



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.4051 of 2015

and

MP(MD)Nos.1 and 2 of 2015

T.Deivasigamani

... Petitioner

-vs-

1. The Managing Director,
Tamil Nadu State Civil Supplies,
Thalamuthu Natarajan Maligai,
Ezhumbur, Chennai.
 2. The Regional Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Karumandabam, Dindigul Road, Trichy.
 3. The District Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Thanjavur.
- ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Na.Ka.No. 391/RV-2/2011 passed by the 3rd respondent dated 29.10.2011 and consequently direct the respondents to reinstate the petitioner in service backwage and other attended benefits.

For Petitioner : Mr.M.P.Senthil

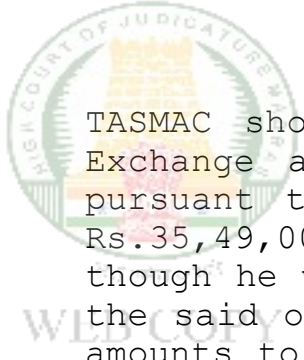
For Respondents : Mr.M.Muniyasamy

O R D E R

This petition has been filed, seeking to quash the impugned order dated 29.10.2011 passed by the 3rd respondent in Na.Ka.No. 391/ RV-2/2011, by which the petitioner has been placed under suspension. The petitioner also sought a direction to the respondents to reinstate the petitioner in service backwage and other attended benefits.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The case of the petitioner is that he was appointed as



TASMAC shop Supervisor on a consolidated pay through Employment Exchange and that the 3rd respondent suspended him from service pursuant to shortage in the stock from the shop to the tune of Rs.35,49,000/-without allowing him to prove his innocence and that though he was placed under suspension with effect from 29.10.2011, the said order copy was served upon him only on 28.08.2014, which amounts to prolonged suspension. Therefore, aggrieved by the same, the petitioner is before this Court.

3. According to the respondents, there was a huge misappropriation committed by the petitioner, while working as Supervisor in the 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 respondents 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 respondents do 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 petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

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To:

1. The Managing Director,
Tamil Nadu State Civil Supplies,
Thalamuthu Natarajan Maligai,
Ezhumbur, Chennai.
2. The Regional Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Karumandabam, Dindigul Road, Trichy.
3. The District Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Thanjavur.
4. The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai.

JAM/16.02.17/SKN/ SAR 2/3p-5c

W.P. (MD) No.4051 of 2015
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