

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2017

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.Nos.32982 & 32983 of 2014

and

M.P.Nos.1 & 1 of 2015

1. Viswanathan ... Petitioner in W.P.32982 of 2014
2. K.M.Kumar ... Petitioner in W.P.32983 of 2014

Vs.

1. The Tamil Nadu State Marketing Corporation Ltd.,
Rep. by its Managing Director,
Thalamuthu Natarajan Building,
4th Floor, Egmore, Chennai 600 008.
2. The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Coimbatore.
3. The District Manager (Retail Vending)
Tamil Nadu State Marketing Corporation Ltd.,
Udhagamandalam,
Nilgiris District. ... Respondents in both W.Ps

Petitions have been filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the records relating to the order passed by the third respondent in proceedings Na.Ka.C.No.00179/2014 dated 31.10.2014 and quash the same and consequently direct the respondents to reinstate the petitioner in service in any of the TASMAC Wine Shop under the control of the respondents.

For Petitioners : Mr.Amar Deep
M/s.Tamil for Law firm

For Respondents : Mr.K.Sathish Kumar

COMMON ORDER

Petitions have been filed seeking for issuance of a writ of Certiorarified Mandamus, to call for the records relating to the order passed by the third respondent in proceedings Na.Ka.C.No.00179/2014 dated 31.10.2014, quash the same and consequently direct the respondents to reinstate the petitioner in service in any of the TASMAC Wine Shops under the control of the respondents.

2. Since the issue involved in both the writ petitions is one and the same, these writ petitions are taken up for common disposal.

3. Both the writ petitioners are the employees of the first respondent Corporation. They were charge sheeted for selling adulterated liquor bottles and also for over pricing certain liquor bottles more than the rates prescribed by the Corporation. It appears that an enquiry was conducted, in which, both the petitioners had participated and gave their statements. On the basis of the report and the statements given by the petitioners, an order was passed on 31.10.2014, dismissing them from service. The said dismissal order is put under challenge before this Court.

3. Today, when the matter is taken up for hearing, the learned counsel for the parties would submit that without exhausting the appeal remedy available to them against the impugned order passed by the third respondent, the petitioners have come forward with the present writ petitions. According to the learned counsel, an appeal would lie before the second respondent namely, the Senior Regional Manager, Tamilnadu State Marketing Corporation Ltd., Coimbatore. Even in the impugned order, it was clearly mentioned. In case, the petitioners want to file an appeal, the same can be preferred within 30 days. Without exhausting the appeal remedy, the petitioners have approached this Court directly.

4. This Court, after considering the rival submissions and after perusing the pleadings and documents placed on record, is of the view that it is incumbent upon the petitioners to exhaust appeal remedy available to them. It is always open to the petitioners to raise all their objections against the conduct of enquiry and also the order passed by the competent authority, namely, the third respondent.

5. In the said circumstances, these writ petitions are disposed of, giving liberty to the petitioners to file an appeal before the second respondent. The appeal shall be preferred by the petitioners within one week from the date of receipt of a

copy of this order. On such appeal being preferred by the petitioners, the appellate authority, namely, second respondent is directed to consider and dispose of the same on merits and in accordance with law within a period of two months thereafter. It is made clear that the order passed in the appeal shall be communicated to the petitioners. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
Thalamuthu Natarajan Building,
4th Floor, Egmore, Chennai 600 008.
2. The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Coimbatore.
3. The District Manager (Retail Vending)
Tamil Nadu State Marketing Corporation Ltd.,
Udhagamandalam,
Nilgiris District.

+1cc to M/s.Tamil Law firm, Advocate, S.R.No.64239

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CS IV
CA(21/09/2017)

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