

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.01.2017

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P. No. 35373 OF 2013 &
M.P.No.1 of 2013

K.Hari

.. Petitioner

Vs

- 1.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC)
Egmore,
Chennai-600 008.
 - 2.The Senior Regional manager,
TASMAC Regional Office,
Salem-636 016.
 - 3.The District Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Vellore-632 001.
- .. Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India to issue a writ in the nature of Writ of Certiorarified Mandamus calling for the records of the 3rd respondent passed in his proceedings Se.Mu.Na.Ka.A2/948/CV/2010 dated 26.11.2013 and to quash the same and directing the respondents to reinstate the petitioner in service with continuity of service, back wages and other attendant benefits with effect from the original order of dismissal dated 17.04.2011 within a time limit as fixed by this Court.

For Petitioner : Mr. N. Suresh For
M/s. M.Marudhachalam

For Respondent : Mr.C.Kasirajan for R1 to R3

O R D E R

The writ petition has been filed by the petitioner praying for issuance of a Certiorarified Mandamus, to call for the records of the 3rd respondent passed in his proceedings vide Se.Mu.Na.Ka.A2/948/CV/2010, dated 26.11.2013 and to quash the same and directing the respondents to reinstate the petitioner

in service with continuity of service, back wages and other attendant benefits with effect from the original order of dismissal dated 17.04.2011 within a time limit as fixed by this Court.

2.Learned counsel for the petitioner submitted that the petitioner was appointed as salesman on contract basis by the third respondent by order dated 29.12.2003 in TASMAL shops in Vellore Region and by the impugned order his services were terminated and the said dismissal order is now under challenge.

3.On the other hand, learned counsel for the respondent would submit that based on the report of the Forensic Department, the impugned order has been passed by the third respondent.

4.According to the learned counsel for the petitioner, the third respondent has to furnish the documents to the petitioner before passing the impugned order and therefore, the dismissal order passed by the third respondent is vitiated.

5.Learned counsel for the respondent would submit that without exhausting the alternative remedy by filing an appeal before the Senior Zonal Manager, Vellore, the present writ petition is filed and therefore, the same is not maintainable. Further, learned counsel for the respondent would submit that in the event of this Court, allowing the writ petition on the ground of violation of principles of natural justice, the respondent Corporation undertakes to furnish a copy of the report of Forensic Department to the petitioner and may be directed to proceed with the enquiry.

6.Learned counsel for the petitioner would submit that if the said report is furnished, the petitioner will co-operate in the enquiry to be conducted by the respondent Corporation.

7.Admittedly, the report of Forensic Department has not been furnished to the petitioner. Consequently, this Court cannot interfere with the order passed by the Original Authority, when there is an appeal remedy available to the petitioner. But as far as the present case is concerned, the respondent has violated the principles of natural justice, by not furnishing the said document to the petitioner.

8. In the light of the decision of the Hon'ble Apex Court in AIR 1963 SC 1719 and following the order passed by this Court W.P.No.40429 of 2015 dated 29.09.2016, the writ petition is allowed and the impugned order passed by the third respondent is set aside. The respondents are directed to furnish a copy of the Forensic Department report and other documents, if any,

relating to the enquiry and proceed with the enquiry. It is made clear that it is open to the petitioner to make an application before the respondents seeking to furnish copy of the documents required, to decide the issue involved in these proceedings. The respondents are also directed to reinstate the petitioner till the final order has been passed in the enquiry proceedings.

9.The writ petition is allowed with the above terms. No costs. Consequently, connected miscellaneous petition is allowed.

s/d-
Assistant Registrar (CCC)

/true copy/

Sub-Assistant Registrar

To

1. The Managing Director,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC)
Egmore,
Chennai-600 008.
2. The Senior Regional manager,
TASMAC Regional Office,
Salem-636 016.
3. The District Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Vellore-632 001.

+1 CC to Mr. M. Marudhachalam, Advocate SR 1893

+1 CC to Mr. C. Kasirajan, Advocate SR 2150

W.P. No. 35373 OF 2013 &
M.P.No.1 of 2013

WEB COPY

KGK
sp/20/1