

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11706 of 2014

S.Arumugam

... Petitioner

vs.

1. The District Manager
Tamil Nadu State Marketing Corporation
Limited, [TASMAC]
Sooriyampalaym, Vasavi College Post
Erode District.
2. The Senior Regional Manager
TASMAC Limited
No.141 & 142, M.S.R.Complex
Goundam Palayam, Coimbatore-30.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of order passed by the first respondent bearing proceedings in Na.Ka.No.366/04/R1 dated 16.12.2004 and quash the same in so far as the petitioner is concern and consequently, direct the respondent herein to reinstate the petitioner into service.

For Petitioner : Mr.K.Sasindran
For Respondents : Mr.K.Sathish Kumar [For R1 & R2]

O R D E R

The order of termination dated 16.12.2004, issued by the first respondent is under challenge in this writ petition.

2.The writ petitioner is appointed as Bar Tender for the Retail Vending Shops in Tamil Nadu State Marketing Corporation Limited [TASMAC]. The order of appointment is enclosed in page no.1 of the typed set of papers.

3.On a perusal of the order of appointment, it is clearly stated that the writ petitioner was appointed on contract basis

for a consolidated sum of Rs.1,500/- p.m. with certain contractual applications. When the appointment of the writ petitioner is itself on contract basis, certainly the terms and conditions are binding on the parties concerned. Thus, the writ petitioner was not appointed in accordance with the regular recruitment rules in force and the initial appointment was on contract basis. However, on account of certain serious allegations against the writ petitioner, a charge memo was issued in proceedings dated 12.07.2004 and the writ petitioner submitted his explanation on 19.07.2004. An oral enquiry was conducted by the District Manager and the writ petitioner had also participated in the oral enquiry.

4.The learned counsel appearing for the writ petitioner states that no reasonable opportunity contemplated under the rules had been provided to the writ petitioner. Further grievance of the writ petitioner is that the principles of natural justice has been violated.

5.In respect of contract appointments, also the principles of natural justice of enquiry are applicable and the Court has to find out, whether a reasonable opportunity, so as to fulfill the principles of natural justice, has been provided to the petitioners. In this regard, no doubt a charge memo was issued to the writ petitioner and the writ petitioner has submitted his explanation.

6.However, the writ petitioner states that he was not permitted to submit all the documents and make his submissions in this regard. Further, the learned counsel for the writ petitioner states that on the particular day, the writ petitioner was absent and not on duty and in this regard, the writ petitioner is having certain documents to prove his case. It is for the writ petitioner to submit all these documents to the appellate authorities along with explanation and grounds for appeal and redress his grievances in accordance with law.

7.The learned counsel appearing for the respondents states that there is an appeal remedy available to the writ petitioner before the Senior Regional Manager, Coimbatore. Thus, without going into the merits of the grounds raised in the writ petition, the writ petitioner is permitted to move an appeal before the Senior Regional Manager along with the documents and other evidences if any, and the Senior Regional Manager and on receipt of such an appeal from the petitioner, is directed to consider the same on merits and in accordance with law.

8.The petitioner is permitted to submit the appeal along with the documents and evidences within a period of two weeks from the date of receipt of a copy of this order and the second respondent is directed to consider the same on merits and in

accordance with law and pass final order within a period of 12 weeks thereafter. Accordingly, the writ petition is disposed of. However, there is no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

may

To

1.The District Manager
Tamil Nadu State Marketing Corporation
Ltd., [TASMAC]
Sooriyampalaym, Vasavi College Post
Erode District.

2.The Senior Regional Manager
TASMAC Limited
No.141 & 142, M.S.R.Complex
Goundam Palayam, Coimbatore-30.

+1 CC to Mr.K. Sathish Kumar, advocate sr 83070.

+1 CC to Mr.K. Sasindran, Advocate sr 83043.

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SP(12/12/2017)

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