



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 20.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P(MD)Nos.20055 to 20059 of 2021

and

WMP(MD)No.16760 to 16764 of 2021

WEB COPY

1.G.Bhaskar	... Petitioner in WP(MD)No. 20055/ 2021
2.P.Babu	... Petitioner in WP(MD)No. 20056/ 2021
3.L.Maria Selvan	... Petitioner in WP(MD)No. 20057/ 2021
4.G.Manikandan	... Petitioner in WP(MD)No. 20058/ 2021
5.D.Dharma Raj	... Petitioner in WP(MD)No. 20059/ 2021

Vs

1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAC)
Plot No.100, Anna Nagar,
Madurai-20.

2.The District Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
TASMAC IMFS Depot,
Bethal Nager, Chenbagaramanputhur,
Aralvaimozhi, Kanyakumari District. ... Respondents in all WPs

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the records pertaining to the impugned order passed by the second respondent herein vide Na.Ka.No.A1/4027/2019, dated 22.10.2021 and quash the same as illegal

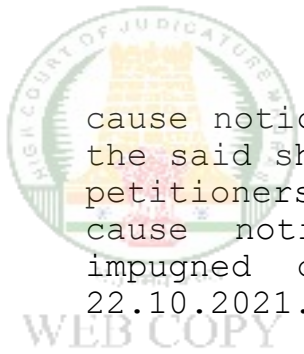
For Petitioner : Mr.Brijesh Kishore.B (in all WPs)
For Respondents : Mr.B.Jameel Arasu (in all WPs)

COMMON ORDER

These writ petitions are filed as against the charge memo issued on the petitioners by the second respondent the District Manager (TASMAC), Kanyakumari.

2.Since the impugned order in all these writ petitions is one and the same, these writ petitions are disposed of by way of this common order.

3.The petitioners are working in the TASMAC Shop No.4819 in Kanyakumari District as Supervisor, Salesman and Assistant Salesman. While so the petitioners were issued with a show



cause notice on 13.07.2020 that when the District Manager inspected the said shop on 19.06.2020, he found certain irregularities and the petitioners gave their explanation on 27.07.2020 to the said show cause notice. But without considering their explanation, the impugned charge memo has been issued to the petitioners on 22.10.2021.

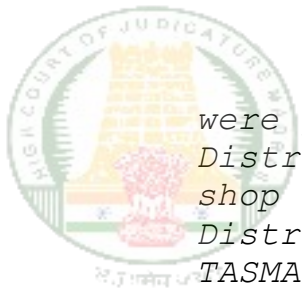
4.The learned Counsel for the petitioners by referring paragraph No.5 of the affidavit submits that the impugned charge memo was issued for not meeting out the extraneous demand of the second respondent. He has also produced the copy of the attendance register for the particular date stating that there is no entry or recording, for such an inspection. Therefore, the petitioners allege that the impugned charge memo has been issued with *mala fide* intention for extraneous demand. The charge memo has been issued nearly after a period of 15 months from the alleged incident.

5.The learned Standing Counsel appearing for the respondents by referring paragraph No.8 of the counter affidavit submits that one of the petitioners, namely, Bhaskar, who is working as Supervisor in the TASMAC Shop is also the President of TASMAC Employees Union of Tirunelveli District. Further during the inspection of the second respondent, certain irregularities were found in the said TASMAC shop. But due to COVID - 19 pandemic situation and due to the transfer of the higher officials, the departmental proceedings could not be initiated immediately. There is no other intention in initiating disciplinary proceedings as against the petitioners.

6.Heard the learned Counsel on either side and perused the materials on record.

7.The petitioners are employees in TASMAC Shop No.4819 in Kanyakumari District. They have been issued with the impugned charge memo that they have involved in certain irregularities. Challenging the same the petitioners are before this Court. The petitioners have taken a specific plea in paragraph No.5 of the affidavit, which reads as follows:

"5.I respectfully state that the said District Manager TASMAC Tirunelveli District namely Mr.Sam Sundar assumed charge as District Manager in the office of the 2nd respondent too. Thereafter he used to inspect all the TASMAC shops under the control of the 2nd respondent along with one Supervisor and Driver in the name of enquiry and prepare false report stating some reasons in said shop and demanded the TASMAC shop staff to give him money for every sale of Rs.1,00,000/-, Rs.5,000/- to be paid him per day. Further he insisted the TASMAC shop staff to sell the liquor at high price other than the real price to compensate the same. Therefore, the TASMAC employees



were put to mental agony. Further on 18.09.2021 the said District Manager along with his persons came to TASMAC shop No.4880 situated in Monday Market in Kanyakumari District in the name of the inspection and insisted the TASMAC shop staff to pay money. Therefore, on behalf of all TASMAC employees, a detailed representation was made before the District Collector, Kanyakumari District on 29.09.2021 in person requesting him to take action in this regard and the same was published in Malai Murasu daily Newspaper dated 20.09.2021 and also in Dinakaran Daily Newspaper dated 21.09.2021."

8.The petitioners have made a specific allegation that the second respondent had demanded Rs.5,000/- for sale of every Rupees one lakh and since it was not meted out, they have been slapped with the impugned charge memo. Though the respondents filed a counter affidavit, there is no specific answer in it, to the above said allegations made by the petitioners. Further perusal of the copy of the attendance register produced by the petitioners shows that there is no whisper that there was any inspection on that particular date.

9.It is seen that an inspection was conducted on 19.06.2020 in the petitioners' TASMAC shop, the petitioners were issued show cause notice on 13.07.2020 calling for their explanation alleging certain irregularities in the TASMAC Shop, the petitioners gave reply on 27.07.2020 and the present impugned charge memo has been issued on 22.10.2021. The respondents have not chosen to issue the charge memo for a long period of 13 months, after the petitioners offered their explanation. The respondents cites Covid-19 pandemic and the transfer of the higher officials, as reasons for the delay. Such reasons are not acceptable, when coupled with the specific allegation of the petitioners that the petitioners were demanded to pay a sum of Rs.5,000/- for every sale of one lakh and non denial of the same by respondents.

10.In the light of the above discussion, these writ petitions are allowed and the impugned order passed by the second respondent is hereby quashed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

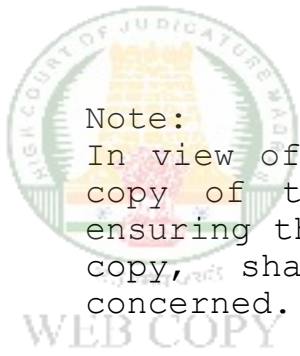
Assistant Registrar (RECORDS)

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/ /2022

Sub Assistant Registrar(CS)

dsk



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.

To

- 1.The Senior Regional Manager,
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Plot No.100, Anna Nagar,
Madurai-20.
 - 2.The District Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
TASMAC IMFS Depot,
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Aralvaimozhi, Kanyakumari District.
- +1 CC to M/s.B.BRIJESH KISHORE, Advocate (SR-39790[F] dated 21/12/2021)
+1 CC to M/s.SPL.GP (SR-39706[F] dated 21/12/2021)

**W.P(MD)No.20055 to 20059 of 2021
20.12.2021**

NSN(CO)
SB(24.01.2022) 4P 5C