



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A.(MD).No.629 of 2017
and
C.M.P.(MD)No.5225 of 2017

K.Muthukumar

... Appellant / Petitioner

Vs.

1.The Regional Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
Tiruchirappalli.

2.The District Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
Thanjavur District,
Thanjavur.

... Respondents / Respondents

PRAYER:This appeal is filed under Clause 15 of the Letters Patent,
to set aside the order of the learned Single Judge dated 11.04.2017
in W.P.(MD)No.1442 of 2017.

Prayer in WP(MD). 1442/ 2017 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a Writ of
Certiorarified Mandamus after calling for the records relating to
the impugned orders dated 30.09.15 of the 2nd respondent passed in
Na.Ka.7827/RV-2/2012 and dated 23.12.16 of the 1st respondent passed
in Mu.Mu.No.295/2016(U) in so far as holding that the petitioner was
negligent in his duty and imposing him with the punishments by
ordering him to pay the fine of Rs.30,000/- and by treating the
period of his suspension from 16.10.12 as his punishment period,
quash the same and consequently to direct the respondents to treat
the period from 16.10.12 to the date of permitting him to join duty
as his duty period for all purpose and to pay him all benefits
including wages for the same award costs.

For Appellant : Mr.S.Arunachalam

For Respondents : Mr.H.Arumugam

JUDGMENT

(Judgment of the Court was delivered by T.S.SIVAGNANAM, J)

Heard Mr.S.Arunachalam, learned counsel appearing for the appellant and Mr.H.Arumugam, learned counsel appearing for the respondents.

2.This appeal is directed against the order made in W.P.(MD) No.1442 of 2017 dated 11.04.2017. The said writ petition was filed by the appellant, challenging the orders passed by the second respondent and first respondent dated 30.09.2015 and 23.12.2016 respectively, placing the appellant under suspension vide order dated 16.10.2012 and also imposing a fine of Rs.30,000/- (Rupees Thirty Thousand only). The writ Court dismissed the writ petition on the ground that the appellant did not specifically seek for reinstatement. In our considered view, the observation made by the Writ Court was incorrect, since the appellant challenged the order of suspension as well as imposition of fine of penalty of Rs.30,000/- (Rupees Thirty Thousand only), and if the appellant succeeds in the writ petition order of reinstatement would follow. One more aspect which we have noted even at the time when we issued notice on 20.06.2017 is that the punishment imposed on appellant is fine of Rs.30,000/- (Rupees Thirty Thousand only) apart from treating the period of suspension as punishment period. Thus on the expiry of said period, the appellant was entitled to be reinstated. The above legal position cannot be disputed by the respondent Corporation.

3.For such reasons, this Court is inclined to interfere with the impugned order passed in the writ petition and issue appropriate directions so that finality is drawn to the controversy. Accordingly, the writ appeal is allowed and the impugned order is set aside. No Costs. The prayer sought for in the writ appeal is granted in the following terms:

(i)The first respondent is directed to reinstate the appellant in service within a period of 10 days from the date of receipt of copy of this judgment.

(ii)The appellant shall be entitled to current wages payable for the post of Supervisor in the respondent Corporation from the date of reinstatement.

(iii)In so far as the back wages are concerned, the appellant himself is willing to give up 50% of the back wages. Therefore, we direct the respondent to calculate the back wages from 01.01.2017 till the date of reinstatement and 50% of the same shall be paid to the appellant after deducting Rs.30,000/- (Rupees Thirty Thousand only) which was imposed as fine. The arrears of back wages shall be paid within a period of eight weeks from the date of receipt of copy of this order.



(iv) During the period of suspension, the workman was not paid subsistence allowance which is his statutory entitlement. Hence, we direct the respondents/management to pay subsistence allowance to the appellant for the period during which the appellant was under suspension till 13.09.2015. Consequently, C.M.P.(MD)No.5225 of 2017 is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1.The Regional Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
Tiruchirappalli.

2.The District Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
Thanjavur District,
Thanjavur.

+1cc to M/S.S.Arunachalam, Advocate SR.No. 54113

+1cc to M/S.H.Arumugam, Advocate SR.No. 54012

W.A. (MD).No.629 of 2017

mrn

JM/SKN RSK/SAR 2/27.03.2018/3P/5C