the charges under Sections 24(A) (d) and 4(1)(a) of the Tamil Nadu Prohibition Act, 1937.

5. It is also contended that the allegation in the criminal case as well as in the departmental proceedings are identical and there is no justification for the respondent to proceed against the petitioner by way of departmental proceedings, when the criminal case has ended in acquittal. Therefore, this writ petition has been filed directing the respondent to reinstate the petitioner into service as salesman with immediate effect and to grant all service and monetary benefits.

6. The above said facts are not disputed by the learned counsel for the respondent. However, as stated by the learned counsel for the petitioner, enquiry has already been initiated and it is pending. Therefore, the order of suspension passed by the respondent dated 01.09.2012 is revoked on account of delay and also on the ground of acquittal passed by the criminal court. Therefore, the petitioner has to be reinstated forthwith. But the reinstatement is subject to the outcome of the departmental proceedings.

7. The Writ Petition is ordered accordingly. No costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS)

+1cc Mr.G.Thalaimutharasu, Advocate sr.No.74121

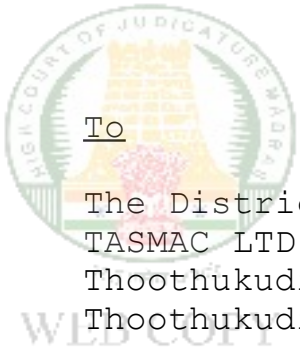
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<https://hcservices.ecourts.gov.in/hcservices/>

W.P.No.15913 of 2016

28.11.2016



To

The District Manager,
TASMAC LTD,
Thoothukudi District,
Thoothukudi.