



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2020

CORAM :

THE HONOURABLE **MR. JUSTICE M. S. RAMESH**

W.P. (MD) No. 2546 of 2020

and W.M.P. (MD) No. 2199 of 2020

M. Kathirvel Murugan

: Petitioner

Vs.

1. The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise (VI) Department,
Secretariat, Fort. St. George,
Chennai.
 2. The Managing Director,
Tamil Nadu State Marketing Corporation Ltd. (TASMAC),
4th Floor, CMDA Tower-II,
Gandhi Irwin Bridge Road,
Egmore, Chennai-600 008.
 3. The Senior Regional Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC), Anna Nagar,
Madurai 625 020.
 4. The General Manager,
Tamil Nadu Ex-Service Men's Corporation Ltd (TEXCO)
No. 2 West Monda Street, Srinagar Colony,
Saithapet, Chennai.
- : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents to regularize the service of the petitioner as Junior Assistant in the second respondent corporation from the date of initial appointment till retirement in the light of the G.O. Ms. No. 44 dated 12.07.2018 issued by the first respondent and consequently to pay all other monetary benefits on par with the other employees of the second respondent corporation.

For Petitioner : Mr. S. Malaikani,
for M/S. Veera Associates.



For R2 & R3 : Mr.K.Chellapandian,
Additional Advocate General
assisted by
Mr.B.Jameel Arasu, Standing Counsel.

For R4 : Mr.R.Vijaykumar

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ORDER

The case of the petitioner is that he has been serving under TASMAC for a considerable time and he is the Ex-Service Man, who has been engaged by the Tamil Nadu Ex-Service Men's Corporation Ltd, which has entered into an agreement with TASMAC for engaging members of TESCO on contract basis.

2.As such, the very foundation of the case of the petitioner that he is an employee of TASMAC is false. When the petitioner herein is not the direct employee of TASMAC, he cannot claim any right of regularization or any other right touching upon his service.

3.Incidentally, similarly placed persons, like the petitioner, had filed writ petitions before the Principal Bench on an identical grievance and the Principal Bench had dismissed the writ petition, vide order dated 20.01.2020, made in W.P.(MD)No.965 of 2020, on the ground that the appointment of these persons was pursuant to an agreement entered between TESCO and TASMAC, wherein their service period is determined and nature of their employment is purely contractual.

4.The Principal Bench had also placed reliance on the decision of the Hon'ble Supreme Court in the case of **GRIDCO Limited and another Vs. Sri Sadananda Doloi and others** reported in **2012 2 MLJ 998** for the purpose that the employment under contract basis cannot be subjected to Judicial review and the said decision has been followed by a Division Bench of this Court, in the case of **The Manager (Administration and Personnel) Vs. Dr.Kaushik Ghosh** reported in **2020 1 LW 97**.

5.In the light of the observations made in this order and also since the Principal Bench has rejected the claim of identically placed persons, this Court cannot and does not intend to take any contrary view. Accordingly this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

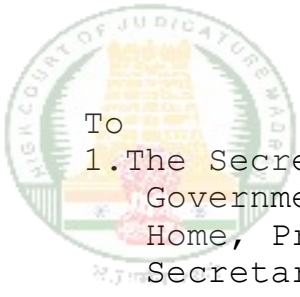
Sd/

Assistant Registrar

/True copy/

/ /2020

Sub Assistant Registrar



To

1.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise (VI) Department,
Secretariat, Fort.St.George, Chennai.

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2.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.(TASMAC),
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Gandhi Irwin Bridge Road,
Egmore, Chennai-600 008.

3.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC), Anna Nagar,
Madurai 625 020.

+1cc to M/s.Special Government Pleader,SR.No. 6591

W.P. (MD)No.2546 of 2020

gns

KK/SAR/24.02.2020/3P-5C