

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.5681 & 5682 of 2018

V.Palani .. Petitioner in W.P.No.5681 of 2018

V.Basker .. Petitioner in W.P.No.5682 of 2018

-vs-

1. The Managing Director
Tamil Nadu State Marketing
Corporation Ltd., (TASMAC)
Chennai 600 008

2. The District Manager
Tamil Nadu State Marketing
Corporation Ltd., (TASMAC)
Chennai 600 008

.. Respondents in both the writ petitions

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the first respondent in Proc.Se.Mu.Na.Ka.No.R1/25123/2017 dated 27.07.2017 and in Proc.Se.Mu.Na.Ka.No.R1/25122/2017 dated 26.07.2017 respectively, and second respondent in Se.Mu.Na.Ka.No.A2/No.506/CV/2015 dated 25.08.2015, quash the same, consequently direct the respondents to reinstate the petitioners in service with effect from the date of dismissal viz., 25.08.2015 with continuity of service, back wages and other attendant benefits.

For Petitioners :: Mr.T.Dharani

ORDER

These writ petitions are directed against the impugned orders passed by the appellate authority, confirming the orders

passed by the disciplinary authority terminating the petitioners from service for the proven charge.

2. The petitioners, while serving as Supervisor and Assistant Salesman in the Panapakkam TASMACH Shop No.11016, Arakkonam Taluk, were charge sheeted for mixing up water in the liquor bottles kept at the shop with the help of outsiders. Based on the said charge, an enquiry was conducted and the enquiry officer, on completion of the enquiry, submitted his report holding the petitioners guilty of the charges. The learned counsel for the petitioners submitted that when the petitioner Mr.V.Palani, being the Supervisor, was not at all present in the shop when the surprise inspection was conducted, as he had gone to the bank to deposit the proceeds and the other petitioner Mr.V.Palani, being the Assistant Salesman, came late to the shop due to his illness on the relevant date, they cannot be held responsible for the adulteration of the liquor bottles. But this aspect has been overlooked by the enquiry officer, the disciplinary authority as well as the appellate authority. Therefore, the orders require interference.

3. But this Court is not inclined to entertain the writ petitions. The charge of mixing up water in the liquor bottles kept at the TASMACH shop in question has been proved by the enquiry officer in his report dated 13.6.2015. When the petitioners were serving as Supervisor and Assistant Salesman, they should not have allowed any outsiders inside the shop for carrying out the adulteration. When the inspection team visited the shop on the relevant date, they caught redhanded Mr.Bharathan, Mr.Sauribhas and Mr.Murugan when they were mixing water in the liquor bottles. Moreover, they also found 2 funnels, 10 water packets and 189 empty bottle caps at the time of their inspection inside the shop. On the basis of the above misconduct, the petitioners were suspended and they were also issued with the charge sheet calling for their explanation. Although the petitioners submitted their explanation taking a plea that they were not available in the shop on the relevant date, the evidence produced before the enquiry officer by the department could not be disproved by them. Therefore, the enquiry officer has rightly held the petitioners guilty of the charge. When the petitioners were unable to disprove the charge before the enquiry officer, it is not open to them to say that the adulteration took place behind their back, when the report of the enquiry officer is very clear. The disciplinary authority, accepting the report of the enquiry officer and considering the further explanation made by the petitioners to the second show cause notice, finally terminated the petitioners from service by order dated 25.8.2015. The said orders were also, on appeal, confirmed by the appellate authority by the orders dated 27.7.2017 & 26.7.2017 respectively. Therefore,

this Court, finding that the finding of facts reached by the disciplinary authority was also confirmed by the appellate authority, is not inclined to interfere with the same. Accordingly, the writ petitions are dismissed. Consequently, W.M.P.Nos.7029 & 7030 of 2018 are also dismissed.

Sd/-
Assistant Registrar(CS III)

//True copy//

Sub Assistant Registrar

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To

1. The Managing Director
Tamil Nadu State Marketing
Corporation Ltd., (TASMAC)
Chennai 600 008
2. The District Manager
Tamil Nadu State Marketing
Corporation Ltd., (TASMAC)
Chennai 600 008

+2cc to Mr.T.Dharani, Advocate SR.No.20144
+1cc to Mr.P.Arumugarajan, Advocate SR.No.15509

W.P.Nos.5681 & 5682 of 2018

NM(CO)
GN(03/04/2018)

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