

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

W.P.No.6681 of 2016

T.M.Ramanan

.. Petitioner

Vs

1 The District Manager,
TASMAC Ltd.,
Arkonam Taluk,
Vellore District

2 The Senior Regional Manager,
TASMAC Ltd.,
Salem Region,
Salem

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of writ of Certiorarified Mandamus calling for the records of the first respondent in connection with the impugned order passed by him in Na.Ka.No.A2/294/CV/2014 dated 21.09.2015 and confirmed by the second respondent in Proc.No.6110/2015/A dated 12.01.2016 and quash the same and direct the respondents to reinstate the petitioner into service and grant him all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkatramani,
Senior Counsel
for M/s.M.Muthappan

For Respondents: Mr.B.Nedunchezhiyan,
Standing Counsel

ORDER

The writ petition has been filed by the petitioner under Article 226 of constitution of India to challenge the order of his termination in a disciplinary proceedings by the ^{1st} respondent to be illegal, arbitrary and contrary to law. The petitioner prays for quashment of the same and direct reinstatement of him into service with back wages and other attendant benefits.

2 It appears that the petitioner was appointed as a Supervisor in Tamil Nadu State Marketing Corporation Limited (TASMAC) under the 1st respondent and he was posted as a Supervisor in Retail Vending shop No.11370. The said shop was inspected by the Additional Superintendent of Police, Prohibition Enforcement Wing, Arakkonam along with the first respondent and during the course of such inspection as allegedly noticed certain defects i.e spurious liquor was sold and shortage of Rs.4,190/-, a report was submitted. Hence, the petitioner was placed under suspension and a departmental enquiry was conducted against him for the said charges. The petitioner was proceeded with Disciplinary proceedings on the allegation of selling spurious alcohol supplied by the respondents and as such brought dis-reputation to the respondents so also shortage of Rs.4,190/-. The petitioner in the aforesaid disciplinary proceedings participated to repel the charge against him to be of any substance inasmuch as on that day, he did not attend duty due to his health problem. But admittedly on conclusion of the disciplinary proceeding, taking into consideration the report of the enquiry officer as well as the explanation of the petitioner, the Disciplinary authority accepted the report of the enquiry officer recording the charges to have been proved, imposed a penalty of removal. Assailing the same, the petitioner preferred an appeal but unsuccessful. Therefore, the petitioner came forward to file this writ petition, challenging the said order of removal inter alia on the ground that the same being perverse and as such, liable to be quashed.

3 During the course of hearing on admission, it is being submitted by the learned counsel appearing for the petitioner that the petitioner was removed from service on the ground of shortage of money and selling spurious liquor but in the meanwhile the above money has also been recovered. The learned counsel for the petitioner also undertakes that if any due is pending he will pay the same. However, he does not dispute the finding of misconduct to have been proved against him and only prays this Court should direct the respondent to revisit the punishment of removal by any other punishment, by giving appropriate direction to the respondent, inasmuch as the punishment of removal in the facts and situations and considering the nature of delinquency appears to be shockingly disproportionate, more so, when the same has been passed without taking into consideration the mitigating circumstances that the petitioner is only Supervisor and his family are dependants on him.

4. The learned counsel appearing for the petitioner also submits that in the event of disciplinary authority revisiting

the aforesaid punishment by any other punishment, the petitioner shall also not claim any back wages for the aforesaid period. Furthermore, it is also submitted that this Court in similar circumstances in umpteen number of writ petitions have also directed reinstatement by revisiting the punishment / penalty by any other punishment.

5. Mr.B.Nedunchezian, the learned Standing Counsel who accepts notice for respondents/TASMAC does not dispute the fact that in similar facts and situations, this Court in umpteen number of writ petitions have directed to the disciplinary authority to revisit the punishment and reinstate the delinquent Supervisor into service but without any back wages and hence necessary orders be passed as this Court may deem fit and proper.

6. After hearing the learned counsel appearing for the parties and going through the materials on record, especially the submissions made that in similar cases, this Court has directed the Disciplinary Authority to reconsider the punishment / penalty imposed, this writ petition stands disposed of at the stage of admission with a direction to the disciplinary authority to revisit / reconsider the punishment of removal imposed by any other suitable punishment as it may deem fit and proper in the facts and situations within a period of six weeks from the date of receipt of copy of this order. However, it is made clear that in the event of substitution of punishment by any other punishment, the petitioner shall not be entitled to any back wages for the period during which he remains out of duty.

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

Sd/-

सत्यमेव जयते Assistant Registrar (CS-VI)

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Sub Assistant Registrar

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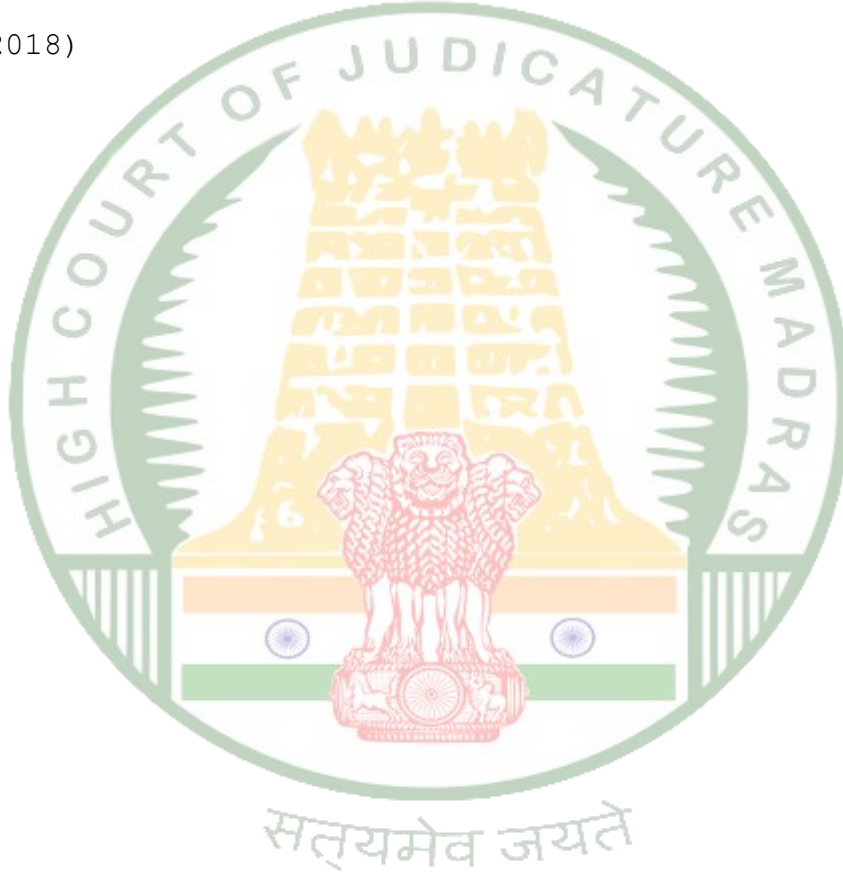
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+1cc to Mr.M.Muthappan, Advocate, S.R.No. 55509
+1cc to Mr.B.Nedungezhiyan, Advocate, S.R.No. 55384

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