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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.7888 of 2010

R.Munusamy
Petitioner

...

Vs.

1. Senior Regional manager
TASMAC, 4th Floor
L.L.A.Building, No.735 Anna Salai
Chennai - 600 021.

2. The District Manager
TASMAC
B-4 Ambattur Industrial Estate
Chennai - 600 058.

...

Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records relating to the order in Proc.Se.Mu.No.A1/10/29/2008 dated 23.04.2008 passed by the second respondent herein and the consequential order passed in Proc.Se.Mu.No.2445/A3/09 dated 26.02.2010 passed by the first respondent herein and quash the same and further direct the respondents to reinstate the petitioner with all back wages, continuity of service and all other consequential benefits.

For the Petitioner : No appearance

For the Respondents : Mr.Arumugarajan
For respondents 1 & 2

ORDER



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This writ petition has been filed by the petitioner, who was working as a Bar -Tender under the respondents, challenging the order dated 23.04.2008 passed by the second respondent imposing punishment of removal from service and the order of the first respondent by order dated 26.02.2010, confirming the order of the second respondent.

2. The primary contention of the petitioner is two fold. Once the impugned order of punishment is passed on specific charges, it ought to have been passed only after following the detailed procedure of framing of charges, issuing charge memo, calling for explanation, conducting departmental enquiry, giving an opportunity of hearing to the petitioner. However, without following the detailed procedure, the impugned order has been passed based on the inspection report and the informal enquiry report.

3. That apart, it is the second submission of the petitioner that, on the very same set of facts, co-delinquents were imposed only a fine and thus, they were given lighter punishment. The petitioner's case is exactly as that of the co-delinquents. In fact, it is his contention that he being a Bar Tender, his liability is even lesser than that of the co-delinquents.

4. Per contra, learned counsel appearing on behalf of the respondents would submit that both the above said aspects are only technical objections and for that, straight away the relief of reinstatement into service cannot be granted. However, in the event of this Court coming to the conclusion that there is any procedural lapse or non-consideration of the petitioner on par with the co-delinquents, the matter may be remitted back to the respondents for consideration afresh.

5. I have perused the records and given my consideration to the submissions made by learned counsel for the respondents.

6. As rightly pointed out by the petitioner, in ground (c) of the affidavit filed in support of the writ petition, once an employee is removed from service as a punishment, it is for the respondents to issue a charge memo and conduct a detailed enquiry. Without doing so, imposition of punishment of removal from service is incorrect in law.

7. The said position has already been made clear in respect of the respondent themselves in the case of V.Lakshmanakumar v. The District Manager, TASMAC Ltd., Madurai



[2006 1 CTC 660].

8. That apart, the petitioner claims parity with that of the co-delinquents. However, this Court cannot give any positive finding as to parity with co-delinquents in the matter of punishment at this stage, as it is for the respondents to consider afresh.

9. In view of the above, the writ petition is allowed in the following terms:

(i) The impugned orders dated 23.04.2008 and 26.02.2010 are set aside and the petitioner will be entitled to be reinstated into service with continuity of service, however without back wages.

(ii) However, it will be open for the respondents to continue the disciplinary enquiry afresh from the stage of issue of charge memo and pass orders in accordance with law.

10. There will be no order as to costs.

SD/-
ASSISTANT

REGISTRAR

// TRUE COPY //

SUB

ASSISTANT REGISTRAR

drm
To:

1. The Senior Regional manager,
TASMAC, 4th Floor,
L.L.A. Building, No.735 Anna Salai,
Chennai - 600 021.
2. The District Manager,
TASMAC,
B-4 Ambattur Industrial Estate,
Chennai - 600 058.

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AJS [CO]

SRG 02/05/2022

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