

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.2358 and 2359 of 2021

P.Velu

... Petitioner in
W.P.No.2358 of 2021

K.Radhakrishnan

... Petitioner in
W.P.No.2359 of 2021

vs.

1. Tamil Nadu State Marketing Corporation (TASMAC),
rep. By its Senior Regional Manager,
Trichy Region,
Old Collector Office Campus,
Trichy.
2. The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Villupuram - 605 602.

... Respondents in both W.Ps.

Common Prayer:-

Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents to consider the Petitioners' representation dated 10.12.2020 making the request to complete the enquiry and revoke the order of suspension in accordance with law and on its merits.

For Petitioner in both W.Ps. : Mr.Balan Haridas

For Respondents in both W.Ps. : Mr.K.Sathish Kumar

COMMON ORDER

Petitioners have come up with the present Writ Petitions seeking a direction to the Respondents to consider their representations dated 10.12.2020 seeking to complete the enquiry and revoke the order of suspension, in accordance with law and on its merits.

2. As the issue involved in both Writ Petitions is one and the same, cases are taken up for disposal by a common order.

3. Learned counsel for the Petitioners submitted that, both the Petitioners have been falsely implicated in a case, consequent to which, they were placed under suspension on 15.04.2020. For revocation of suspension, Petitioners made representations to the 2nd Respondent on 10.12.2020 and also requested the Respondents to pay Subsistence Allowance. However, the same did not evoke any response.

4. Mr.K.Sathish Kumar, learned Standing Counsel, who takes notice for the Respondents submitted that, serious charges have been made against the Petitioners and that, the factum of conclusion of the case filed against them needs to be ascertained.

5. Considering the facts and circumstances of this case, this Court is of the view that, if the Petitioners are under suspension beyond the required period, it is open to the Respondents to consider their request after payment of arrears of subsistence allowance, and review the same in the light of the judgments of the Honourable Supreme Court in the case of State of Tamilnadu vs. Promod Kumar IPS and another reported in AIR 2018 SC 4060 and in the case of Ajay Kumar Choudhary vs. Union of India reported in 2015 (3) CTC 119.

6. It is needless to mention that, if any departmental proceedings have been commenced or initiated, it is open to the Respondents to proceed with the same so as to bring the proceedings to a logical end, de hors pendency of the criminal case, as both criminal proceedings as well as departmental proceedings can go on simultaneously and the criminal case should be proved beyond reasonable doubt by adducing oral and documentary evidence, whereas, charges in the departmental proceedings should be established on the basis of preponderance of probability. If criminal proceedings are not initiated or concluded within one year from the date of F.I.R., there is no hindrance on the part of the employer to proceed with the departmental proceedings on a day to-day basis and bring the issue to a logical end at the earliest point of time and the

employee will have to participate in the departmental proceedings and shall not attempt to adopt dilatory tactics.

With the above observation, these Writ Petitions are disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

(aeb)

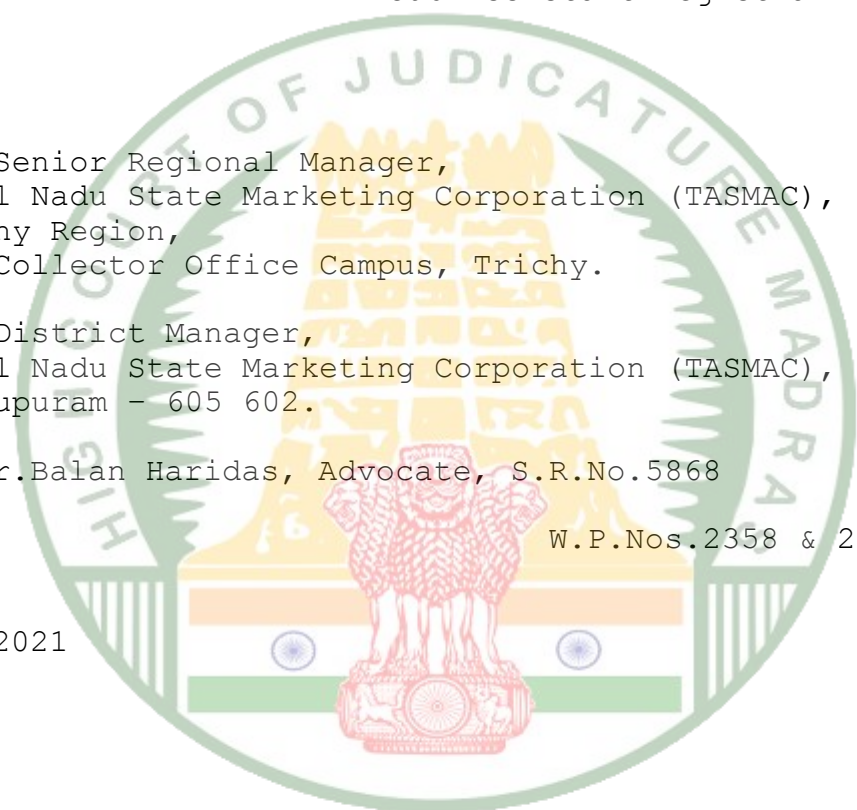
To:

1. The Senior Regional Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Trichy Region,
Old Collector Office Campus, Trichy.
2. The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Villupuram - 605 602.

+1cc to Mr.Balan Haridas, Advocate, S.R.No.5868

W.P.Nos.2358 & 2359 of 2021

GPL(CO)
CS/29/03/2021

The seal of the High Court of Madras is a circular emblem. It features a central golden temple gopuram (tower) with a red lion standing in front of it. The lion is facing forward and is flanked by two smaller lions. The entire emblem is set against a green background with a white border. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular path around the central emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

WEB COPY