



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.24758 of 2019

and

W.M.P. (MD) Nos.21362, 21365 & 21366 of 2019

A.Ferdinando

...Petitioner

Vs

The District Manager,
Tamilnadu State Marketing Corporation Limited,
(TASMAC),
Munneerpallam,
Tirunelveli,
Tirunelveli District.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order imposing penalty by the respondent dated 18.09.2019 in Na.Ka.No. R.1/516/2019 and the consequential order of relieving, dated 12.11.2019 in Na.Ka.No.R1/1840/2019 quash the same and consequently, direct the respondent to reinstate the petitioner into service.

For Petitioner : Mr.V.Karthikeyan
For Respondent : Mr.B.Jameel Arasu
Standing Counsel

ORDER

Challenging the impugned order of penalty, dated 18.09.2019 and the consequential impugned order of suspension, dated 12.11.2019 passed by the respondent, the present writ petition has been filed.

2.It is the grievance of the petitioner that subsequent to the order of penalty, dated 18.09.2019, the respondent, without affording an opportunity of personal hearing, suspended the petitioner from service for the commission of MRP violation, vide impugned order, dated 12.11.2019, which is in violation of the principles of natural justice. Though no notice was served upon the petitioner before passing the impugned order of suspension, dated 12.11.2019, the petitioner has given his explanation on 25.09.2019 to the respondent, wherein, he has denied all the allegations made by the respondent.



3.In reply, Mr.B.Jameel Arasu, learned Standing Counsel appearing for the respondent would submit that the Managing Director of TASMAC has issued several circulars pertaining to the action to be taken as against the persons, who are selling the liquor bottles at excess rate than the rate fixed by the Government, vide proceedings dated 22.01.2019. By following the same, a show cause notice has already been sent to the petitioner by the respondent on 09.11.2019, demanding the petitioner to pay a sum of Rs.11,800/- as penalty within a period of 7 days. However, the petitioner did not comply with the show cause notice, dated 09.11.2019 and therefore, the petitioner was suspended from service, vide order dated 12.11.2019.

4.On a perusal of the reply given by the petitioner, dated 25.09.2019, it appears that the same has nothing to do with the impugned order of penalty passed by the respondent, dated 18.09.2019, which was passed subsequent to the denial of the petitioner. Further, it appears that subsequent to the show cause notice, dated 09.11.2019, the respondent had passed the impugned order of suspension, dated 12.11.2019.

5.Subsequent to the impugned order of penalty, dated 18.09.2019, the respondent could have waited some more time to get the reply for the show cause notice, dated 09.11.2019 from the petitioner, since he was provided 7 days time to give the reply. However, the respondent, vide order dated 12.11.2019, suspended the petitioner from service, without providing sufficient opportunity to the petitioner.

6.In the light of the above, this Court has no hesitation to quash the impugned order dated 18.09.2019 and 12.11.2019 passed by the respondent and accordingly, the same is hereby quashed. It is made clear that if the respondents are intending to take action as against the petitioner for the commission of MRP violation, they are at liberty to proceed with the matter, after issuing show cause notice to the petitioner afresh.

7.In the result, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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.

+1 CC to Mr.V.PERUMAL, Advocate SR.No. 25342

W.P. (MD) No.24758 of 2019
11.12.2020

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