IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.25615 of 2013
and
M.P. No. 1 of 2013

K. Nachimuthu .. Petitioner

vs.

The District Manager -II
(Retail Selling)
TASMAC Ltd.,
Angaripalayam
Tiruppur District. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the entire records connected with the proceedings of the respondent in Na.Ka. No.13/2004/A dated 29.09.2004 and quash the same, consequently direct the respondent to permit the petitioner to resume into his service as Bar Attender in the respondent TASMAC shop.

For Petitioner : M/s. M. Subha
For Respondent : Mr. C. Kasi Rajan

ORDER

The petitioner has filed this writ petition seeking to quash the proceedings of the respondent in Na.Ka. No.13/2004/A dated 29.09.2004 and consequently direct the respondent to permit the petitioner to resume into his service, as Bar Attender in the respondent TASMAC shop.

2. Learned counsel for the petitioner submitted that the petitioner was appointed as a Bar Attender on 30.01.2004 by the respondent. On 29.09.2004, when the Area Supervisor visited the shop, found some shortage in collection of empty bottles in the shop and so placed the petitioner under suspension. Learned counsel for the petitioner submitted that the petitioner is kept under prolonged suspension, without conducting any enquiry and he was not even paid with the subsistence allowance. Hence, the petitioner has filed this writ petition seeking the aforesaid prayer.

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3. Learned counsel for the respondent submitted that the suspension order has been issued, based on the inspection conducted by the Area Supervisor. Hence, the petitioner could not raise any ground of challenge, either on the jurisdiction or on the malafide against the petitioner. Therefore, this Court cannot interfere with the suspension order passed by the department. Learned counsel further submitted that the whereabouts of the petitioner was not known and hence the enquiry could not be completed and so, if the petitioner co-operates, the respondent will complete the enquiry, within a reasonable period.

4. Heard learned counsel for the petitioner and learned counsel for the respondent.

5. The petitioner has not raised any ground of malafide or a question of jurisdiction and so the order of suspension, passed by the respondent cannot be interfered by this Court. However, this Court is of the view that the grievance of the petitioner that he has not been paid the subsistence allowance for the period of suspension, deserves to be considered.

6. In view of the above submission of the learned counsel for the respondent, the writ petition is dismissed. However, liberty is granted to the petitioner to file an application for payment of arrears of subsistence allowance and on receipt of such application, the respondent is directed to consider the same and pass orders within a period of four weeks, there from. Consequently, the connected M.P is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To
The District Manager-II,
(Retail Selling)TASMAC Ltd.,
Angaripalayam, Tiruppur District.

+1cc to Mr.C.Kasirajan, Advocate Sr.1347
+1cc to Mr.K.Thilageswaran, Advocate Sr.1495

W.P.No.25615 of 2013
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srg 27/03/2017

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