

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 27.09.2018

CORAM

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI
W.P.No.42060 of 2016 and
W.M.P.Nos.35980 & 35981 of 2016

M.Masilamani

....Petitioner

Vs

1.Managing Director,
TASMAC, CMDA Tower-2,
4th Floor, Egmore, Chennai - 600 008

2. The Senior Regional Manager,
TASMAC, Azhagapuram,
Salem - 16, Salem District

3. The District Manager,
TASMAC Ltd., Tindivanam Road,
Thiruvannamalai,
Thiruvannamalai District

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the entire records relating to the impugned order passed by the first respondent in his proceedings Sae.Mu.Na.Ka.No.R-1/10810/2015, dated 28.07.2015 and quash the same and consequently directing the respondents to reinstate the petitioner into service as Supervisor in the respondents corporation with all attendant benefits, backwages and other monetary benefits.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.P.Arumuga Rajan,
Standing Counsel

ORDER

The case of the petitioner is that the petitioner was working as Supervisor in a Tasmac shop No.9325 located at Pandithapattu Village, Tiruvannamalai District. It appears that an inspecting team visited the said TASMAC shop and found

some spurious liquor in a place adjacent to the TASMAC shop. The petitioner along with the Salesman were put under suspension and disciplinary proceedings were initiated. In the disciplinary proceedings, the petitioner was found guilty and dismissed from service. The petitioner being unsuccessful challenging the same before the appellate Authority that is the second respondent so also before the first respondent by filing appropriate appeal and revision, thereafter the petitioner has come to challenge the same in this writ petition on the ground that without any foundation for the misconduct on the part of the petitioner, he was proceeded the disciplinary proceedings and visited with the punishment of removal from service. Hence, the impugned order basing on the enquiry report is suffering from perversity and the impugned order of holding him guilty which has been confirmed by the second and the third respondents in the appeal and revision cannot be sustained and as such liable to be quashed and the petitioner be reinstated into service with all backwages.

2. Counter affidavit has been filed by the third respondent, wherein it has been indicated the fact that when in the nearby building bogus liquor was found and the petitioner, who was admittedly the Supervisor in the said TASMAC shop and also there was shortage of case, admittedly the petitioner was in charge of the said shop, he was found guilty of misconduct. The petitioner having been given reasonable opportunity in the enquiry and the misconduct against the petitioner having been proved, the Authority has held him guilty and passed the order of punishment and also the appeal filed against the same having also been dismissed and on the apprehension of the materials on record as well as the revisional authority also finding no illegality on the same, the writ petition filed is devoid of merits and liable to be dismissed.

3. The learned counsel appearing for the petitioner during the course of hearing, however submits that he does not want to contest the recording of guilt against delinquency, but the punishment imposed being disproportionate to the delinquency in this case, more particularly when the same is the case of lack of supervision as such he submits that this court may quash the punishment of removal from service and direct the disciplinary Authority to reinstate the petitioner into service immediately by revisiting the punishment by any other punishment except removal from service and the petitioner shall also not claim backwages in that event.

4. The learned counsel appearing for the respondents, considering such submissions, submits that this Court in umpteen number of cases in similar situations, have interfered with the punishment imposed only by directing the disciplinary

Authority to revisit the punishment of removal by any other punishment including the recovery of the amount, if any due on the petitioner and with the observation that he shall not be entitled to backwages.

5. Considering the aforesaid facts and submissions made, especially the nature of delinquency, this Court is of the view that the punishment imposed appears to be shockingly disproportionate to the nature of delinquency inasmuch as it is the case of lack of supervision only, more particularly that the same has not resulted to any financial loss to the respondents and there is nothing in the record directly indicating the fact that the petitioner had active role in stacking some spurious liquor to the place nearby the TASMAC shop. Hence, while not interfering with the impugned order of recording of guilt against delinquency the petitioner in the disciplinary proceeding which the petitioner also does not want to contest, however the punishment imposed being shockingly disproportionate, the disciplinary Authority is directed to revisit the punishment removal imposed by any other punishment and reinstate the petitioner into service within six weeks from the date of receipt of a copy of this order. However, it is made clear that after his such reinstatement and revisit of the punishment imposed by any other punishment as the disciplinary Authority may deem fit and proper in the facts and situations of the case, the petitioner shall not be entitled to any back wages during the period he remained out of service. If any amount is due on the petitioner while working as Supervisor, the same shall also be recovered from the petitioner.

6. With the aforesaid order, this writ petition stands disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

सत्यमेव जयते Assistant Registrar
//True Copy//

Sub Assistant Registrar

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To

1.Managing Director,
TASMAC, CMDA Tower-2,
4th Floor, Egmore, Chennai - 600 008

2. The Senior Regional Manager,
TASMAC, Azhagapuram,
Salem - 16, Salem District

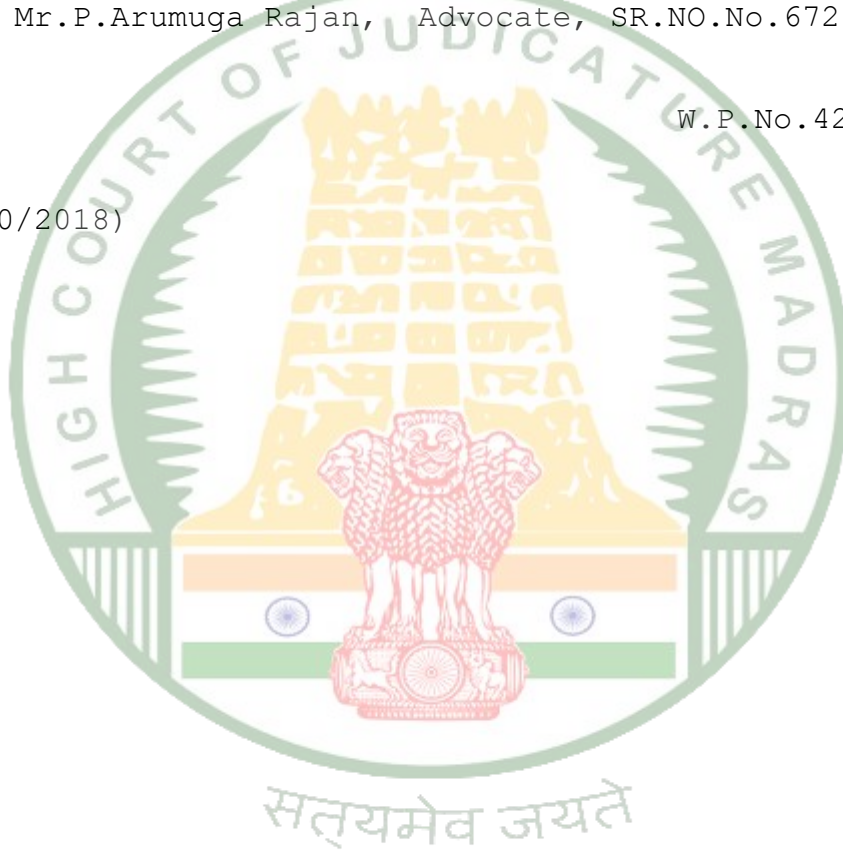
3. The District Manager,
TASMAC Ltd., Tindivanam Road,
Thiruvannamalai,
Thiruvannamalai District

+lcc to Mr.C.Prakasam, Advocate, SR.NO.67593

+lcc to Mr.P.Arumuga Rajan, Advocate, SR.NO.No.67286

W.P.No.42060 of 2016

SKV(CO)
GN(17/10/2018)



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