

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.29140 of 2018

S.Elangovan

... Petitioner

Vs

- 1.Tamil Nadu State Marketing Corporation Ltd.,
rep.by its Managing Director, C.M.D.A, Tower II
4th Floor, Egmore, Chennai 600 008.
- 2.Senior Regional Manager, Tamil Nadu State
Marketing Corporation Ltd., No.56, Brindavan
Road, Salem - 16.
- 3.The District Manager, Tamil Nadu State Marketing
Corporation Ltd., Krishnapuram Road, Thummankuruchi
Village, Namakkal. Respondents

For Petitioner :Mr.S.Natana Rajan

For Respondents :Mr.K.Sathish Kumar
Standing Counsel-TASMAC (R1 to R3)

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the entire records of the 3rd respondent's proceedings No.Na.Ka.1583/B1/CV/2015 dated 28.09.2015, quash the same and directing the respondents to reinstate the petitioner with retrospective effect from 28.09.2015 with all service benefits.

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O R D E R

The petitioner has filed this writ petition challenging the proceedings of the third respondent dated 28.09.2015, by which the petitioner was placed under suspension.

2. The brief facts leading to the filing of the present writ petition is as follows. The petitioner was appointed as Supervisor in the respondent corporation in the year 2004. On

the complaint from one Selvakumar, charge sheet was filed against the petitioner and the District Manager for the alleged demand of Rs.5000/- from the defacto complainant Selvakumar. FIR was registered in 4/AC/2015 dated 27.09.2015. The petitioner was suspended from duty on 28.09.2015. He was arrested on 28.09.2015 and was released on bail on 28.01.2016. The petitioner was placed under suspension with effect from 28.09.2015 and he was paid subsistence allowance upto 30.06.2017. It is also alleged that the District Manager Mr.Elangovan was also placed under suspension at the fag end of his retirement.

3. The main grievance of the petitioner is that the suspension is kept pending for three years even when there was no progress in the criminal case and the pendency is not on account of the conduct of the petitioner. It is claimed that the petitioner may be posted in any non sensitive post and the order of suspension, which is kept pending for three years, may be set aside. A representation dated 14.02.2018 has been submitted to the respondents to consider his claim for reinstatement with retrospective effect from 28.09.2015 and to sanction all service benefits.

3. Heard the learned counsel for the petitioner and Dr.M.Devendran, learned Standing Counsel appearing for the respondents. Learned counsel for the respondents submits that the suspension is pending for three years only on account of the conduct of the petitioner.

4. In a landmark judgment reported in (2015) 7 S.C.C.291 Ajay Kumar Choudhary Vs. Union Of India, the Supreme Court has held as follows,

"We, therefore, direct that the currency of a suspension order should not extend beyond three months, if within this period, the Memorandum of Charges / Charge sheet is not served on the delinquent officer / employee; if the Memorandum of Charges / Charge sheet is served, a reasoned order must be passed for the extension of suspension. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution."

5. In the above circumstances, this writ petition is disposed of directing the respondents to revoke the suspension of the petitioner and place him in any non sensitive post. The respondents are also directed to pay the remaining subsistence allowance. However, the reinstatement shall be subject to the result of the pending criminal case against the petitioner. There is no impediment for the respondents to continue the pending departmental enquiry, if any. The writ petition is ordered accordingly. No costs.

-s/d-

Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

KST
To

1. Tamil Nadu State Marketing Corporation Ltd.,
rep. by its Managing Director, C.M.D.A, Tower II
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Corporation Ltd., Krishnapuram Road, Thummankuruchi
Village, Namakkal.

+1 CC to Mr.S.Natanarajan, Advocate sr 81108.
+1 CC to Mr.K.Sathish Kumar, Standing Counsel sr 81814
+1 CC to Mr.S.Natanarajan, Advocate sr 81108 (10/01/2019)

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SPD(CO)
SP(24/12/2018)