

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
30.09.2020	11.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.24990 of 2009

R.Govindasamy

... Petitioner

-vs-

The District Manager II,
Retail Vending,
TASMAC, Tiruppur,
Tiruppur District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent to reinstate the petitioner into service as Salesman with all consequential service and monetary benefits.

For Petitioner : Mr.P.I.Thirumoorthy

For Respondent : Mr.K.Sathish Kumar

O R D E R

The Writ Petition has been filed for a direction to the respondent to reinstate the petitioner into service as Salesman with all consequential service and monetary benefits.

2. It was the case of the petitioner that he was appointed as a Salesman in a TASMAC Shop on contract basis by the respondent on 21.04.2004, after receipt of a caution deposit of Rs.20,000/- and his working hours was fixed as 08:00am to 12:00pm. It was further case of the petitioner that since his appointment was only on adhoc basis, there was no separate rule framed by TASMAC and when he was working in Shop No.1502, he was orally terminated from service with effect from 18.02.2005 on the ground that nobody was prepared to run the shop. It was also the case of the petitioner that since the closure of TASMAC Shop was on administrative reasons, he should have been accommodated in any other shops and till date, he has not been reinstated in service. It was stated that no procedure was followed in terminating the service of the petitioner and though several representations dated 17.05.2007, 28.08.2008 and 22.10.2009 were

forwarded to the respondent, with a request to reinstate the petitioner, there was no response on the side of the respondent. Therefore, the petitioner is before this Court, seeking for the above direction.

3. Learned counsel for the petitioner submitted that the oral order of termination, without following the procedures, is contrary to the settled proposition and the termination was made behind the back of the petitioner. He further submitted that when the petitioner was stopped from work on administrative exigency, duty is cast upon the respondent to provide alternate employment to the petitioner.

4. Learned Standing Counsel for the respondent contended that since Shop No.1502 incurred huge loss to the Government and no one came forward to run the liquor shop, Government decided to close the shop. He also contended that the appointment of the petitioner was purely on temporary basis and therefore, he cannot, as a matter of right, demand that he should be reinstated into service.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. The petitioner was disengaged from service in the year 2005. He has filed the present Writ Petition after a lapse of nearly four years, namely, in the year 2009. He could have raised Industrial Dispute and very well placed relevant factors before the appropriate Labour Forum. At this distant point of time, this Court is not inclined to relegate the matter to the Appropriate Forum, as already 15 years have gone-by. Admittedly, the petitioner was divested of his duties as early as in 2005, consequent to the closure of TASMAC shop. Prior to the Industrial Disputes (Amendment) Act, 2010, he was entitled to raise the Industrial Dispute and therefore, the Writ Petition is not maintainable and is liable to be dismissed on the ground of laches.

7. In the result, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar

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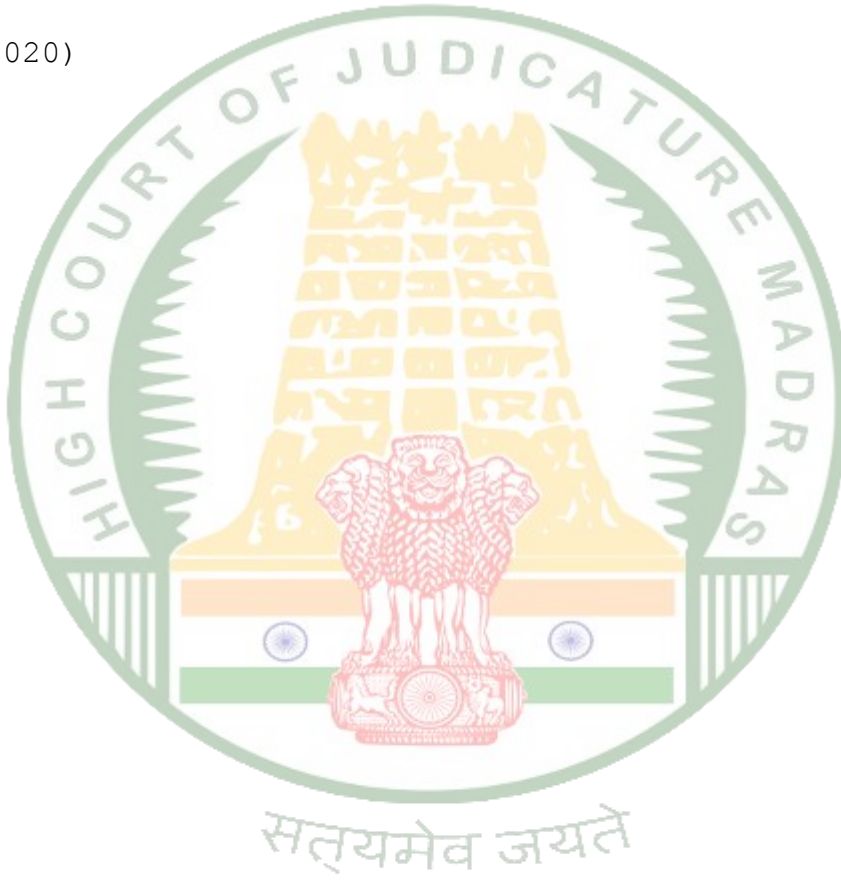
Sub Assistant Registrar

To

The Divisional Manager-II,
Retail Vendings,
TASMAC, Tiruppur,
Tiruppur district.

PRE-DELIVERY ORDER IN
W.P.No.24990 of 2009

SSV(CO)
RV(08/12/2020)



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