

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2018

CORAM:

THE HON'BLE MR. JUSTICE T. RAJA

W.P. No.38914 of 2016 & W.M.P. Nos.33332 & 33333 of 2016

P. Gunasekaran

Petitioner

vs.

The Tamil Nadu State Marketing Corporation Ltd. (TASMAC)
represented by the District Manager/Sub-Collector
Tiruppur
Tiruppur District

Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records relating to the order of the respondent dated 13.12.2011 in Na.Ka.No.771/11/A and quash the same and direct the respondent to calculate the other monetary benefits and service benefits only insofar as it relates to the petitioner.

For petitioner Mr. C. Yokes
For respondent Mr. K. Sathish Kumar
Standing Counsel

ORDER

With the consent of the learned counsel on either side, this writ petition is taken up for final disposal.

2 This writ petition has been preferred calling in question the legality and validity of the suspension order dated 13.12.2011 issued by the respondent, primarily on the grounds that, albeit the petitioner was placed under suspension about six years ago, till date, neither a charge memo has been issued nor enquiry has been held and to say the worst, even the representation given by the petitioner requesting the respondent to revoke the suspension order by reviewing the same has not been considered.

3 However, the learned Standing Counsel for the respondent Corporation disputes the very submission of representation by the petitioner.

4 Be that as it may, when the respondent had passed the impugned order way back in 2011 placing the petitioner under suspension, this Court is unable to fathom as to how the

respondent can keep quiet on the ground that the petitioner's suspension has not been re-considered or reviewed. The Supreme Court, in Ajay Kumar Choudhary vs. Union of India¹, has held in unequivocal terms that prolonged suspension is unjustified. In the present case, when the petitioner was concededly placed under suspension by order dated 13.12.2011, not issuing a charge memo and refusing to review the same is a clear indication that the respondent Corporation is least bothered to reinstate the petitioner in service. Besides, seemingly, the petitioner has not been paid with subsistence allowance from the date of the impugned order of suspension.

5 For all the aforesaid reasons, the impugned order of suspension dated 13.12.2011 is set aside. Further, as it is not permissible in law to keep the petitioner under prolonged suspension sans enquiry, the respondent is directed to reinstate the petitioner in service and also pay arrears of subsistence allowance to the petitioner. However, it is made clear that it is open to the respondent to proceed with the enquiry in the manner known to law.

With the above direction and observation, this writ petition stands allowed. Costs made easy. Collected Miscellaneous Petitions stand closed.

s/d-
Assistant Registrar (CS IX)

True Copy

Sub-Assistant Registrar

cad

To

The District Manager/Sub-Collector
Tamil Nadu State Marketing Corporation Ltd. (TASMAC)
Tiruppur
Tiruppur District

+1 CC to Mr.C. Yokesh Advocate sr 300
+1 CC to Mr.K. Sathishkumar, Advocate sr 284.

W.P. No.38914 of 2016

SP(23/01/2018)