

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.02.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.22812 of 2013

1. R.Moses Ambrose
2. N.Velayutham
3. K. Murali
4. N.Kalaivendan

... Petitioners

- Vs -

The District Manager,
TASMAC Ltd.,
No.29 & 30, Industrial Estate,
Kakkalur, Thiruvallur.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the proceedings of the respondent bearing Na.Ka.No.A2-9048-2012, dated 22.06.2013 and quash the same as illegal and consequently direct the respondent herein to reinstate the petitioners into service.

For Petitioners : Mr.P.Sritharan
For Respondent : Mr.C.Kasirajan
for TASMAC

O R D E R

According to the petitioners, the writ petitioners were appointed as shop sales man under the respondent. In accordance with the petitioners, there is no complaint against them. During inspection, only the 3rd petitioner was in the shop. The 1st petitioner was not in the shop. The 2nd and 4th petitioners were not present on that day and they were absent from duty. On the basis of the inspection, the alleged irregularities were noticed in the shop and the petitioners were suspended. On the same day itself the petitioners were served Show Cause Notice and the explanations were submitted by the petitioners by denying the charges made against them. Hence, the petitioners filed the W.P.Nos.2620 to 2623 of 2013, challenging their suspension order. This Court by an order dated 04.02.2013, directed the respondent to conduct an enquiry and complete the same within

three months and also directed to pay the subsistence allowance. Pursuant to the order passed in W.P.Nos.2620 to 2623 of 2013, the respondent had appointed the Enquiry Officer and the notice was served to the petitioners on 06.03.2013 and they were asked to appear for enquiry on 19.03.2013.

2. The petitioners were appeared before the enquiry officer, for the enquiry. After enquiry, the respondent passed the common termination order dated 22.06.2013, even without serving the enquiry report. Aggrieved by the said order, the petitioners are before this Court.

3. On contrary, the respondent has filed the counter by stating that the petitioners were participated in the enquiry and had submitted their explanation before the Enquiry Officer. It is completely untenable and false on part of the petitioners to state that no opportunity was given to prove their innocence and the same was denied by the respondent.

4. Heard the learned counsel for both sides.

5. According to the learned counsel for the petitioner as directed by this Court, the petitioners were appeared for the enquiry conducted by the respondent. But, thereafter, the petitioners were received the impugned termination order, which is against the principles of natural justice. During the arguments, it is submitted that the Enquiry Officer had submitted the report by stating that the charges made against the petitioners were not proved except for the 3rd petitioner. Without considering the said enquiry report, the respondent has passed the order. Hence, the impugned order is also liable to be vitiated on the ground that they have violated the principles of natural justice, before passing the termination order.

6. The said fact has not been disputed by the respondent that no materials has been placed before the Court to show that sufficient opportunity has granted to the writ petitioners before passing impugned order.

7. In the light of the said fact, the impugned order passed by the respondent, is liable to be set aside. Hence, I inclined to pass the following order:

The impugned order passed by the respondent is hereby quashed and the respondent is directed to issue Show Cause Notice to the writ petitioners and to pass orders in accordance with law.

With the above direction, this Writ Petition is allowed. In the meanwhile, till the final order passed by the respondent/Corporation, the respondent is directed to re-instate the petitioners in service. No costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

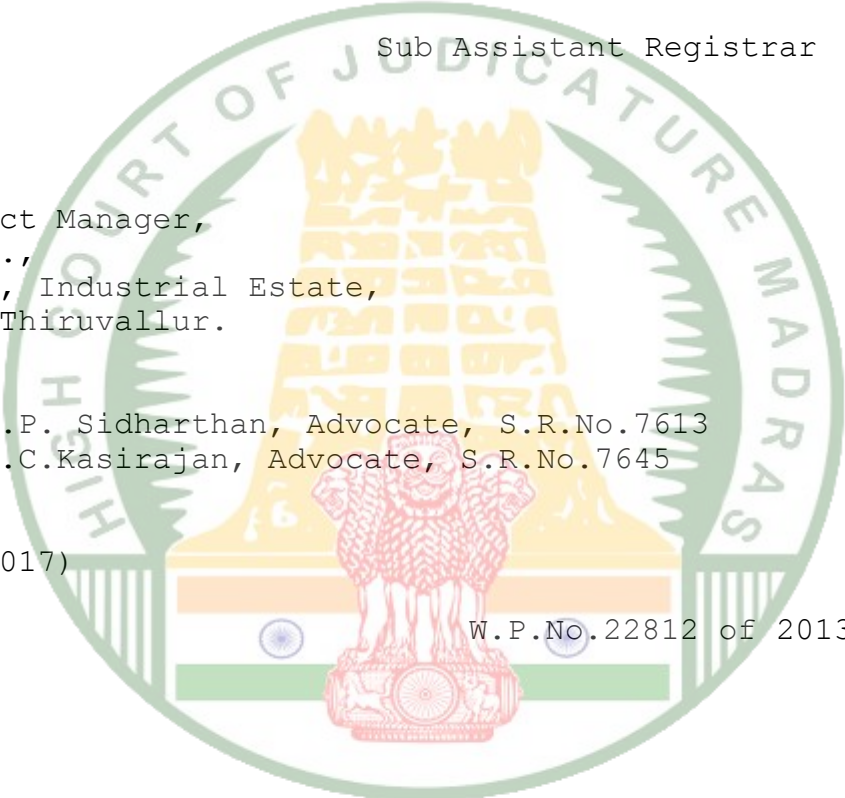
ssn
To

The District Manager,
TASMAC Ltd.,
No.29 & 30, Industrial Estate,
Kakkalur, Thiruvallur.

+5cc to Mr.P. Sidharthan, Advocate, S.R.No.7613
+1cc to Mr.C.Kasirajan, Advocate, S.R.No.7645

NR II (CO)
md(08/03/2017)

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