

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2018

CORAM

THE HONOURABLE MR. JUSTICE T. RAJA

W.P. No. 4242 of 2018

R. Prakash

..Petitioner

Vs.

1. The Tamil Nadu State Marketing Corporation
Limited (TASMAC),
Rep. by its Senior Regional Manager,
Chennai Region,
LLA Buildings,
Anna Salai, Chennai - 600 002.

2. The Tamil Nadu State Marketing Corporation
Limited (TASMAC),
rep. by its District Manager,
Thiruvallur (East) District,
No.1, Bangalore Highway,
Sembarambakkam,
Chennai - 602 103, Thiruvallur District.

.. Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Mandamus directing the 1st
respondent to forthwith consider and pass orders on the appeal
of the petitioner dated 03.02.2018 within stipulated period
after affording an opportunity to the petitioner.

For Petitioner : Mr.K. Selvaraj

For Respondents : Mr.P. Arumugarajan
Standing Counsel

O R D E R

This writ petition is filed for issue of a Writ of Mandamus directing the 1st respondent to forthwith consider and pass orders on the appeal of the petitioner dated 03.02.2018 within a stipulated period after affording an opportunity to the petitioner.

2. The case of the petitioner is that on 30.12.2013, the 2nd respondent had suspended the Supervisors and three salesmen including the petitioner of TASMACH Shop No. 8737 on the ground that there was shortage of an amount of Rs.13,440/-. Though, according to the petitioner, he was not responsible for the shortage, he had, however, remitted his share of the shortage amount, as apportioned by the respondents, in order to get back the job. But, the petitioner was not reinstated in service unlike the other staff members, who were suspended. While so, the 2nd respondent issued a charge memo dated 10.09.2014 alleging that the petitioner had worked in Shop No. 8889 without any authority and committed irregularity in the said shop. The petitioner submitted his explanation to the charge memo categorically stating that he was not appointed in the said shop and that he had not signed in the Attendance Register and that he was not present when the squad conducted inspection in the shop on 02.02.2014. According to the petitioner, in spite of the specific stand taken, the Enquiry Officer did not examine any of the witnesses and did not mark any documents through witnesses and also did not give any opportunity to the petitioner to cross-examine the witnesses. Thereafter, it is further averred by the petitioner, that without furnishing the Enquiry Report, the 2nd respondent had unilaterally come to the conclusion that the charge against the petitioner had been proved and without even affording an opportunity to the petitioner to show cause for the proposed punishment based on the alleged Enquiry Report, the petitioner was terminated from service, by order dated 23.01.2018. Aggrieved by the same, the petitioner preferred an appeal on 03.02.2018 to the 1st respondent. Seeking disposal of the said appeal, the present writ petition has been filed.

3. Although this Court has got some hesitation to entertain the writ petition, learned counsel for the petitioner submitted that since the charges relating to the impugned punishment pertain to the year 2013 and the petitioner has been out of job for the past more than 4 years and subsequently, by the impugned order, the petitioner has also been removed from service, the petitioner is left with no other alternative, except to approach this Court, after filing the appeal before the 1st respondent.

4. Considering the above submission made by the learned counsel for the petitioner, this Court directs the 1st respondent to consider the appeal filed by the petitioner dated 03.02.2018 and dispose of the same, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

nv

To

1. The Tamil Nadu State Marketing Corporation Limited (TASMAC),
Rep. by its Senior Regional Manager,
Chennai Region,
LLA Buildings,
Anna Salai, Chennai - 600 002.
2. The Tamil Nadu State Marketing Corporation Limited (TASMAC),
rep. by its District Manager,
Thiruvallur (East) District,
No.1, Bangalore Highway,
Sembarambakkam,
Chennai - 602 103,
Thiruvallur District.

+1cc to Mr.K.Selvaraj, Advocate, S.R.No.14402

+1cc to Mr.P.Arumugaraj, Advocate, S.R.No.14358

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NMI (CO)

RRK (23/03/2018)