

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 10.02.2021

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P. No.2860 of 2021
and
W.MP.Nos.3195 & 3196 of 2021

P.Muthusamy

... Petitioner

Vs.

The Tamil Nadu State Marketing
Corporation Limited,
(TASMAC), Rep. By its
District Manager II,
Tiruppur, Tiruppur District.

... Respondent

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, calling for the records of the District Manager, TASMAC, Tiruppur District, the respondent herein passed in Na.Ka.933/2015/A, dated 14.05.2015 and to quash the same, directing the respondent to reinstate the petitioner in service with effect from the date of dismissal viz 14.05.2015 with continuity of service, backwages and other attendant benefits till the petitioner is reinstated in service.

For Petitioner : No appearance.

ORDER

The petitioner has come forward with the present writ petition praying to call for the records of the District Manager, TASMAC, Tiruppur District, the respondent herein passed in Na.Ka.933/2015/A, dated 14.05.2015 and to quash the same, directing the respondent to reinstate the petitioner in service with effect from the date of dismissal viz 14.05.2015 with continuity of service, backwages and other attendant benefits till the petitioner is reinstated in service.

2. There is no appearance for both sides, though the learned counsel has entered appearance on behalf of the parties and their names were shown in the cause list. Hence this Court decides to dispose of the matter on merits.

3.The petitioner has diverged away from his duty and dismissed from service and the petitioner has been permitted to file an appeal within 30 days from the date of receipt of order, accordingly the petitioner has preferred the appeal, however no order has been passed. The Original Authority has passed an order 14.10.2015 and the petitioner submitted that he has already filed a WP before this court in W.P.No.29656 of 2011 and this Court by its order dated 04.12.2012 directed the respondents to consider the case of the petitioner on merits in accordance with law.

4.Pursuant to the order dated 04.12.2012 in WP No.29656 of 2011 the petitioner was given due opportunity and charges have been proved in a full pledged inquiry and he was dismissed from service by order dated 14.05.2015 and the petitioner was permitted to prefer an appeal within a period of 30 days. The petitioner has submitted that he has preferred an appeal on 01.02.2015 and subsequently on so.

5.Admittedly there is no evidence to show that the petitioner has preferred an appeal. Even assuming for the sake of arguments there is a provision for appeal, ignoring the appeal provision the petitioner is entitled to file an Industrial dispute questioning the dismissal from service. In many cases the appeal remedy will be only for an employment validity and keeping the appeal for many years before the appellate authority may confirm the order. But in the present case on hand, the petitioner who got the order in this case in 2012 but placed a dismissal order dated 14.05.2015 which means after 3 years time from the date of this Court order the original authority has passed the order.

6.As stated supra there is no proof for dismissing of appeal and no bar to bifurcate the appellate authority to labour forum. Since the petitioner has not done so, and the petitioner has been dismissed from service. It is needless to mention that it is open to the petition to challenge the dismissal order in the manner known to law.

7.No doubt, the Industrial Dispute Act prescribed in 3 years raised the dispute. In this case the petitioner is said to have filed an appeal on 01.06.2015 and 14.04.2016. There is no reason why he did not approach this Court much earlier. It appears that in order to gain time as he is out of time limit prescribed in the alternative remedy, prays for appeal to be disposed of within the time list. The petitioner placed a dismissal order and several years gone back there is no need to consider the representation by the respondent.

8.Hence no merits in the present case, this Writ petition stands dismissed on devoid of merits. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

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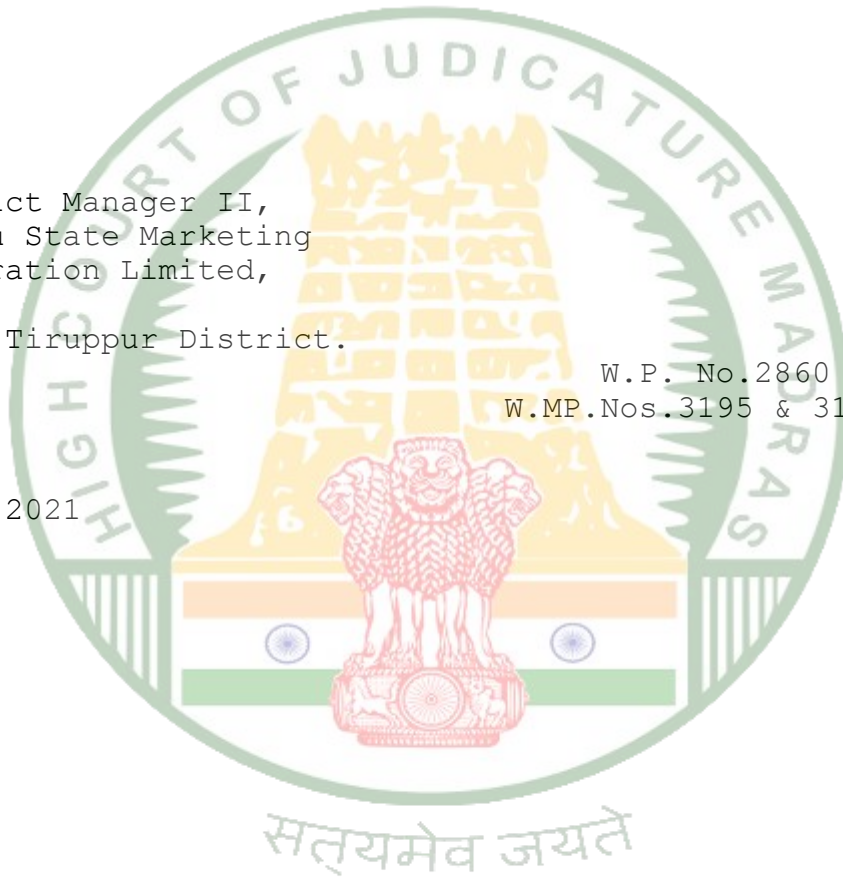
Sub-Assistant Registrar

jrs

To
The District Manager II,
Tamil Nadu State Marketing
Corporation Limited,
(TASMAC),
Tiruppur, Tiruppur District.

W.P. No.2860 of 2021 and
W.MP.Nos.3195 & 3196 of 2021

PL (CO)
KKN 27.04.2021



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