



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.11.2018

CORAM:

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD) No.23082 of 2018

and

W.M.P (MD) No.20986 of 2018

Saravanakumar

... Petitioner

vs.

1. The Managing Director,
TASMAC Ltd., 4th Floor,
CMDA Tower-II,
Egmore, Chennai-600 008.

2. The Senior Regional Manager,
Tamil Nadu State Marketing Corporation,
TASMAC Ltd.,
No-100, Anna Nagar,
Madurai-625020.

3. The District Manager,
IMFS Depot, TASMAC Ltd.,
Tamil Nadu State Marketing Corporation,
Door No.25/1, No.837 and 25/2-838.
Konam Industrial Estate,
Nagercoil-629 004.
Kanyakumari District.

4. The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
SIDCO Industry, Sulakkarai,
Virdhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed vide proceedings in Na.Ka.No.A4/190/18 on the file of the fourth respondent office dated 01.11.2018 and quash the same as illegal and consequentially direct the respondents to reinstate the petitioner into service within a stipulated time frame that may be fixed by this Court.

**ORDER**

Heard the learned counsel appearing for the petitioner and the learned Standing counsel appearing for the respondents.

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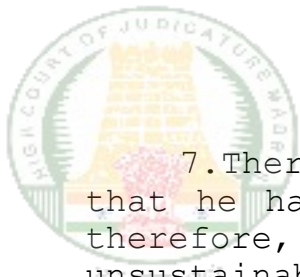
2.The writ petitioner herein who is a salesman in the TASMAL outlet was found selling the liquor over and above the price fixed by the Government during the surprise check. On 29.09.2018, the Manager, TASMAL, Virudhunagar District has passed an order imposing fine of Rs.10,000/- and 18% GST on the fine. This order was passed without affording opportunity to the writ petitioner. It appears that the said order has been challenged by way of writ petition on the ground that failure to follow the principles of natural justice. Thereafter, the third respondent has issued show cause notice dated 04.10.2018 superseding the earlier order dated 29.09.2018. The writ petitioner herein has been requested to give his explanation within three days from the date of receipt of the show cause notice.

3.The specific allegation in the show cause notice is that the petitioner has sold the IMFS liquor over and above the price fixed by the Government and also misconduct was found by the surprise team and also he has refused to sign in the statement. Pending enquiry the petitioner herein has been placed under suspension vide order dated 01.11.2018.

4.The contention of the writ petitioner herein is that since the third respondent has already imposed fine vide order dated 29.09.2018, the impugned order is bad in law and mala fide. Further, it is specifically contended by the learned counsel appearing for the writ petitioner that while show cause notice indicates that apart from writ petitioner who is the salesman the supervisor Mr.Ganesh was also found guilty of misconduct, but he has not been placed under suspension. Since the show cause notice is issued to him, there is a discrimination between the Salesman and Supervisor.

5.A perusal of the records reveals that the earlier order of imposing fine was passed on 29.09.2018 without affording opportunity. The said order has been challenged before this Court. The third respondent herein has realized that the order imposing fine is bad in law since the opportunity has not been given to the writ petitioner herein. Therefore, in supersession of the earlier order dated 29.09.2018, he has passed subsequent order dated 04.10.2018 which is the show cause notice calling for explanation from the writ petitioner as well as one Ganesh, Supervisor.

6.Pursuant to the said show cause notice and after affording opportunity to the writ petitioner to give his explanation, considering the explanation given by the writ petitioner the impugned order dated 01.11.2018 has been passed placing the writ petitioner herein under suspension pending enquiry.



7. Therefore, the first contention of the writ petitioner herein that he has already suffered fine vide order dated 29.09.2018 and therefore, he cannot be penalized second time for the same act is unsustainable. As far as the alleged discrimination between him and the supervisor Ganesh is concerned, we are not aware whether the explanation given by the said Ganesh was satisfactory to the third respondent or whether the misconduct of the said Ganesh does not warrant suspension pending enquiry. In any event, for discrimination of the third respondent, it is left to the disciplinary authority whether to suspend the person pending enquiry or not.

8. As of now, the impugned order which has placed the writ petitioner herein under suspension does not suffer any infirmity and requires no interference of this Court. Hence, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Managing Director,
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4. The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
SIDCO Industry, Sulakkarai, Virdhunagar District.

+ 1 CC TO Mr.R.KARUNANIDHI, ADVOCATE IN SR No. 96007

+ 1 CC TO Mr.H.ARUMUGAM, ADVOCATE IN SR No. 96229

CP

TE/BK/SAR-4 : 24/12/2018 : 3P/7C