



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.12.2019

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THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No. 13887 of 2015
and M.P. Nos. 1&2 of 2015

M.Gopi

..Petitioner

Vs

1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC)
Salem Region, Salem.

2.The District Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC)
Namakkal. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus to call for the proceedings of the 2nd respondent in Na.Ka.No. 2552/ B1/CV/2014 dated 20.4.2015 and quash the same in respect of the petitioner herein and consequently direct the respondents herein to reinstate the petitioner with all consequential and attendant benefits.

For Petitioner : M/s. P. Athiveeraramapandian
For Respondents : Mr. Sathish Kumar.

O R D E R

The prayer sought for in the Writ Petition is to call for the proceedings of the 2nd respondent in Na.Ka.No. 2552/ B1/CV/2014 dated 20.4.2015 and quash the same in respect of the petitioner herein and consequently direct the respondents herein to reinstate the petitioner with all consequential and attendant benefits.

2. The case of the writ petitioner is that the writ petitioner was appointed as Shop Supervisor on 09.12.2003 and



working in the TASMAL retail outlet in shop No.5980 under the 2nd respondent corporation. On 20.10.2014 at 5.00pm, a flying squad headed by the 1st respondent conducted inspection. During inspection, they took 22 liquor bottles alleging adulteration water in the said liquor bottles made by the shop salesman. Based on the said inspection, criminal complaint was lodged and FIR was also registered against the salesman. In the meantime, the 2nd respondent framed charges and issued charge memo dated 05.11.2014 to the writ petitioner. The writ petitioner submitted his explanation dated 08.11.2014 by denying the allegations levelled against the writ petitioner. But without affording any opportunity to the writ petitioner, the 2nd respondent has passed the final order dated 20.04.2015, dismissing the writ petitioner from service. Challenging the same, the present writ petition is filed.

3. Heard the learned counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the respondents and perused the documents available on records.

4. According to the learned counsel for the petitioner, as per the order dated 20.10.2014 passed by the 2nd respondent, some irregularities were noticed by the flying squad during inspection. When the respondent alleges that the writ petitioner had committed an irregularity, the respondent should give a reasonable opportunity. But the respondent did not provide any reasonable opportunity to the writ petitioner to defend his charges. The learned counsel further submitted that his co-employee namely Suresh Babu has been acquitted from the the criminal charges in C.C. No. 570 of 2014 leveled against him. Based on the acquittal, he was reinstated into service. Therefore, the impugned order passed by the 2nd respondent is excessive, illegal and discriminatory and the same is liable to be set aside.

5. The learned counsel for the respondent would submit that the aforesaid salesman was reinstated into service pursuant to the report submitted by the 1st respondent and the judgment passed by the Criminal Court. Based on the same report, the 2nd respondent had initiated departmental proceedings against the writ petitioner and passed the order of dismissal.

6. On a perusal of records, it is clear that the allegations are leveled as against the co-employee of the writ petitioner namely Suresh Babu who was red-handedly caught by the 2nd respondent at the time of inspection. The writ petitioner being a supervisor of the shop has not involved in the offence as made out in the criminal complaint.



7. In view of the submissions made by the both counsel and taking into considering the affidavit of undertaking filed by the writ petitioner and also by taking note of acquittal and reinstatement in favour of the salesman namely Suresh Babu, this Court is inclined to pass the following order;

i. The impugned order dated 20.04.2015 passed by the 2nd respondent is quashed and the same is remitted back to the 2nd respondent to consider afresh.

ii. The 2nd respondent shall consider the same and pass appropriate orders on merits and in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order.

ii. The writ petitioner is directed to produce a copy of affidavit of undertaking dated 21.08.2019 along with the copy of this order to the 2nd respondent.

With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC)
Salem Region, Salem.

2.The District Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC)
Namakkal.

+1cc to Mr.P.Athiveera rama Pandian , Advocate SR.No. 103378

+1cc to Mr.K.Sathish kumar , Advocate SR.No. 103077

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A.SK(06/01/2020)