



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2017

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.1886 of 2014

and

MP(MD)No.1 of 2014

S.Selvam

... Petitioner

-vs-

The District Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Sivagangai District

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in his proceedings in Na.Ka.No.V2/2033/2013 dated 26.10.2013 and quash the same as illegal and consequently direct the respondent to reinstate the petitioner as Bar Assistant in the said Tasmac shop.

For Petitioner : Mr.T.Jeyakumaran

For Respondent : Mr.M.Muniyasamy

O R D E R

This petition has been filed, seeking to quash the impugned order dated 26.10.2013 passed by the respondent in Na.Ka.No.V2/2033/2013, by which the petitioner has been placed under suspension. The petitioner also sought a direction to the respondent to reinstate the petitioner as Bar Assistant in the said Tasmac shop.

2. The case of the petitioner is that he was appointed as Bar Tender / Bar Assistant in TASMAC shop on a consolidated pay and that the respondent suspended him from service on the ground that he did not maintain the stock properly and that a sum of Rs.55,49,920/-was not credited in the Bank, without conducting any enquiry and that the act of the respondent shows his predetermined mind and arbitrariness. Therefore, aggrieved by the same, the petitioner is before this Court.

3. According to the respondent, there was no proper maintenance of the stock, as it did not tally with the sales list



and that there was a huge misappropriation committed by the petitioner, while working in the TASKAC Shop and therefore, the impugned order of suspension is perfectly justified and it warrants no interference by this Court.

4. It is pertinent to mention here that as held by the Apex Court in the case of **Union of India and another vs. Ashok Kumar Aggarwal**, reported in **2013 (14) Scale 323**, an order of suspension is not a punishment and the relationship between the employer and the employee subsists even during the period of suspension. When there is master and servant relationship, the suspension can be effected by the employer and it cannot be questioned except on certain grounds like competence of the Authority issuing the said order, want of jurisdiction, contrary to the Rules, etc. Hence, as long as the competency of the authority issuing the suspension order is not challenged, this Court cannot interfere with the order of the suspension.

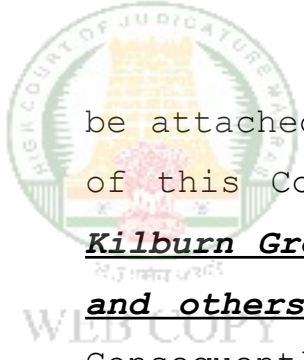
5. In view of the above, this Writ Petition is disposed of with the following directions:

i) In the event of the respondent initiating disciplinary proceedings against the petitioner, the same shall be conducted on day to-day basis without adjourning the matter beyond one week at any point of time;

ii) It is needless to state that the petitioner is entitled to subsistence allowance from the date of suspension till the respondents pass final orders in the disciplinary proceedings;

iii) If the respondent does not initiate any disciplinary proceedings within a period of two months from the date on which a copy of this order is made ready, the petitioner should be reinstated into service immediately thereafter;

iv) It is made clear that the Principal Secretary to the Government of Tamil Nadu (Home, Prohibition and Excise Department) and the Managing Director of the respondent Corporation are mainly responsible for the loss to the Government, on account of such compelled reinstatement, pursuant to the delay in initiation of disciplinary proceedings within the period prescribed by this Court and the loss can be recovered from them by applying the principles laid down in the case of **Central Co-operative Consumers' Store Ltd. vs. Labour Court, H.P. at Shimla and another**, reported in **AIR 1994 SC 23**, and their properties can also



be attached in terms of the judgment of the Hon'ble Division Bench of this Court in the case of **A.Sachidanandam, Macneil and Magor Kilburn Group Companies Employees' Union, Chennai vs. S.Srinivasan and others**, reported in **2011 (5) LLN 696 (DB) (Mad.)**. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Record)

/True Copy/

Sub Assistant Registrar

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To:

- 1 The Principal Secretary of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai
- 2 The Managing Director,
TASMAC, 4th Floor,
CMDA Tower - II
Egmore, Chennai - 8
- 3 The District Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Sivagangai District.

+1cc to Mr.J.Jeyakumaran,Advocate Sr.No. 1766

JAM/16.02.17/CM-MSA/3P-5C

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