



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.16449 of 2016
and W.M.P.(MD) No. 12014 of 2016

M.Rajasekar

.. Petitioner

vs.

1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Madurai Region,
Plot No.100, Anna Nagar,
Madurai - 20.

2.M.Jeevaraj

3.The District Manager,
Tamil Nadu State Marketing Corporation(TASMAC),
Madurai South, Kappalur, Madurai.

4.P.Rajeswaran,
The District Manager,
Tamil Nadu State Marketing Corporation(TASMAC),
Madurai North,
Madurai Rameswaram Main Road,
Kazhukarkadai Vilakku,
Manalure,
Sivagangai District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of termination passed by the third respondent in his proceedings in Na.Ka.No.324/2016/A, dated 26.08.2016 and quash the same and consequently direct the first respondent to reinstate the petitioner into service with all monetary benefits with continuity of service.

For Petitioner

: Mr.N.Sathish Babu

<https://hcservices.ecourts.gov.in/hcservices/>
FOR R1 & R3

: Mr.M.Muniyasamy

**ORDER**

Mr.M.Rajasekar, while serving as the Supervisor in Tamilnadu State Marketing Corporation (TASMAC) from 10.12.2003, has been terminated from service by the impugned order dated 26.08.2016 passed by the third respondent. Challenging the same, this writ petition is filed.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 1 and 3.

3. The learned counsel for the petitioner would submit that a detailed and fair enquiry ought to have been conducted by giving reasonable opportunities to the petitioner before passing the termination order. In the present case, no enquiry has been conducted and no opportunity has been given for hearing the petitioner.

4. The learned counsel for the petitioner has drew attention of this Court to the Rule 7(b)(1)(ix) of the Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited 2014 which is given as under:

7. Disciplinary Action

(b) Any one of the following punishment or penalty or both may be imposed on any person for misconduct, proved or admitted by him depending upon the gravity of the misconduct proved or admitted.

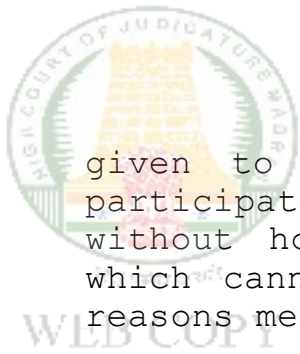
1. In case of employee..

ix. Relieving, Discharge or dismissal;

Pointing out the said Rule, the learned counsel submitted that the petitioner is dismissed from service by the impugned order, straightaway without giving notice and therefore, the impugned order is liable to be set aside.

5. Mr.M.Muniyasamy, learned Standing Counsel appearing for the respondents 1 and 3 submitted that the contention made by the petitioner that no Show Cause notice was issued prior to passing of the impugned order is absolutely unfounded and the Show Cause Notice dated 19.08.2016 is issued and that has been annexed in the typed set of papers. Therefore, the impugned order terminating the service of the petitioner is in accordance with law.

6. This Court is not able to accept the said contention of the learned counsel for the respondents 1 and 3. It is seen that Show Cause Notice has been issued and no enquiry has been held after framing of charges and no reasonable opportunity was



given to meet the charges by way of giving explanation and participate in the enquiry. Therefore, termination order passed without holding enquiry whatsoever is liable to be set aside, which cannot be saved and supported by the respondents for the reasons mentioned above.

7. In the result, this writ petition is allowed and the impugned order is set aside and the respondents 1 and 3 are directed to re-instate the petitioner in service with all back wages. No costs. Consequently, connected W.M.P.(MD)No.12014 of 2016 is closed.

Sd/
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To,

1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Madurai Region,
Plot No.100, Anna Nagar,
Madurai - 20.

2.The District Manager,
Tamil Nadu State Marketing Corporation(TASMAC),
Madurai South, Kappalur, Madurai.

3.The District Manager,
Tamil Nadu State Marketing Corporation(TASMAC),
Madurai North, Madurai Rameswaram Main Road,
Kazhukarkadai Vilakku, Manalure, Sivagangai District.

+1 cc to M/S.N.SATHISH BABU, Advocate SR.No.49067

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and W.M.P. (MD) No. 12014 of 2016
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SMA/DB/23/09/2016 :3P/5C