



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 31.10.2019
CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) Nos.20512 and 20552 of 2019
and

W.M.P. (MD) Nos.17146, 17147, 17192 and 17193 of 2019

K.Dhanapal ... Petitioner in W.P.(MD)No.20512 of 2019
P.Jeyakumar ... Petitioner in W.P.(MD)No.20552 of 2019

-Vs-

1. The District Manager,
Tamil Nadu State Marketing Corporation,
Tiruchirappalli Zone, (TASMAC),
Karur District. ... 1st Respondent in both W.Ps.
2. The Regional Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC), Tiruchirappalli. ... 2nd Respondent
in W.P.(MD)No.20512 of 2019
2. The Senior Zonal Manager / District Revenue Officer,
Tamil Nadu State Marketing Corporation,
(TASMAC), Tiruchirappalli. ... 2nd Respondent
in W.P.(MD)No.20552 of 2019

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent in Na.Ka.C.V.2/011/2018, dated 27.08.2019 and the consequential order passed by the second respondent in Na.Ka.No.14/2019(Aa), dated 09.09.2019, and quash the same.

For Petitioner : Mr.S.Gokul Raj
(in both Writ Petitions)
For Respondents : Mr.H.Arumugam
(in both Writ Petitions)

COMMON ORDER

The order of the first respondent dated 27.08.2019 and the second respondent dated 09.09.2019 are sought to be quashed in the present Writ Petitions.



2. According to the petitioners, the common transfer order is punitive in nature. The common transfer order is passed on the ground that on surprise inspection in the TASMAC shops, where the petitioners are working, it was found that the petitioners sold the bottles in excess of the Maximum Retail Price (hereinafter referred to as 'the MRP') rate. The same is not substantiated by the first respondent. No notice was issued to the petitioners and no explanation was sought for from the petitioners. Without conducting any enquiry, the impugned orders are passed.

3. The respondents have filed counter affidavit. The learned counsel appearing for the respondents contended that the petitioners are the Supervisors of the particular shops. The salesmen of the shops sold the bottles for Rs.10/- more than the MRP rate. The petitioners failed to supervise the same. The said MRP violation was found at the time of conducting surprise inspection within the span of six months time. As per the circular dated 21.01.2019, issued by the Managing Director, TASMAC, Chennai, if MRP violation is found twice within a span of six months that employees are selling the bottles over and above the MRP rate, they will be transferred to a shop with less turnover. In view of the said circular, the impugned order of the transfer is passed. It is only a minor punishment and preventive measure. It will not affect the service conditions of the petitioners. The respondents have taken a lenient view and transferred the petitioners, instead of imposing punishment and therefore, prayed for dismissal of the Writ Petitions.

4. Heard the learned counsel appearing for the petitioners, the learned counsel appearing for the respondents and perused the materials available on record carefully.

5. From the materials on record, it is seen that the petitioners, who are working as Supervisors, are transferred on the ground that they have failed to supervise the sale in excess amount than MRP rate, by the salesmen of the shops. Before transfer, the petitioners were not called upon to submit their explanations with regard to the said allegations. The petitioners have not been transferred on administrative reason, but alleged to have been failed to supervise the sale of the bottles for over and above the MRP rate, which amounts to punitive transfer. In view of the same, the impugned order with regard to the petitioners alone, is set aside. However, it is open to the respondents to take appropriate disciplinary action against the petitioners for the alleged misconduct as per the rules.



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W.P.(MD)No.20512 & 20552 of 2019

6.In the result, these Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The District Manager,
Tamil Nadu State Marketing Corporation,
Tiruchirappalli Zone, (TASMAC),
Karur District.
2. The Regional Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC), Tiruchirappalli.
3. The Senior Zonal Manager / District Revenue Officer,
Tamil Nadu State Marketing Corporation,
(TASMAC), Tiruchirappalli.

+2 CC to Mr.S.GOKULRAJ, Advocate SR-95342, 95343

+1 CC to Mr.H.ARUMUGAM, Advocate (SR-95512[F] dated 01/11/2019)

W.P. (MD) Nos.20512 and 20552 of 2019

31.10.2019

myr

MK (13.11.2019) 3P 7C