

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2018

CORAM :

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.28060 of 2017

1. K.Saravanakumar
2. D.Rajan
3. B.Natarajan
4. M.Suresh

...Petitioners

Vs.

The District Manager
Tamil Nadu State Marketing Corporation Ltd,
Ooty,
The Nilgiris District

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the respondent vide N.K.C.N61/2015 dated 15.05.2015 and to quash the same and consequently direct the respondent to reinstate the petitioners in service with all attendant benefits.

For Petitioners : Mr.S.Vijayakumar

For Respondent : Mr.K.Sathish kumar

O R D E R

The order of suspension dated 15.05.2015 his under challenge in this writ petition.

2.The writ petitioners are the employees of the Tamil Nadu State Marketing Corporation Limited (TASMAC) and they are holding the post of Salesmans in Shop No.8253 at Udhagamandalam. On account of an allegation of mis-appropriation a Criminal case was registered. However, the learned counsel for the writ petitioners states that the writ petitioners are not accused in the criminal case and they were included as witnesses in the charge sheet filed by the Investigation Officer. Thus, the writ petitioners are no way connected with the mis-appropriation alleged to have been committed in the Corporation.

3.The learned counsel appearing on behalf of the respondent states that the Departmental proceedings were initiated against the writ petitioners and the involvement of the writ petitioners were also found. Therefore, the authority competent filed a charge memo and conducted an enquiry against the writ petitioners. The writ petitioners had participated in the process of enquiry and defended their case before the Enquiry Officer appointed by the Disciplinary Authority. The Enquiry Officer concluded the enquiry and submitted his report on 15.11.2015. However, no final order has been passed on account of the involvements of the writ petitioners with other persons in the large scale scam to the tune of more than Rs.41,00,000/- (Rupees Forty One Lakhs only).

4.The learned counsel for the respondent states that it is a large scale scam and misappropriation of the funds of the corporation. Therefore, the respondent has to conduct an enquiry in all respects and take a decision in this regard. However, now that the Department has concluded the Departmental Disciplinary Proceedings and final order is to be passed by issuing a second show cause notice by obtaining the explanation/objection from the writ petitioners. The said exercise will be done without causing any delay.

5.Considering the submissions made by the respective learned counsel appearing on behalf of the writ petitioners and the respondent, this Court is of an opinion that the writ petitioners were placed under suspension in proceedings dated 15.05.2015 and continuously in suspension for the past about three years. Therefore, the Department Disciplinary Proceedings initiated should be completed without any further delay. However, it is brought to the notice of this Court that the Enquiry Officer had already submitted his report and the respondent has concluded the proceedings in all respects in respect of the delinquent officials also.

6.Under these circumstances, it is suffice, if a direction is issued to conclude the Disciplinary proceedings and pass final orders so also to conclude the entire proceedings. Accordingly, the respondent is directed to issue second show cause notice to the writ petitioners, within a period of two weeks from the date of receipt of a copy of this order, enclosing the copy of the enquiry report, enabling the writ petitioners to submit their further explanations/objections on the Enquiry. On receipt of the show cause notice, the writ petitioners are directed to submit their further explanations/objections on the Enquiry Report, within a period of ten days from the date of receipt of a copy of the second show cause notice from the Disciplinary authority. The Disciplinary Authority on receipt of the explanations/objections

shall pass final orders on the disciplinary proceedings, within a period of twelve weeks thereafter based on merits and the records available.

7.With these directions, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

msrm Sub Assistant Registrar

To
The District Manager
Tamil Nadu State Marketing Corporation Ltd,
Ooty, The Nilgiris District

+lcc to Mr.K.SATHISHKUMAR, Advocate, S.R.No.25477
+lcc to Mr.S.VIJAYA KUMAR Advocate, S.R.No. 216586

W.P.No.28060 of 2017

RSY(CO)
TR(23/04/2018)



WEB COPY