



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.5734 of 2020

and

W.M.P. (MD) .Nos.4994, 4996 and 4998 of 2020

WEB COPY

S.Shanmugaraj

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
Head Quarters,
4th Floor, CMDA Tower - 2,
Egmore, Chennai - 600 008.

2.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Madurai Division,
Madurai.

3.The District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the 1st respondent in his proceedings in Na.Ka.No.R-2/14589/2018 (Circular No.02/2019) dated 21.01.2019 and consequential order passed by the 3rd respondent in his proceedings in Na.Ka.A2/461/2020, dated 10.03.2020 and quash the same as illegal, arbitrary and violation of law and principles of natural justice.

For petitioner

: Mr.M.Jothibas

For respondent

: Mr.B.Jameel Arasu

ORDER

By consent of both the parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2. The learned counsel for the petitioner submitted that the petitioner has been working as a Salesman in TASMAL from 27.11.2003 and on 01.03.2020, the District Manager, TASMAL, Kanyakumari, has conducted a surprise inspection in the shop where the petitioner is working and obtained signature of the petitioner in a blank papers alleging that he sold the Beer bottle more than the Maximum Retail Price fixed for the same. It is the duty of



the official, who made surprise inspection, to prepare three copies of Mahazar and handover one copy to the Supervisor to maintain it in the shop and without following the said procedure, they obtained signature in the blank papers. He would further submit that by order dated 10.03.2020, the third respondent, without issuing any show cause notice and without conducting any enquiry, has imposed a sum of Rs.11,800/- as fine alleging misconduct and such impugned order has been passed based on a circular dated 21.01.2019. There is no service rule enacted in respect of the TASMAC employees. Hence, he has come up with this writ petition challenging the impugned order dated 10.03.2020 as well as the circular dated 21.01.2019.

3. Heard the learned counsel appearing for the respondents on the submission made by the learned counsel for the petitioner.

4. It is stated that the petitioner has been working as Salesman from 27.11.2003 onwards. A perusal of record shows that the impugned order dated 10.03.2020 has been passed without issuing show cause notice and without conducting any enquiry, which are the basic principles to be followed in a case of this nature. Since because there is no service rule for TASMAC employee, it cannot be taken that the respondents have power to pass any order without following the basic procedures or in violation of the principles of natural justice. As it is apparent that the 3rd respondent has passed the impugned order in violation of the principles of natural justice, this Court is inclined to set aside the impugned order and to remit the matter back to the file of the third respondent for passing order afresh after following due process of law.

5. In view of the above, the impugned order dated 10.03.2020 is set aside and the matter is remitted to the file of the third respondent for passing a fresh order, after following the due process of law.

6. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CRL.)

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/ /2020

Sub Assistant Registrar(CS)



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To

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Madurai Division,
Madurai.

3.The District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Thoothukudi District.

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-12468[F] dated
19/03/2020)

+1 CC to MR.B.JAMEEL ARASU, Advocate (SR-12788[F] dated
23/03/2020)

Order made in
W.P.(MD) No.5734 of 2020
19.03.2020

KM (26.05.2020) 3P 6C