



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.2638 of 2016

Alakarsamy

... Petitioner

-vs-

1. The Senior Regional Manager,
TASMAC Ltd.,
Madurai.

2. The District Manager,
TASMAC Ltd.,
Ramanathapuram District.

... 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 impugned order passed by the 1st Respondent in Na.Ka.No.615/2015 dated 24.09.2015, quash the same as illegal and consequently to direct the 1st respondent to reinstate the petitioner in service with all other monetary benefits.

For Petitioner : No Representation

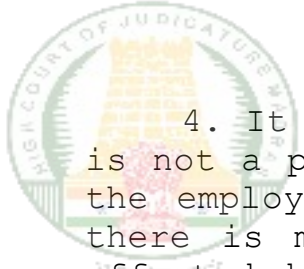
For Respondents : Mr.M.Muniyasamy

O R D E R

This petition has been filed, seeking to quash the impugned order dated 24.09.2015 passed by the 1st respondent in Na.Ka.No.615/2015, by which the petitioner has been placed under suspension. The petitioner also sought a direction to the 1st respondent to reinstate the petitioner in service with all other monetary benefits.

2. In the affidavit filed in support of this petition, the petitioner has stated that from the reading of the impugned order, he is unable to understand as to whether he has been placed under suspension or has been terminated from service.

3. According to the respondents, the petitioner has only been suspended from service and the respondents are going to initiate disciplinary proceedings with regard to the misappropriation committed by the petitioner.



4. It is pertinent to mention here that 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 petition is closed.

Sd/-

Assistant Registrar (AS)

/TRUE COPY/



To:

1. The Senior Regional Manager,
TASMAC Ltd.,
Madurai.

2. The District Manager,
TASMAC Ltd.,
Ramanathapuram District.

Copy to

1. The Principal Secretart to the Government of Tamilnadu,
Home, Prohibition and excise Department,
Fort St. George, Chennai.
2. The Managing Director,
TASMAC Limited,
Chennai.

+1cc to Mr.M.Muniasamy, Advocate, SR NO:2191

W.P. (MD) No.2638 of 2016
09.01.2017

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