

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.30741, 30743, 30747, 30750 and 30751 of 2019
and

W.M.P.Nos.30828 to 30832 and 30834 to 30836 of 2019

1.B.Arokiaselvam ... Petitioner in W.P.30741 of 2019

2.A.Murugan ... Petitioner in W.P.30743 of 2019

3.P.Selvakumar ... Petitioner in W.P.30747 of 2019

4.V.R.Prabhu ... Petitioner in W.P.30750 of 2019

5.E.D.Prabakaran ... Petitioner in W.P.30751 of 2019

vs

1.The Managing Director,
TASMAC Limited,
Fourth Floor, CMDA Tower,
Egmore,
Chennai-600008

... Respondent in W.P.Nos.30741, 30743 and
30747 of 2019

2.The District Manager,
TASMAC Limited,
Thiruvallur (East),
Chennai-600 123.

... Respondent in W.P.Nos.30750 and
30751 of 2019

Prayer in W.P.Nos.30741, 30743 and 30747 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to pass orders, directions, writs in particular a Writ of Certiorari, to call for the records on the file of the respondent in Ref. ந.க.எண்.ஆர் 2\14589-2018 சுற்றறிக்கை எண்.02-2019 நாள் 21.01.2019 and quash the same.

Prayer in W.P.Nos.30750 and 30751 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to pass orders, directions, writs in particular a Writ of Certiorari, to call for the records on the file of the respondent in Ref. ந.க.எண்.ஆர்/1473/2019 நாள் 03.10.2019 and quash the same.

For Petitioners : Mr.D.Bharathy
(In all W.Ps)
For Respondents : Mr. Johnkennedy
(In all W.Ps.)

C O M M O N O R D E R

Mr.John Kennedy, learned Counsel takes notice for the respondents. By consent of both parties, the writ petitions are taken up for final disposal at the admission stage itself.

2.The case of the petitioners is that the petitioners were appointed as sales men in the respondents corporation between the years 2003-2004. During their services of 15 years, there were no charges against the petitioners. On various dates, the officials of the respondents corporation have inspected their shops and made reports and insisted the petitioners to sign in the inspection report. Thereafter, the petitioners came to know that they were charged for having sold each bottle of Mc VSOP Brandy of 375 ml liter at Rs.10/- in excess of MRP price but have not given account to the same to the officials at the time of inspection made by the officials of the corporation. On 03.10.2019, the respondents issued a show cause notice, calling for the explanation in respect of selling the bottles at Rs.10/- in excess of MRP price. Thereafter, the respondents without considering their explanation, issued the impugned order. Hence, the present Writ Petitions are filed.

3.The learned counsel for the petitioners submitted that the impugned order was misused by the respondent officials and more so during the inspection of the shops, the officials have not followed the guidelines and provisions of TASMAC and also the impugned order was passed without any specific direction while inspecting the shops and more so the records have not been filed by the respondent officials and they were insisting the employee to act according to their own wishes. They further submitted that the impugned order passed was a pre determined one and two punishments were imposed for a single offence and more so the said offense was not proved by way of proper evidence made out by the respondents corporation. Further, the impugned orders have not disclosed the reasons and there are no materials to prove the charges against the petitioners and more so the amount quantified to be paid as penalty is excessive. Therefore, they pray to allow the writ petitions.

4.The learned counsel for the respondent submitted that the officials of the respondent corporation have inspected the TASMAC shops on various days. During the inspection, the respondent officials found that the TASMAC employees had been

selling every bottle in excess of Rs.10/- over and above the MRP price and accordingly signed in the said inspection report. Thereafter, the respondent issued the circular to the petitioner to pay the penalty. He further submitted that the petitioners involving in the malpractice along with other employees regularly.

5.The learned counsel appearing for the respondent corporation submitted that a circular was issued on 18.02.2015 for taking disciplinary action following the guidelines and provisions of TASMAL. He further submitted that as the petitioners have indulged in malpractice they are not eligible for any relief.

6.Heard both sides and perused the circular.

7.Considering all these circumstances the petitioners/sales men have indulged in misappropriation of amount contrary to the Circular dated 18.02.2015. This Court perused the circular dated 18.02.2015, wherein guidelines have been very clearly issued for taking steps against the employees who indulged in the misappropriation of funds of TASMAL. Therefore this Court finds that the impugned proceedings are in order. Accordingly, the writ petitions are dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To,

1.The Managing Director,
TASMAL Limited,
Fourth Floor, CMDA Tower,
Egmore,Chennai-600008

2.The District Manager,
TASMAL Limited,
Thiruvallur (East),Chennai-600 123.

+1cc to Mr.D.Bharathy , Advocate SR.No. 92202

+1cc to Mr.M.John Kennedy , Advocate SR.No. 92617

W.P.Nos.30741, 30743, 30747, 30750
and 30751 of 2019

A.SK(17/03/2020)