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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.6989 of 2013

M.Kakkan

Petitioner

Vs

1.The District Manager, TASMACH, Chennai
South Division,Ambattur Industrial Estate,
Chennai-58

2.The Senior Regional Manager, TASMACH,
Chennai-2

3.The Managing Director, TASMACH, Egmore,
Chennai

Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Mandamus to direct the Respondents to reinstate the Petitioner in service with all back wages, service benefits and attendant benefits.

For Petitioner : Mr.R.Alvin Manoj Raj

For Respondent : Mr.P.Arumugarajan

ORDER

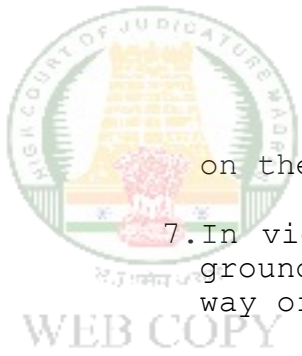
1.The prayer in this Writ Petition is to issue a Writ of Mandamus to direct the Respondents to reinstate the Petitioner in service with all back wages, service benefits and attendant benefits.

2.The case of the Petitioner is that he was appointed as Shop Supervisor in the Respondent Shop No.714 on 29.11.2003 and that during the inspection conducted by the Respondent on 11.05.2007, it was found that adulteration of liquor bottles was done by the Petitioner and after issuing a show cause notice, dated 20.07.2007 and on considering the reply of the Petitioner, dated 01.08.2007, by order dated, 11.09.2007, of the 1st Respondent, the Petitioner was terminated from service. In the appeal preferred by the Petitioner before the



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- 2nd Respondent, by order dated, 18.12.2007, the termination of the Petitioner was upheld and in the further appeal preferred to the 3rd Respondent also, he was directed to make a representation to the 1st Respondent and accordingly, a representation dated 5.1.2009 was made to the 1st Respondent, but it is not considered so far. Hence, contending that terminating the Petitioner from service, without giving opportunity to the Petitioner to prove his innocence and without conducting any enquiry and without any valid evidence, is illegal, the present Writ Petition has been filed, seeking the relief as stated above.
- 3.This court heard the learned counsel on either side and considered their respective submissions and also perused the materials placed on record.
- 4.According to the learned counsel for the Petitioner, the Petitioner was terminated from service, without giving any opportunity to the Petitioner to prove his case and without examining any witness and without any document, against the Petitioner. Similarly placed persons, who stood charged with similar charges as that of the Petitioner, had been reinstated in service and hence, same yardstick may also be applied to the case of the Petitioner herein also.
- 5.In the counter affidavit filed by the 1st Respondent, it is stated that the Petitioner was appointed purely on contract basis temporarily on deposit of a security deposit of Rs.50,000/- and that the Petitioner was suspended from service for the irregularities of adulteration of liquor committed by the Petitioner in Shop No.714 and that the Lab Report had also revealed that the liquors were adulterated and was unfit consumption and that only after giving sufficient opportunity to the Petitioner, the Petitioner was dismissed from service and that though he was removed from service in the year 2007, the present Writ Petition, challenging the dismissal, had been filed in 2013 and hence, this Writ Petition is liable to be dismissed on the ground of laches.
- 6.On considering the submissions of the learned counsel on either side and on perusal of the materials placed on record, including the counter affidavit filed by the Respondents, it came to light that after issuing the show cause notice 20.07.2007 and by considering the reply dated 01.08.2007 of the Petitioner, the Petitioner was dismissed from service on 11.09.2007 and the Petitioner had paid a sum of Rs.10,730/- on 01.08.2007 towards shortage of sum and ultimately, in the appeal, the termination was upheld on 18.12.2007. However, this Writ Petition had been filed on 19.03.2013, after lapse of more than five years. Hence, this Writ Petition is to be rejected



on the ground of laches.

7. In view of the above, this Writ Petition is dismissed, on the ground of laches. However, this order will not stand in the way of the Petitioner to approach the Respondents. No costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

Srcm

To

1. The District Manager, TASMACH,
Chennai South Division,
Ambattur Industrial Estate,
Chennai-58
2. The Senior Regional Manager,
TASMACH, Anna Salai, Chennai-2
3. The Managing Director, TASMACH,
Gandhi Irwin Road, Egmore, Chennai

+1cc to Mr. R. Alvin Manoj Raj, Advocate, Sr.No.9200
+1cc to Mr. P. Arumugarajan, Advocate, Sr.No.9188

WP.No.6989 of 2013

SS(CO)
GS(22/05/2020)