

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2018

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.7879 of 2015

R.Dharuman

.. Petitioner

Vs

1.The Senior Regional Manager,
TASMAC Limited, Chennai Region,
Anna Salai, Chennai - 2.

2.The District Manager,
IMFS Depot, TASMAC Ltd.,
Chennai - Central District,
No.B-4, Ambattur Industrial Estate,
Ambattur, Chennai - 58.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records of the order passed by the second respondent in proceedings in Na.Ka.No.D1/449/2015, dated 13.01.2015 and quash the same and consequently direct the respondents to allow the petitioner to work as salesman in any one of the TASMAC shop in Chennai-Central District forthwith.

For petitioner : Mr.K.Sasindran

For Respondents: Mr.K.Sathishkumar

O R D E R

This writ petition is directed against the impugned proceedings dated 13.01.2015 passed by the second respondent / the District Manager, IMFS Depot, TASMAC Ltd., Ambattur, Chennai, in and by which, the services of the petitioner were dismissed from the post of Shop Salesman.

2. Heard both sides.

3. The petitioner was appointed as Shop Salesman in Tamil Nadu State Marketing Corporation Limited (TASMAC), vide

proceedings dated 02.01.2004 of the second respondent, on a consolidated pay of Rs.2000/- per month. At the time of his appointment, the petitioner had paid a sum of Rs.15,000/- as security deposit. While he was working in Shop No.449, he took six weeks leave from 07.07.2011 due to his health issues after applying leave through the shop supervisor. Again, since he was suffering from viral fever and thereby he was also taking treatment in the hospital as inpatient, he had extended his medical leave, by submitting medical leave letter to the second respondent through the shop supervisor with effect from 15.08.2011. Thereafter, after the expiry of the medical leave, when he had reported for duty, the Shop Supervisor informed him to meet the second respondent. Subsequently, he was issued with a charge memo dated 27.12.2014 asking him to submit his explanation within 7 days and thereafter, the petitioner had also submitted his written explanation on 31.12.2014 denying all the charges levelled against him.

4. While the matter stood above, the petitioner was issued with enquiry notice dated 02.01.2015 asking to him to take part in the enquiry to be held on 06.01.2015. Although the petitioner took part in the enquiry, without communicating the result of the enquiry, he was issued with the present impugned proceedings by removing him from the services of the respondent department.

5. However, a mere perusal of the impugned proceeding does not show whether the petitioner has been removed/terminated/dismissed from the services. Besides, the impugned proceeding is just a cryptic one and it does not speak about as to how long the petitioner was on medical leave and what was the findings given by the enquiry officer in his enquiry report. It did not discuss about as to whether the petitioner was given a copy of the report submitted by the enquiry officer. Although this Court has given several opportunities to the respondents to substantiate the impugned proceedings, they have neither filed any counter affidavit nor filed a copy of the enquiry report nor the show cause notice issued to the petitioner intimating the proposed punishment.

6. Therefore, in my view, the impugned proceeding of the second respondent is liable to be set aside on the ground of violation of the principles of natural justice, for, as stated above, admittedly the second respondent neither issued a copy of the enquiry report to the petitioner nor issued any notice before passing of the the impugned proceedings.

7. Thus, for the reasons stated above, the impugned proceeding is set aside and the writ petition is allowed. Consequently, the respondents are directed to reinstate the

petitioner in service forthwith. No Costs. Connected
miscellaneous petitions are also closed.

Sd/-
Assistant Registrar (CS VI)

//True copy//

Sub Assistant Registrar

rkm

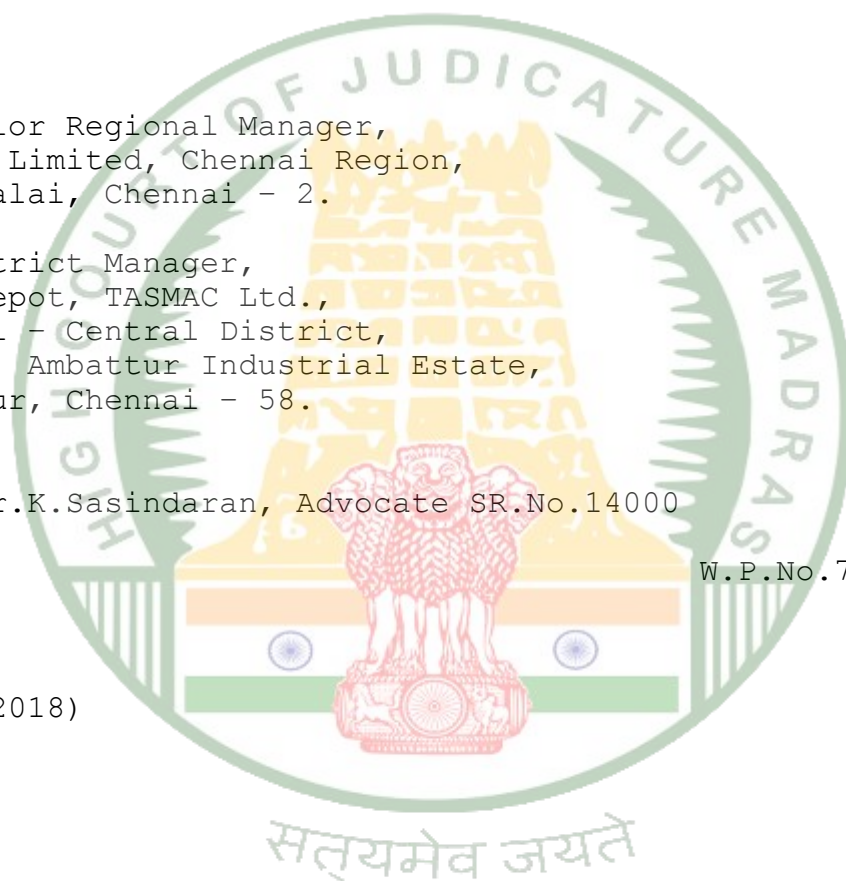
To

- 1.The Senior Regional Manager,
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- 2.The District Manager,
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Chennai - Central District,
No.B-4, Ambattur Industrial Estate,
Ambattur, Chennai - 58.

+1cc to Mr.K.Sasindaran, Advocate SR.No.14000

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GJII(CO)
GN(15/03/2018)



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