



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.3609 of 2014
W.M.P.(MD).No.6750 of 2014

Karthikeyan

.. Petitioner

Vs.

1.The Management of
Tamilnadu State Marketting Corporation Limited,
Rep. by its District Manager,
Tanjore District, Tanjore.

2.The Senior Regional Manager,
TASMAC, Trichy.

.. Respondents

(2nd respondent impleaded as per the order dated 15.10.2019, made in W.M.P.(MD).No.6749 of 2016 in W.P.(MD).No.3609 of 2014)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus calling for the records of the 1st respondent in proceedings in Na.Ka.No.16/2008/RV-2, dated 06.06.2008 the consequential order, dated 29.06.2010 in Na.Ka.No.12/RV-2/2010 and the appeal order, dated 30.12.2013 in Na.Ka.No.2865/13/U of the 2nd respondent and quash the same and consequently direct the respondents to reinstate the petitioner in service.

(Prayer amended vide order dated 15.10.2019 made in W.M.P.(MD).No.6751 of 2016 in W.P.(MD).No.3609 of 2014.)

For Petitioner : M/s.V.Jeyarani

For Respondent : Mr.H.Arumugam

ORDER

This writ petition is filed for issuance of writ of Certiorarified mandamus to quash the order of the first respondent and the order of appellate authority /second respondent, dated 30.12.2013 and to issue consequential direction to the respondent to reinstate the petitioner in service.

2.The petitioner was appointed as Supervisor in TASMAC shop No.7825 at Kumbakonam, Thanjavur District. By the impugned order the petitioner was dismissed from service and on further appeal to the second respondent, the order of termination was confirmed by the Appellate Authority. Aggrieved by the same, the above writ petition



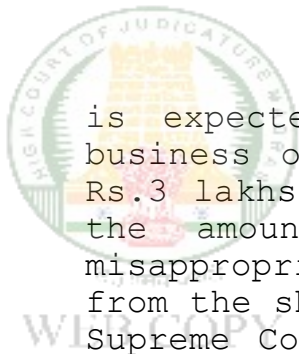
is filed.

3. When the petitioner was on duty as Supervisor in the above shop, a charge memo was issued to the petitioner. The charges are relating to temporary misappropriation of a huge sum of Rs.7,36,824/- and for the failure to maintain proper records. The charge memo issued by the first respondent would show that a surprise inspection was conducted in the above shop on 05.06.2008 and certain defects were pointed out. The goods worth about Rs.7,36,824/- received from the District Supply Office was not accounted and that the corresponding amount had been temporarily misappropriated by the petitioner. It is seen that goods worth about Rs.6,16,824/- as per the invoice, dated 02.05.2008 was not recorded in the stock register and similarly as against a sum of Rs.3,62,160/- towards value of the goods as invoice dated 16.05.2008 only the goods worth about Rs.2,42,160/- had been recorded in the register supposed to be maintained by the petitioner. Pursuant to the charge memo, an explanation was offered by the petitioner admitting temporary misappropriation. His explanation to the charge memo are only to gain sympathy. It is reveal that modus operandi of the petitioner was by keeping account by improper omitting certain receipts of commodities so that the value of commodities can be temporarily misappropriated by the petitioner. Even though the Enquiry officer was appointed and the petitioner participated in the enquiry, the records produced by the respondent before this Court reveals that an Enquiry Officer was appointed and the first respondent has passed the order accepting the report of Enquiry Officer finding the petitioner guilty of all charges. The Appellate Authority confirmed the order of first respondent. The Honourable Supreme Court in a judgment in the case of **Krishnakant Raghunath Bibhavnekar Vs. State of Maharashtra and Others** has observed as follows:

"The act of reinstatement sends ripples among the people in the office/locality and sows wrong signals for degeneration of morality, integrity and rightful conduct and efficient performance of public duty. The constitutional animation of public faith and credit given to public acts, would be undermined. Every act or the conduct of a public servant should be to effectuate the public purpose and constitutional objective. Public servant renders himself accountable to the public."

Though the above expression was in respect of a case of Government office, the principle can be extended to an employee of public Corporation when the delinquent is entrusted with handling huge amount of cash every day.

4. In the case on hand, the petitioner is employed as a Supervisor who is supposed to be incharge of a TASMACH shop where the normal business is in high volume. Absolute honesty and integrity



is expected from the petitioner as a person looking after the business of State undertaking. The petitioner has paid a sum of Rs.3 lakhs on the next day. Even though the petitioner has repaid the amount and there is no loss on account of temporary misappropriation, the conduct of the petitioner in taking the money from the shop cannot be pardoned and as reiterated by the honourable Supreme Court in several cases temporary misappropriation also has to be viewed seriously, particularly when the delinquent is incharge of business operation of a Government underlying. Hence, this Court is not inclined to interfere with the order.

5.Accordingly, this writ petition is dismissed. No order as to costs. Consequently, connected miscellaneous petition is closed.

6.At this juncture, the learned counsel for the petitioner states that a sum of Rs.50,000/- had been deposited by the petitioner as caution deposit with the respondent and the respondent may be directed to refund the same as expeditiously as possible, since the petitioner is now terminated from service and the same is confirmed. Therefore, the respondent is directed to refund the caution deposit already deposited by the petitioner as expeditiously as possible.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar(CS)

TM

+1 CC to M/s.V. JEYARANI, Advocate (SR-96418[F] dated 06/11/2019)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-96526[F] dated 06/11/2019)

W.P.(MD).No.3609 of 2014
05.11.2019

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