

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.250 of 2017

M.Madhuprakash ...Appellant/Petitioner

versus

1. The Managing Director,
Tamil Nadu State Marketing
Corporation Ltd, CMDA Tower II,
IV Floor, Gandhi Irwin Road,
Egmore, Chennai 600 008.
2. The Senior Regional Manager,
Tamil Nadu State Marketing
Corporation Ltd, (Coimbatore region)
Coimbatore.
3. The District Manager,
Tamil Nadu State Marketing
Corporation Ltd,
Udhagamandalam, Nilgiris District. ... Respondents/
Respondents

Prayer: Writ Appeal filed under clause 15 of Letters patent against the order passed by this Court dated 25.11.2016 passed in W.P.No.7605 of 2016.

Prayer in WP.No.7605 of 2016:Writ petition filed under Article 266 of Constitution of India, praying for issuance of a writ of certiorarified mandamus to Call for the entire records which culminated in issuing the proceedings in Na.Ka. 62/2015 A3 dated 14.12.2015 and Na.Ka. 62/2015 A4 dated 29.01.2016 on the file of the Third Respondent and quash the same in respect of the petitioner herein and consequently direct the respondents herein to reinstate the petitioner with all consequential and attendant benefits.

For appellant : Mr.B.K.Girish Neelakantan

For Respondents : Mr.K.Sathish Kumar

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The appellant had challenged the order of the 3rd respondent dated 29.01.2016, in and by which, the 3rd respondent had imposed a punishment of removal from service against the appellant. The said order came to be passed in the disciplinary proceedings that were initiated, pursuant to an inspection by the flying squad in TASMAR Retail Outlet, in which the appellant served as a salesman. It was found that there was shortage of cash amounting to a sum of Rs.5,41,159/- at the time of inspection. The other delinquent employees had repaid the said sum.

2. Taking note of the fact that the shortage was made good, the District Manager of the Tamil Nadu State Marketing Corporation, by his order dated 14.12.2015 directed the delinquent employee to pay 50% of the shortage amount i.e. Rs.2,70,580/- along with interest of Rs.10,823/- and upon such payment they were directed to be reinstated. Since the appellant as well as the other delinquent employees did not come forward to pay the penalty as per the order dated 14.12.2015, the District Manager passed the order dated 29.01.2016 removing them from service.

3. The learned Single Judge, who heard Writ Petition, dismissed the same holding that the appellant had not made out a case for interference with the order of the Disciplinary Authority. Pending this Appeal, it was brought to our notice that the appeal filed by the co-delinquent in WA No.1557 of 2016 was allowed by the Division Bench of this Court, directing him to prefer an appeal before the Managing Director of the Tamil Nadu State Marketing Corporation, viz. the 1st respondent. It is now stated at the bar that the said appeal filed by the co-delinquent has been dismissed by the Managing Director of the 1st respondent Corporation.

4. We have heard Mr.B.K.Girish Neelakantan, learned counsel appearing for the appellant and Mr.K.Sathish Kumar, learned counsel appearing for the respondents.

5. During the course of hearing on this appeal, the learned counsel appearing for the appellant Mr.B.K.Girish Neelakantan, was directed to ascertain, as to whether, the appellant is willing to pay his share of the penalty imposed, i.e. 1/4th of the sum of Rs.2,81,403/- (Rs.2,70,580.00 + Rs.10,823.00). Upon the instructions, the learned counsel appearing for the appellant would submit that the appellant is ready and willing to pay 1/4th

of the penalty imposed, which works out to Rs.70,351/-. Taking note of the above submission made by the learned counsel and the fact that the original order of punishment imposed by the Disciplinary Authority, viz. the District Manager of the Tamil Nadu State Marketing Corporation, Uthagamandalam was only a direction to pay a fine amount, we are of the considered opinion that the appellant should be given an opportunity to pay his share of the fine amount which works out to Rs.70,351/-.

6. The learned counsel appearing for the appellant seeks some time for payment of fine amount. The fine amount as fixed above, i.e. Rs.70,351/- shall be paid within a period of twelve (12) weeks from the date of receipt of a copy of this order, on such payment the respondent will reemploy the appellant in the post occupied by him, before the order dated 29.01.2016 came to be passed. It is made clear that the appellant will not be entitled to claim any monetary benefits for the period between the date of suspension to the date of reemployment.

7. The Writ Appeal is disposed of with the above direction and in the circumstances of the facts, there will be no order as to costs.

Sd/--
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

jv

To

1. The Managing Director,
Tamil Nadu State Marketing
Corporation Ltd, CMDA Tower II,
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Egmore, Chennai 600 008.
2. The Senior Regional Manager,
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Corporation Ltd, (Coimbatore region)
Coimbatore.

3. The District Manager,
Tamil Nadu State Marketing
Corporation Ltd,
Udhagamandalam, Nilgiris District.

+1cc to Mr.B.K.Girish Neelakandan, Advocate Sr.No.37775
+1cc to Mr.K.Sathish Kumar, Advocate SR.No.37724

SSV(CO)
sm:10.7.2018

W.A.No.250 of 2017



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