



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.7780, 7786 of 2022 and
WMP No.7799, 7801, 7803, 7809, 7812 of 2022

U.Mutharasan ...Petitioner in W.P.7780 /2022

G.Devidayal Pillai ... Petitioner in W.P.7786/2022

vs.

The District Manager,
Tamil Nadu State Marketing Corporation,
Thirubhuvanam, Nagapattinam District,
Nagapattinam 612 001. ... Respondent in both writ ptns.

Prayer in both writ petitions: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records from the respondent relating to the order bearing Na.Ka.No.808/2021/A1, dated 24.02.2022 dismissing the petitioner from service with effect from 04.10.2021 and quash the same and consequently, direct the respondent to reinstate the petitioner in service with continuity of service and back wages and other attendant benefits.

In both writ petitions

For Petitioner : Mr.S.Ayyathurai

For Respondent : Mr.N.Damodaran

COMMON ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. Both the writ petitions have been filed seeking to issue a Writ of Certiorarified Mandamus quashing the impugned dismissal orders dated 24.02.2022 and consequently, direct the respondent to reinstate the petitioners in service with continuity of service and back wages and other attendant benefits.

3. The facts and circumstances of the case and the issues involved in the writ petitions are one and the same and hence,



this court passes the common order.

4. The brief case of the petitioners is as follows:

The respondents had worked in the respondent Corporation as salesman and they were suspended vide order dated 04.10.2021. Challenging the suspension order, W.P.No.24441 of 2021 was filed and is pending before this court. Thereafter, show cause notice was issued and the petitioners gave representation to the respondent denying the allegations. However, enquiry officer was appointed and without giving any opportunity to the petitioners, the enquiry was concluded. Thereafter, the respondent passed the impugned dismissal order. Hence this writ petition.

5. The learned counsel appearing for the petitioner submitted that the enquiry was not conducted fairly and properly and in accordance with the principles of natural justice and hence, the impugned punishment of dismissal from service passed against the petitioners are liable to be quashed and the respondent may be directed to reinstate the petitioners in service and to pay the back wages.

6. It is to be noted that the impugned dismissal order was passed against the petitioners on 24.02.2022 and there existing a remedy to file Appeal before the Appellate Authority. In the impugned order itself it is clearly stated that, if the petitioners are aggrieved by the dismissal order, they shall make an Appeal within 30 days before the Senior Divisional Manager, Tamil Nadu State Marketing Corporation, Trichy. But without making any such Appeal, the petitioners have filed the writ petitions before this court. Further there is no substantial materials before this court to enforce the Article 226 of the Constitution of India.

7. At this juncture, the learned counsel appearing for the petitioner submitted that liberty may be granted to the petitioners to make Appeal before the Appellate Authority. He further brought to the notice of this court that the petitioners were not paid Subsistence Allowance during the suspension period and hence, the respondent may be directed to pay the arrears of Subsistence Allowance during the suspension period, by considering the request of the petitioners.

8. The learned counsel appearing for the respondent Corporation submitted that, if the petitioners made Appeal before the Appellate Authority, the same will be considered and appropriate orders will be passed in accordance with law. Further, Subsistence Allowance will be paid to the petitioners, during the suspension period, if they made request.



9. In view of the above submissions, this court passed the following order.

i) The petitioners are directed to prefer an Appeal before the Appellate Authority, within two weeks from the date of receipt of a copy of this order.

ii) If any such Appeal is received, the Appellate Authority is directed to consider the same and pass orders in accordance with law, as expeditiously as possible, taking into account the fact that, now the petitioners are being out of employment.

iii) If any request is made by the petitioners for payment of Subsistence Allowance, the respondent is directed to pay Subsistence Allowance, in accordance with Rules, within a period of six weeks from the date of receipt of request made by the petitioners.

10. With the above observations, this writ petitions are dismissed. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

mst

To

The District Manager,
Tamil Nadu State Marketing Corporation,
Thirubhuvanam, Nagapattinam District,
Nagapattinam 612 001

+2cc to Mr.S.Ayyathurai, Advocate, S.R.No.22173 & 2274

W.P.No.7780, 7786 of 2022

MG(CO)
SB(06/04/2022)