



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **11.12.2020**

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THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

W.P. (MD) No.5047 of 2020

and

W.M.P. (MD) No.4376 of 2020

WEB COPY

Elageswaran

... Petitioner

Vs

1. The Senior Regional Manager,
Trichy Region,
TASMAC Ltd.,
Trichy District.

2. The District Manager,
TASMAC Ltd.,
Thanjavur District,
Thanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the proceedings of the 2nd respondent made in Na.Ka.No.184/2020/A1 dated 01.02.2020 and quash the same.

For Petitioner : Mr.A.Arun Prasad

For Respondents : Mr.H.Arumugam
Standing Counsel

ORDER

Challenging the impugned order passed by the 2nd respondent made in Na.Ka.No.184/2020/A1, dated 01.02.2020, the present writ petition has been filed.

2.It is the case of the petitioner that he was working as Supervisor in the TASMAC shop No.8012 situated at Thanjavur, under the 2nd respondent. In the aforesaid TASMAC shop, totally 4 Salesmen and 2 Supervisors were working. When the 2nd respondent inspected the aforesaid TASMAC shop, he found that some of the liquor bottles were sold by one of the salesman over and above the MRP rate, which is in violation of rules of TASMAC Ltd., and therefore, vide impugned order, dated 01.02.2020, the petitioner was transferred to shop No.7823 along with penalty. Hence, the present writ petition.

3.The learned counsel appearing for the petitioner would submit that at the time of inspection, the petitioner was not in the said



shop, as he already left the shop to the bank for the purpose of depositing the previous day collection amount and therefore, the question of petitioner involving in the aforesaid MRP violation along with the other Salesman did not arise. He would further submit that without conducting an enquiry to explain the case of the petitioner, the 2nd respondent had passed the impugned order, dated 01.02.2020, which warrants interference of this Court and therefore, the learned counsel sought for quashing the impugned order, dated 01.02.2020.

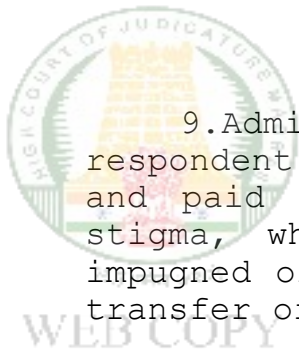
4. *Per contra*, Mr.H.Arumugam, learned Standing Counsel appearing for the respondents would submit that the Supervisors like the petitioner are also responsible for the MRP violation. He would further submit that in the case on hand, the MRP violation has been found twice in the aforesaid TASMACH shop, within a period of 6 months, where the petitioner was previously working and therefore, a necessity arose to transfer the petitioner to some other place for better administration and based on the same, the petitioner was transferred to some other place.

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

6. No doubt, the petitioner was working as Supervisor in the TASMACH shop No.8012, when the 2nd respondent inspected the aforesaid shop, where he found that some of the liquor bottles were sold by one of the salesman over and above the MRP rate. Further, the MRP violation has been found twice in the aforesaid shop within a period of 6 months and therefore, the petitioner was transferred to some other place for better administration, for which, the respondent has all right to do so.

7. However, the impugned transfer order, dated 01.02.2020 issued to the petitioner is a stigma, as if the petitioner also involved in the MRP violation, without conducting enquiry.

8. It is the collective responsibility of the Supervisor like the petitioner as well as the Salesmen, who are working in the TASMACH shops, for the MRP violation and there is a chance for the Salesmen to sell the liquor bottle at higher price and to pocket the excess amount, in which case, the Supervisor is bound to check the same properly. However, in such commission of offence, the respondents have to come to the conclusion, only after conducting enquiry. But, in the case on hand, no enquiry has been conducted to decide the involvement of the petitioner, before passing the impugned order, dated 01.02.2020. The fine amount was also not paid by the petitioner but the other salesman paid the fine amount without the petitioner's knowledge.



9. Admittedly, no enquiry was conducted, in which case, the respondent ought not to have mentioned the payment of fine imposed and paid in the impugned transfer order. It is nothing, but a stigma, which was imposed on the petitioner, by virtue of the impugned order. However, the respondent always empowers to pass the transfer orders for better administration.

10. In such view of the above, this Court is inclined to set aside the stigma imposed upon the petitioner in the impugned order, dated 01.02.2020 and accordingly, the writ petition stands allowed as prayed for by the petitioner. It is made clear that if the respondents are intending to fix the responsibility upon the petitioner for the aforesaid commission of MRP violation, after conducting the domestic enquiry, they are at liberty to proceed with the matter. Further, this order is not a bar for the respondent to issue any transfer order to the petitioner on the ground of administrative reasons, which he can do at any point of time. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1cc to Mr.H.Arumugam, Advcoate, SR.No.25359.

W.P. (MD) No.5047 of 2020

11.12.2020

KMK (CO)

CS (06.01.2021) 3P 2C