

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.7092 of 2018
IN WMP.NOS.8793 & 8794 OF 2018

K.Sivakumar

.. Petitioner

-vs-

The Deputy Collector/District Manager
Tamil Nadu State Marketing Corporation Ltd.,
Chennai District (Chennai North)
B-4, Ambattur Industrial Estate
Chennai 600 058

.. Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records pertaining to the suspension order of the respondent in Che.Mu.Ka.No.A1/254/2014 dated 26.06.2014 and quash the same in so far as the suspension order against the petitioner is concerned and consequently reinstate the petitioner in service as Salesman in TASMAL Ltd.

For Petitioner :: Mr.C.K.M.Appaji

For Respondent :: Mr.P.Arumugarajan
Standing Counsel

ORDER

This writ petition has been filed challenging the old suspension order dated 26.6.2014 passed by the Deputy Collector/District Manager of Tamil Nadu State Marketing Corporation Ltd., Chennai District citing a reason that on 10.5.2014, when an internal audit was conducted in the shop by a private auditor M/s Bala Chander & Co., it was revealed that there was a shortage of Rs.11,940/- from the shop account and this has caused revenue loss to the TASMAL in violation of the rules. In view thereof, the petitioner was placed under suspension.

2. Learned counsel for the petitioner submitted that till date, the respondent has not come forward to pay the subsistence allowance. Moreover, on the allegation that there was a shortage of Rs.11,940/- detected in the internal audit conducted in the shop no.254 on 10.5.2014, the petitioner has been unnecessarily kept under prolonged suspension. The non-revocation of the suspension order for the last four long years itself could be treated as a major punishment.

3. I also find that when the petitioner was placed under suspension not on the ground of misappropriation, but only on the basis of the audit inspection conducted on 10.5.2014, it is not known why the respondent till date has not come forward to pay the subsistence allowance and not even bothered to issue any charge memo and also failed to revoke the suspension order. Therefore, in the light of the ratio laid down by the Apex Court in Ajay Kumar Choudhary v. Union of India through its Secretary and another, (2015) 7 SCC 291 holding that the order of suspension should not be extended beyond three months if within this period the memorandum of charges/charge sheet is not served on the delinquent officer and if the memorandum of charges/charge sheet is served, a reasoned order should be passed on the extension, the impugned order is set aside and the respondent is directed to reinstate the petitioner in service within a period of one week from the date of receipt of a copy of this order. The writ petition stands disposed of accordingly. Consequently, W.M.P.Nos.8793 & 8794 of 2018 are closed. No costs.

Sd/-

Assistant Registrar(CS-vii)

//True Copy//

Sub Assistant Registrar

ss
To

1. The Deputy Collector/District Manager
Tamil Nadu State Marketing Corporation Ltd.,
Chennai District (Chennai North)
B-4, Ambattur Industrial Estate
Chennai 600 058.

+ 1 cc to Mr. C.K.M. Appaji, Advocate Sr.24266

W.P.No.7092 of 2018

(Cs-vii)
EU(11/04/2018)

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