

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE **V.PARTHIBAN**

W.P.No.18538 of 2020
& WMP Nos.22980 & 22981 of 2020

R.Raja

Petitioner

Vs

1. The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd(TASMAC),
Trichy.

2.The District Manager,
Tamil Nadu State Marketing Corporation Ltd(TASMAC),
Cuddalore District. ...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the second respondent in Na.Ka.No.A1(RV)/110/2020 dated 28.05.2020 terminating the petitioner from service without conducting any enquiry and quash the same and further direct the second respondent to conduct an enquiry based on petitioner's representation dated 22.07.2020.

For Petitioner : Mr.D.Thirumoorthy

For Respondents : Mr.K.Sathish Kumar, Standing counsel

ORDER

The Writ Petition is filed, challenging the order of the second respondent dated 28.05.2020, terminating the services of the petitioner.

2. The case of the petitioner is that he was working as Salesman in the respondent Corporation at Shop No.2609, Panruti, Cuddalore District. He was originally appointed in January 2004 and claimed to have been continuously served in the respondent Corporation without any complaints. The second respondent, vide impugned order dated 28.05.2020, while terminating the services of the petitioner, has held that the petitioner as a Salesman, had sold the liquor bottles in excess of the MRP (Maximum Retail Price) and in that regard, complaints were received from the Supervisor. It was also alleged that the petitioner had sold liquor bottles in the block market in bulk quantities and on the basis of the said allegations, he was removed from service.

3. The learned counsel for the petitioner would submit that without show cause notice or any enquiry, straightaway the order of removal from service was issued, which is in violation of the Service

Conduct Rules and also the established principles of natural justice.

4. Mr.K.Sathish Kumar, learned Standing counsel, appeared on behalf of the respondent Corporation. This Court found that not even a show cause notice was issued to the petitioner before taking extreme action of removing the petitioner from service. Nothing is referred to in the impugned communication as to whether any disciplinary proceedings were initiated against the petitioner before impugned order came to be issued.

5. It is needless to mention that even for a minor penalty, a show cause notice is mandatory. More so, in the cases where the respondents seek to impose major penalty of removal from service, the respondents are under legal obligation to follow the due process of law as mandated by the regulations governing service conditions of the petitioner and the manner in which the impugned order was passed without observing a semblance of the principles of the natural justice, would make the order *ex-facie* illegal and cannot be sustained at all under any circumstances.

6. Therefore, this Court is constrained to allow this Writ Petition

at the admission stage itself as no purpose would be served even if the Writ Petition is admitted and the impugned order is stayed and ultimately the Writ Petition would be pending before this Court for a considerable length of time. Therefore, in fitness of things, this Court allows the Writ Petition and the impugned order passed by the second respondent in Na.Ka.No.A1(RV)/110/2020 dated 28.05.2020 is hereby set aside and the respondents are at liberty to proceed against the petitioner by following the procedure contemplated in the service Rules as applicable to this petitioner. No costs. Consequently, connected miscellaneous petition is closed.

15.12.2020

Index : No
Internet : Yes

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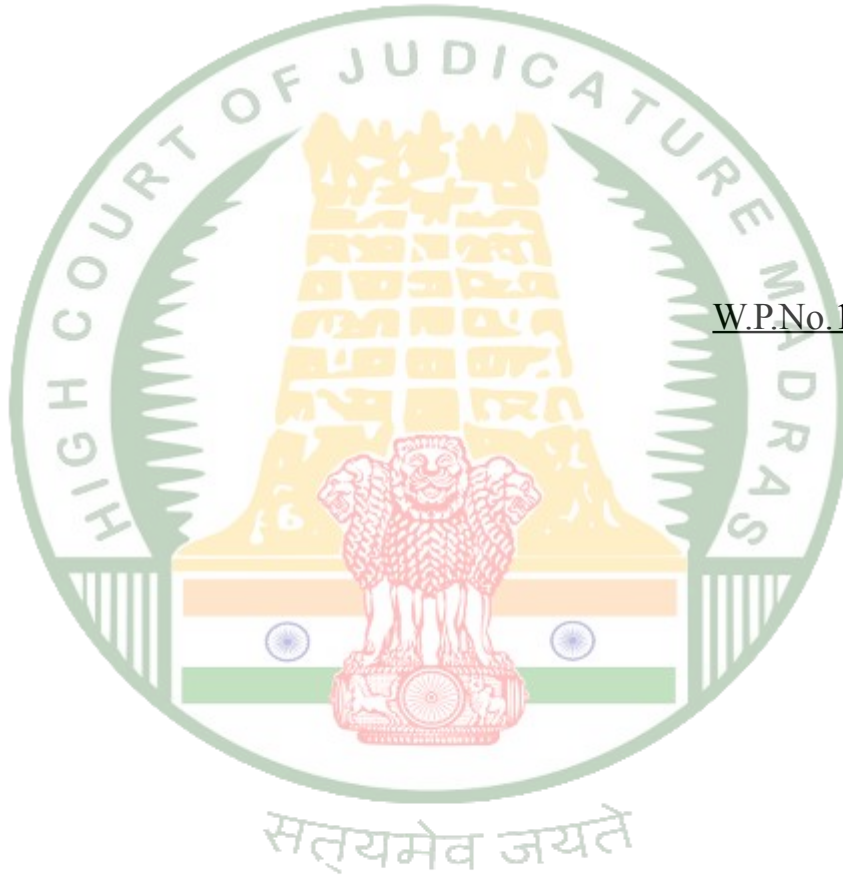
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