



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.12.2016

CORAM:

THE HONOURABLE Mr. JUSTICE S. VAIDYANATHAN

W.P. (MD) Nos. 24370 & 24351 of 2016

and

W.M.P. (MD) Nos. 17603 and 17585 of 2016

W.P. (MD) No. 24370 of 2016:

T. Prabudoss

... Petitioner

Vs.

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

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, calling for the records relating to the impugned order passed by the respondent in Na.Ka.No.8003/RV-2/2016 dated 08.10.2016 and quash the same as illegal insofar as the petitioner is concerned and consequently, to direct the respondent to reinstate the petitioner into service.

W.P. (MD) No. 24351 of 2016:

R. Sathish

... Petitioner

Vs.

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

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, calling for the records relating to the impugned order passed by the respondent in Na.Ka.No.8003/RV-2/2016 dated 08.10.2016 and quash the same as illegal insofar as the petitioner is concerned and consequently, to direct the respondent to reinstate the petitioner into service.

For Petitioners : Mr. C. Jeyaprakash

For Respondent : Mr. M. Muniyasamy

These Writ petitions have been filed to quash the impugned orders dated 08.10.2016 in Na.Ka.No.8003/RV-2/2016 and direct the



respondent to reinstate the petitioners into service.

2. The petitioners are aggrieved against the order of suspension. The petitioners were working as an employee of the respondent Corporation in a liquor shop. They were placed under suspension on the allegation that the lesser quantity of alcohol was found in the liquor bottle and that water got mixed with the liquor. Even though such suspension order was made as early as on 08.10.2016, till this date, no further proceedings has been initiated against the petitioners and therefore, the petitioners are before this Court challenging the order of suspension.

3. It is pertinent to mention here that as held by the Apex Court in the case of Union of India and another vs. Ashok Kumar Aggarwal, reported in 2013 (14) Scale 323, an order of suspension is not a punishment and the relationship between the employer and the employee subsists even during the period of suspension. When there is master and servant relationship, the suspension can be effected by the employer and it cannot be questioned except on certain grounds like competence of the Authority issuing the said order, want of jurisdiction, contrary to the Rules, etc. Hence, as long as the competency of the authority issuing the suspension order is not challenged, this Court cannot interfere with the order of the suspension.

4. Considering the facts and circumstances and following the above said order, the following order is passed:

i) In the event of the respondent initiating disciplinary proceedings against the petitioner, the same shall be conducted on day to-day basis without adjourning the matter beyond one week at any point of time;

ii) It is needless to state that the petitioner is entitled to subsistence allowance from the date of suspension till the respondents pass final orders in the disciplinary proceedings;

iii) If the respondent does not initiate any disciplinary proceedings within a period of two months from the date on which a copy of this order is made ready, the petitioner should be reinstated into service immediately thereafter;

iv) It is made clear that the Principal Secretary to the Government of Tamil Nadu (Home, Prohibition and Excise Department) and the Managing Director of the respondent Corporation are mainly responsible for the loss to the Government, on account of such compelled reinstatement, pursuant to the delay in initiation of proceedings within the period prescribed by this Court and the loss can be recovered from them by applying the principles laid down in the case of Central Co-operative



Consumers' Store Ltd. vs. Labour Court, H.P. at Shimla and another, reported in AIR 1994 SC 23, and their properties can also be attached in terms of the judgment of the Hon'ble Division Bench of this Court in the case of A.Sachidanandam, Macneil and Magor Kilburn Group Companies Employees' Union, Chennai vs. S.Srinivasan and others, reported in 2011 (5) LLN 696 (DB) (Mad.).

5. With the above directions, these Writ petitions are disposed of. No costs. Consequently, connected W.M.Ps. are closed.

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

Copy to:

1 The Principal secretary,
To the Government of Tamil Nadu,
(Home, Prohibition and Excise Department),
Chennai-600 009.

2. The Managing Director,
Tamil Nadu State Marketing Corporation (TASMAC) Ltd.,
IV floor, CMDA Tower II,
Egmore, Chennai 600 008.
+2cc to Mr. C. Jayaprakash, SR.82077, 82078

W.P. (MD) Nos. 24370 & 24351 of 2016
20.12.2016

NBJ

KK-SV-MMS-02.03.2017-3P-6C