

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.38915 of 2016 and
W.M.P. No.33336 of 2016

R.Sasikumar

.. Petitioner

-vs-

1.The Tamil Nadu State Marketing Corporation Limited (TASMAC),
Rep. by its Managing Director,
CMDA Tower a-II, IV Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai-600 008.

2.The District Manager,
Chennai South Region,
The Tamil Nadu State Marketing Corporation Limited (TASMAC),
Ambattur, Chennai-600 058.

... Respondents

Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to re-employ the petitioner in the said Tamil Nadu State Marketing Corporation Limited TASMAC as shop Sales man in any one of the shop in Chennai South, with full back wages and continuity of service.

For Petitioner:: Mr.D.Dhayalan

For Respondents:: Mr.P.Arumugharajan,
Standing Counsel

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ORDER

The petitioner has come up with this writ petition seeking a direction to the respondents to re-employ him in the said Tamil Nadu State Marketing Corporation Limited TASMAC as Shop Salesman in any one of the shops in Chennai South, with full back wages and continuity of service.

2.The case of the petitioner is that he was appointed as

the Tasmac Liquor Shop Salesman at Shop No.674, East Jones Road, Saidapet, Chennai by the second respondent on a part time/temporary basis. While so, when he was working at Shop No.676 at No.31/13, Tank Bond Road, Saidapet, issued with a Statutory order in Na.Ka.No.1833/A1 dated 28.12.2007 by the second respondent herein dismissing from the service. However, on 30.12.2006, the Central Chennai District Manager Office Flying Squad Team inspected the said shop and framed charges against him for the allegation that he has mixed the water in the liquor bottles namely Old Monk, Rum three numbers, M.C. Brandy two numbers, Honeybee Brandy two numbers. According to him, he was not present in the said shop on that day, as he took leave. Thereafter, on the basis of the complaint lodged by the second respondent, the Inspector of Police, Prohibition Enforcement Wing, Guindy Unit, Chennai has registered an F.I.R. against him under Section 24(A)(a) of Tamil Nadu Prohibition Act in Crime No.80 of 2006. However, Charge Sheet has been filed against him before the IX Metropolitan Magistrate, Saidapet at Chennai in C.C. No.2794 of 2007. On the basis of the materials produced by the said police, the IX Metropolitan Magistrate acquitted him on 19.08.2008. After acquittal in the said case, he sent a representation to the second respondent on 19.06.2012 to give him re-employment. As the same has not been considered by him, the petitioner is before this Court.

3.Reiterating the averments made in the counter affidavit, learned Standing Counsel appearing for the respondents would submit that since the petitioner has been dismissed from service on 28.12.2007, he could not prefer this writ petition in the year 2016, which amounts to latches on the part of the petitioner.

4.I also finds no merit in this writ petition. When the petitioner was dismissed from service on 28.12.2007, without challenging the correctness of the termination order, it is not open to him to prefer this writ petition seeking a mandamus directing the respondents to give him re-employment. Accordingly, this writ petition fails and the same is dismissed. Consequently, connected W.M.P. is closed. No costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vga

To

1.The Managing Director,
The Tamil Nadu State Marketing
Corporation Limited (TASMAC),
CMDA Tower a-II, IV Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai-600 008.

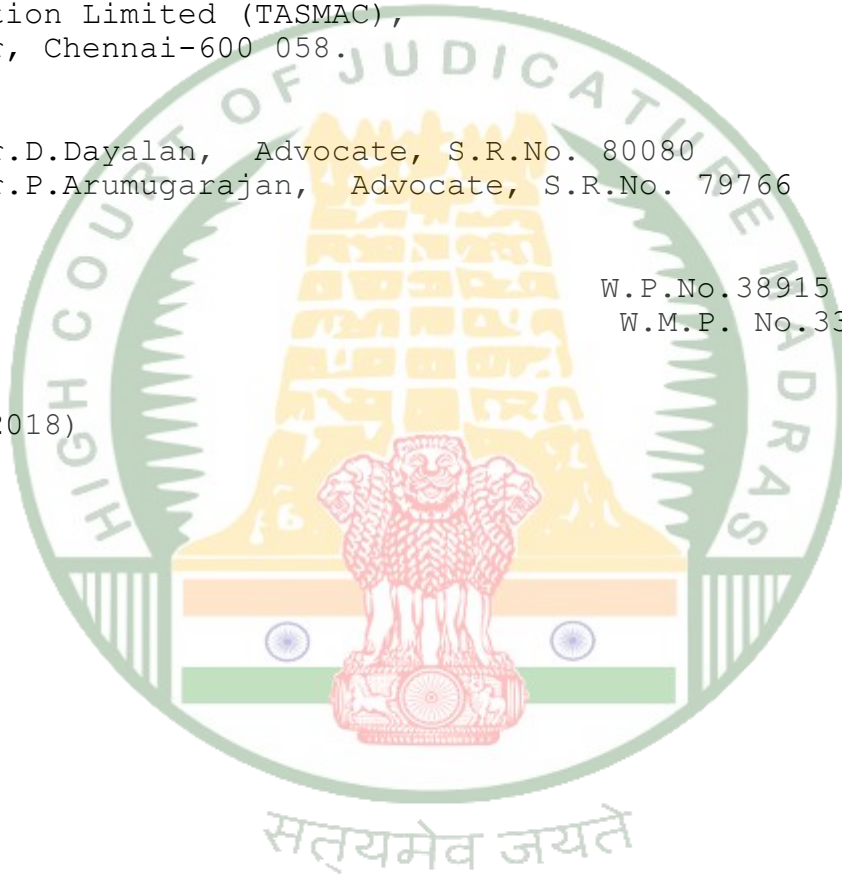
2.The District Manager,
Chennai South Region,
The Tamil Nadu State Marketing
Corporation Limited (TASMAC),
Ambattur, Chennai-600 058.

+1cc to Mr.D.Dayalan, Advocate, S.R.No. 80080

+1cc to Mr.P.Arumugarajan, Advocate, S.R.No. 79766

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NMI (CO)
GN(18/12/2018)



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