

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2021

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.14332 & 16637 of 2020
(Heard through VC)

W.P.No.14332 of 2020

N.Kathirmalai ... Petitioner in WP No.14332 of 2020

-vs-

1.The Managing Director,
Tasmac Limited,
Egmore, Chennai 600 008.

2.The District Manager,
Tasmac Limited,
Vellore District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to dispose petitioner's representation dated 18.03.2020.

For Petitioner : Mr.D.Bharathy

For Respondents: Mr.Johnkennady

W.P.No.16637 of 2020

V.Loganathan

... Petitioner in WP.No.16637/2020

-vs-

1.The Secretary to Government,
Home and Excise Department,
Fort St. George,
Secretariat,
Chennai 600 009.

2.The Managing Director,
Tamil Nadu State Marketing
Corporation Ltd., (TASMAC)
4th Floor, CMDA building, Tower II
Chennai - 600 008.

3.The General Manager,
Texco,
No.2, West Mada Street,
Sri Nagar, Colony,
Saidapet,
Chennai -15.

4.The District Manager,
Tamil Nadu State Marketing
Corporation Ltd., (TASMAC)
Namakkal 637 003.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 14.03.2020.

For Petitioner : Mr.M.Manimaran

For Respondents: Mrs.P.Rajalakshmi, AGP for R1
:Mr.S.Sivashanmugam for R3
:Mr.Johnkennady, ... for RR2 & 4

C O M M O N O R D E R

These Writ Petitions have been filed for a direction to the respondents to consider the petitioners' representations dated 14.03.2020 & 18.03.2020 respectively.

2. Mr. Johnkennady, learned counsel takes notice on behalf of the respondents (TASMAC) in both Writ Petitions. Mrs.P.Rajalakshmi, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr.S.Sivashanmugam take notices for R3 / TEXCO in W.P.No.16637 of 2020.

3. By consent of both parties, these writ petitions are taken up for final disposal at the admission stage itself by way of this common order, as the relief sought for in both the writ petitions are similar in nature.

4. According to the petitioners, they are Ex-Servicemen, who are registered with the Tamil Nadu Ex-Servicemen's Corporation Limited (in short 'TEXCO') / R3 and they have been employed as Junior Assistants based on the agreement entered into with the respective respondents in TASMAC for a long period of time. All of a sudden, their services had been disengaged and therefore, they made representations on 14.03.2020 & 18.03.2020 respectively to the respondents for reinstatement.

5. The learned counsel appearing for TASMC contended that they were the employees of TEXCO and they were never employed at TASMAL. Though the issue whether the petitioners were employed by TEXCO or TASMAL cannot be gone into in this Writ Petitions, it is an admitted fact that they were appointed, pursuant to an agreement entered into with the respondents, wherein, the service period of the petitioners has been clearly fixed. Since the agreement is purely with respect to a contractual employment governed by it, at the end of the agreement, the petitioners cannot claim any right over the employment, in view of the fact it is not a sanctioned post and they have not been taken as regular employees.

6. Heard the submissions made by the learned counsel on either side and also perused the materials available on record.

7. In the present case, there was a contractual service in existence. The question whether it is a 'contract of service' or 'contract for service' needs to be decided by the Appropriate Forum. Therefore, the relief sought for by the petitioners cannot be granted. It is open to the petitioners to approach the Forum under the Industrial Dispute Act for necessary relief. A time limit of three years is prescribed for raising a dispute under Section 2-A of the Industrial Disputes Act and the amended provisions that came into force in September, 2010. However, the limitation will not be applicable, if the dispute is raised under Section 10 of the I.D. Act and the espousal should be through Union. It is open to the Petitioners to avail the remedy in accordance with law.

8. With the above observation, these Writ Petitions are disposed of accordingly. No costs. Consequently, the connected Miscellaneous Petitions are closed.

sd/-

Assistant Registrar(CS-VIII)

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Sub Assistant Registrar

jrs/ar

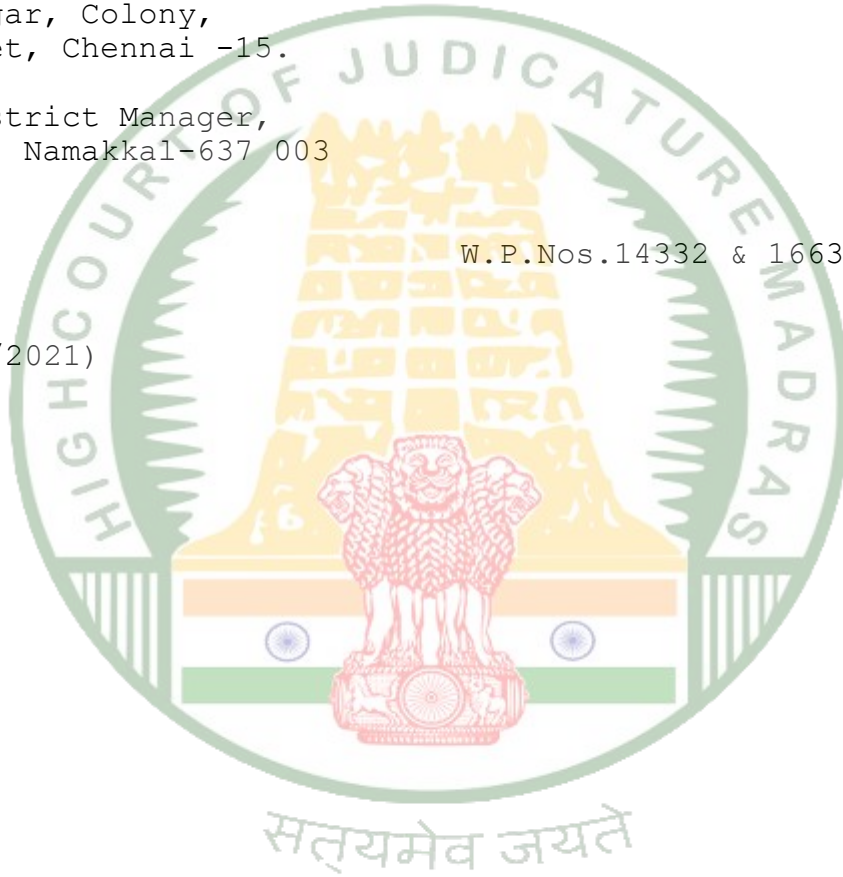
To:

1. The Managing Director,
TASMAL Limited,
4th Floor, CMDA Building, Tower-II,
Chennai - 600 008.

2. The District Manager,
TASMAC Limited,
Vellore District.
3. The Secretary to Government,
Home and Excise Department,
Fort St. George, Secretariat,
Chennai 600 009.
4. The General Manager,
TEXCO,
No.2, West Mada Street,
Sri Nagar, Colony,
Saidapet, Chennai -15.
5. The District Manager,
TASMAC, Namakkal-637 003

W.P.Nos.14332 & 16637 of 2020

GMV (08/07/2021)



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