



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.20413 of 2013

WEB COPY

K.Sankar

... Petitioner

-Vs-

1.The Senior Regional Manager,
TASMAC,
No.100, Anna Nagar,
Madurai-20.

2.The Deputy Collector/District Manager,
TASMAC, Konam, Nagercoil,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Letter No.724/A/2013, dated 26.11.2013 on the file of the second respondent and quash the same as illegal and consequently to direct the second respondent to reinstate the petitioner with full wages for the period from 26.11.2013 till reinstatement within the time stipulated by this Court.

For Petitioner : M/s.Kanimozhi
for Mr.T.Lajapathi Roy

For Respondents : Mr.B.Jameel Arasu
Standing Counsel

ORDER

The order of termination, dated 26.11.2013, is sought to be quashed in the present writ petition and the consequential direction for reinstatement is also sought for.

2.The writ petitioner was appointed as Salesman in TASMAC, in proceedings, dated 26.11.2013. On account of registration of a criminal case in Crime No.329 of 2013 by the Department of Prohibition and Excise, the petitioner was terminated from service. This Court consider the grounds elaborately in W.P.(MD) No.37 of 2019 and the relevant paragraphs are extracted hereunder:-

7. This Court is of an opinion that any order affecting the rights of an employee must be issued at least by providing an opportunity to the official to defend his case in the manner



known to law. As far as the other Statutes are concerned, the respondents are bound to follow the procedures contemplated under the Act.

8. However, for imposing penalty and for imposing minor punishments, the procedure of issuing show-cause notice and receiving explanations/objections are to be followed by the authorities before taking a decision and passing orders.

9. On a perusal of the impugned order itself, it is clear that no such show-cause notice was issued to the writ petitioner.

10. The learned counsel appearing on behalf of the respondents is also unable to establish that an opportunity was provided to the writ petitioner before issuing the impugned order imposing penalty.

11. Under these circumstances, this Court is of an opinion that the writ petition is fit for remand and accordingly, the impugned order passed by the second respondent in memo dated 22.10.2018 is quashed. The respondents are directed to issue show cause notice, setting out all the details to the writ petitioner, within a period of four weeks from the date of receipt of a copy of this order. On receipt of the show cause notice from the respondents, the writ petitioner is directed to submit their explanations/objections, along with the documents, if any, within a period of two weeks from the date of receipt of the show cause notice and thereafter, the authorities competent shall consider the materials available on record as well as the explanations/objections submitted by the writ petitioner, take a decision and pass orders on merits and in accordance with law, within a period of eight weeks thereafter. It is made clear that in the event of imposing minor penalty, such a procedure can be adopted and if the authorities are of the opinion that the allegations warranting major penalty, then the procedure of enquiry and other procedures are to be followed in accordance with the Model Standing Orders.

3. In view of the above observations, the present writ petition is to be remanded. Accordingly, the impugned order passed by the second respondent in Letter No.724/A/2013, dated 26.11.2013, is quashed. The respondents are directed to issue appropriate proceedings setting out the details and facts, within a period of four weeks from the date of receipt of a copy of this



order. On receipt of the notice from the respondents, the writ petitioner is directed to submit his explanations/objections along with the documents, if any, within a period of two weeks from the date of receipt of the notice and thereafter, the authorities competent shall consider the materials available on record as well as the explanations/objections submitted by the writ petitioner and thereafter, take a decision and pass orders on merits and in accordance with law, within a period of twelve weeks thereafter. It is made clear that in the event of imposing minor penalty, such a procedure can be adopted and if the authorities are of the opinion that the allegations warranting major penalty, then the procedures contemplated under the Discipline and Appeal Rules for conducting enquiry is to be followed and thereafter, appropriate decision is to be taken, in accordance with law.

4. With these directions, the writ petition stands allowed in part. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

sjj

To

1. The Senior Regional Manager,
TASMAC,
No.100, Anna Nagar,
Madurai-20.

2. The Deputy Collector/District Manager,
TASMAC, Konam, Nagercoil,
Kanyakumari District.

+1 CC to Mr.T. LAJAPATHI ROY, Advocate (SR-19462[F] dated 08/10/2020)

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