

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.3735 of 2017

V. Premanand

..Petitioner

Vs

1. The Managing Director,
Tamil Nadu State Marketing Corporation Limited
(TASMAC) Office,
Egmore, Chennai - 600 008

2. The Sub-Collector cum District Manager,
Tamil Nadu State Marketing Corporation Limited
(TASMAC), Kancheepuram District

3. The Senior Regional Manager,
TASMAC Ltd.
Chennai - 600 002

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to review petitioner suspension and reinstate him in service with all consequential and monetary benefits pursuant to the petitioner representation dated 02.07.2016.

For Petitioner : Mr.R. Thirumoorthy

For respondents: Mr.C. Kasirajan
Standing Counsel for TASMAC

O R D E R

By consent, the writ petition is taken up for final disposal. Mr.C.Kasirajan, learned Standing counsel accepts notice on behalf of the respondents 1 to 3.

2. The petitioner joined the service of the Tamil Nadu State Marketing Corporation Limited on 21.01.2010 as

Supervisor and was transferred to TASMACH Shop No.4344 at Cuddalore Village, Kancheepuram District and has rendered hard, sincere and blemishless service to the satisfaction of his superiors. The petitioner further submitted that on 25.07.2009, there was a surprise inspection conducted by the authority and found that there was misappropriation of Rs.5,14,392/-. According to the petitioner, one Sankar who was working as a Salesman was alone responsible. The petitioner was placed under suspension on 27.07.2009 and the grievance now expressed by the petitioner is that despite lapse of nearly 7 years, no progress is made on the departmental proceedings. The petitioner further submitted that on account of the prolonged suspension, his family is suffering very much and prays for revocation/ reviewing of the suspension order.

3. Learned counsel for the petitioner submitted that though the case has been registered against the petitioner in Crime No.208 of 2009 for the offence under section 409 IPC by the Inspector of Police, Koovathoor Police Station, Kancheepuram District, so far no final report has been filed. The petitioner also submitted that without prejudice to his rights, he also paid Rs.5,14,392/- by way of Demand Draft dated 29.12.2014. Therefore, prays for appropriate orders for revocation/reviewing the order of suspension.

4. Per contra, Mr.C.Kasirajan, learned Standing Counsel appearing for the respondents would submit that the allegations against the petitioner are serious in nature and hence, the petitioner was placed under suspension and therefore, prays for dismissal of the writ petition.

5. This Court heard the rival submissions and perused the typed set of documents.

6. In 2015 (7) SCC 591 (Ajay Kumar Choudhary v. Union of India) the issue of prolonged suspension came up for consideration and the Honourable Supreme Court has held that the Government/ Department concerned is free to transfer the person concerned to any department in any of its office within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing investigation against him. Further, the currency of suspension order should not extend beyond three months, if within the period, the memorandum of charges/ charge sheet is not served and it is also made clear that a reasoned order must be passed for extension of the suspension. Though the petitioner was placed under suspension as early as on 27.07.2009, there is no progress in departmental proceedings and no charge sheet or final report was filed in Cr.No.208/2009.

7. In the light of the plea made by the petitioner, this Court directs the 1st and 2nd respondents to consider and dispose of the petitioner's representations dated 29.12.2014 , 22.06.2015 and 02.07.2016, on merits and in accordance with law after taking note of the above cited facts as well as the above cited judgment of the Honourable Supreme Court of India and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. The writ petition is disposed of accordingly. No costs.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The Managing Director,
Tamil Nadu State Marketing Corporation Limited
(TASMAC) Office, Egmore, Chennai - 600 008
2. The Sub-Collector cum District Manager,
Tamil Nadu State Marketing Corporation Limited
(TASMAC), Kancheepuram District
3. The Senior Regional Manager,
TASMAC Ltd. Chennai - 600 002

+1cc to Mr.R.Thirumoorthy, Advocate SR.No.9839

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SDR 28.02.2017

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