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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) Nos.17365 & 17366 of 2016

V.Murugesan ... Petitioner in WP(MD)No.17365/2016
N.Kannan ... Petitioner in WP(MD)No.17366 of 2016

-vs-

1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation,
Tiruchirapalli.

2.The Deputy Collector/District Manager,
Tamil Nadu State Marketing Corporation,
Thanjavur District,
Thanjavur.

... Respondents in both WPs.

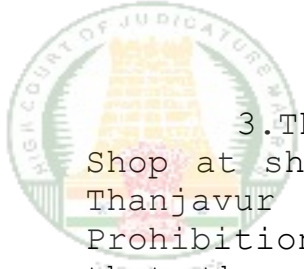
Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.No. 7944/RV-2/2016 dated 30.06.2016 passed by the 2nd Respondent and quash the same as illegal and consequently directing the respondents to reinstate the petitioners with all the benefits.

For Petitioners : Mr.R.Pandimaharaja (both WPs.)
For Respondents : Mr.M.Muniasamy (both Wps.)

COMMON ORDER

These Writ of Certiorarified Mandamus have been filed, challenging the impugned order of suspension dated 30.06.2016 passed by the second respondent and consequently direct the respondents to reinstate the petitioners in service with all benefits.

2.Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondents.



3.The petitioners were appointed as Salesmen in the TASMAC Shop at shop Nos.7852 and 8093 respectively at Pattukottai Taluk, Thanjavur District. On 28.06.2016, when the Inspector of Police, Prohibition Enforcement Wing was on vehicle check up, it was found that the petitioners were in possession of 31 liquor bottles. A case in Crime No.394 of 2016 under Sections 4(1)(a) of the Tamil Nadu Prohibition Act and Sections 272 and 420 IPC has been registered against the petitioners. Pending investigation into the criminal case, the petitioners were placed under suspension in anticipation of the departmental proceedings to be initiated against them.

4.The learned counsel for the petitioners submitted that suspension is not contemplated in respect of each and every case and suspension is justifiable only in cases, where *prima facie* case is made out against the delinquent employee (or) when there are allegations involving moral turpitude, grave misconduct or indiscipline or refusal to carry out the orders of superior authority and no such allegations are made out against the petitioners herein and therefore, the order of suspension should be revoked.

5.The learned counsel for the petitioners has relied upon the forensic report of the Forensic Science Department, wherein, there is a finding that the liquor did not contain any poisonous material.

6.The learned counsel for the respondents would submit that the case itself is not registered on the allegation that the petitioners were found to be in possession of poisonous liquor, but the allegation is that they were found to be in possession of liquor bottles, which are not accounted for. Therefore, the forensic report cannot be of any help to the petitioners herein. It is also pointed out that departmental enquiry has been commenced and it is pending and it is possible to finish the enquiry within a period of one month.

7.The learned counsel for the petitioners would submit that the petitioners are suffering from untold misery on account of their suspension and therefore, there must be a direction to consider the request of the petitioners for revocation of suspension. Alternatively, at least the enquiry should be ordered to be completed within a period of one month.

8.Considering the interest of both sides, the respondents are directed to complete the enquiry within a period of one month from the date of receipt of a copy of this order. It is also relevant to point out that major part of the investigation by the Prohibition and Enforcement Wing is already over and that would help the respondents to finish of the enquiry at an early point of time. If enquiry could not be completed within a period of one month for any reason, then the respondents are directed to consider the representation of the petitioners dated 15.08.2016 and to pass orders within a period of two weeks, thereafter.



9.The Writ Petitions are disposed of with the above direction. No costs. Consequently, WMP(MD)Nos.12593 & 12594 of 2016 are closed.

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/True Copy/

Sd/-

Assistant Registrar (Crl.Side)

Sub Assistant Registrar

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To,

1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation,
Tiruchirapalli.

2.The Deputy Collector/District Manager,
Tamil Nadu State Marketing Corporation,
Thanjavur District,
Thanjavur.

+1CC to Mr.R.PandiMaharaja, Advocate Sr.No.69401

CSL/11.1.17-3p-4C

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