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W.P.(MD)No.7335 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.07.2020**

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.7335 of 2020

and

W.M.P(MD)No.6784 of 2020

Arumugam

...Petitioner

-Vs-

The District Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC) Tirunelveli,
Tirunelveli District.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the respondent in Na.Ka.No.R6/834/2020, dated 02.05.2020 and quash the same.

For Petitioner : Mr.S.Sundarapandian

For Respondent : Mr.B.Jameel Arasu,
Standing Counsel

ORDER

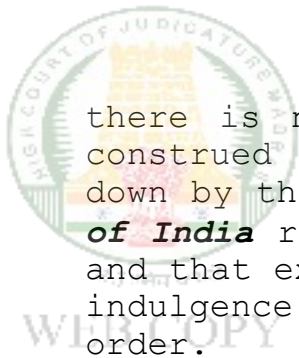
The prayer sought for in this writ petition is for a Writ of Certiorari, calling for the records relating to the impugned order passed by the respondent in Na.Ka.No.R6/834/2020, dated 02.05.2020 and quash the same.

2. Heard Mr.S.Sundarapandian, learned counsel appearing for the petitioner and Mr.B.Jameel Arasu, learned Standing Counsel appearing for the respondents.

3. The petitioner was working as Salesman in the TASMAC Shop No.10650 at Tirunelveli District, Palayamkottai Taluk, V.M.Chatram. While so, pursuant to the police case, where FIR was registered on 28.04.2020 that allegedly the petitioner and two others opened the TASMAC shop at the early morning at 3.00 O'Clock and illegally sold the IMFL, the petitioner along with others have been placed under suspension by the impugned order, dated 02.05.2020. Challenging the said suspension order, this writ petition has been filed.

4. The learned counsel appearing for the petitioner would submit that, from 02.05.2020 the petitioner has been placed under suspension, thereafter no disciplinary proceeding has been taken,

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there is no progress in the criminal case also, hence it can be construed as a prolonged suspension, which according to law laid down by the Hon'ble Supreme Court in **Ajay Kumar Choudhary Vs. Union of India** reported in **(2015) 7 SCC 291**, can be reviewed periodically and that exercise also since has not been done, the petitioner seeks indulgence of this Court to interfere with the impugned suspension order.

5. The learned Standing counsel appearing for the respondent would submit that, within a shortest possible time, the disciplinary proceedings would be completed by giving charge-memo to the petitioner and after conducting an enquiry and after giving an opportunity to give explanation to the petitioner, final order would be passed, therefore, till such time, the suspension order in the interest of justice need not be disturbed.

6. I have considered the rival submissions made by both sides and I have also perused the materials placed before this Court.

7. In view of the said stand taken by the respondent/TASMAC, this Court is of the view that, if the respondent at the earliest initiated the disciplinary proceedings and concluded after affording every reasoned opportunity to the petitioner, till such time the impugned order need not be disturbed. However, within the time if they do not complete the enquiry, suspension order cannot be permitted to stay for longer period as it would amount to prolonged suspension without conducting an enquiry.

8. In that view of the matter, this Court is inclined to dispose of this writ petition, with the following directions:

"that the respondent is hereby directed to initiate the disciplinary proceedings immediately, against the petitioner and in this regard charge-memo shall be served on the petitioner, within a period of two weeks from the date of receipt of a copy of this order and thereafter, after getting explanation, if they are not satisfied, enquiry can be conducted within a period of four weeks thereafter and final order shall be passed, within a period of two weeks thereafter, after getting further explanation, if any, from the petitioner. All together the disciplinary proceedings shall be concluded and final order shall be passed within a period of eight weeks from the date of receipt of a copy of this order.

9. It is made clear that within the said period if the disciplinary proceedings is not concluded and final order is not passed, for which no reason is attributable towards the petitioner, the impugned order of suspension shall stand rescinded and the petitioner shall be entitled to get the reinstatement.



10. With this directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

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/ /2020

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.

The District Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC) Tirunelveli,
Tirunelveli District.

Order made in
W.P.(MD)No.7335 of 2020

Dated:

28.07.2020

AP(13/08/2020) 3P 2C