



WEB COPY

W.P.No. 13531 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 13531 of 2019

S. Parimalam

... Petitioner

Vs

1. The Managing Director,
Tasmac, Egmore,
Chennai – 600008.

2. The Senior Regional Manager,
Tasmac,
Coimbatore.

3. The District Manager,
Deputy Collector,
Tasmac, Erode District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the first respondent in his proceedings No. Na.Ka.R1/22874/2016 dated 25.05.2018 and quash the same and further directing the respondents to reinstate the petitioner in service with all benefit.

For Petitioner : Mrs. Parthasarathy

For Respondents : Mr. M. Sekar

ORDER



The order of termination, terminating the temporary services of the writ petitioner, is under challenge in the present writ petition.

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2. The petitioner was appointed as Bar Attender in Shop No. 3682 at Sathiyamangalam TASMACH shop on contract basis in Erode. He was initially appointed on a consolidated pay salary of Rs.1500/- per month. Subsequently, the consolidated pay salary was enhanced to Rs.7,000/-. While so, the petitioner remained unauthorisedly absent. Thus, a charge memo was issued to him and enquiry was conducted. The disciplinary authority afforded an opportunity to the writ petitioner to defend his case. The petitioner participated in the process of enquiry. Based on the findings of the inquiry officer in his report, the authority imposed the penalty of removal from service. The petitioner preferred an appeal and revision and the same were rejected by the appellate authority and revisional authority.

3. The learned counsel for the petitioner mainly contended that second show cause notice was not issued to the writ petitioner. However, perusal of the order impugned would reveal that the second show cause notice was issued to the writ petitioner and the petitioner has given his explanation. However, the petitioner had not submitted any further objection on the



inquiry report and therefore, the competent authorities passed the final orders.

Thus the authority competent had complied with the the rules of natural justice.

4. The allegation against the writ petitioner was unauthorised absence and there was no other allegation of misappropriation or illegality. However, the petitioner was appointed as a temporary employee on contract basis and was receiving a consolidated pay salary. Therefore, this Court is of the opinion that the order impugned was passed by following the procedure as contemplated and in compliance with the rules of natural justice. However, imposing a penalty of removal from service for unauthorized absence is liable to be quashed, since the petitioner was not a habitual unauthorized absentee.

5. Learned counsel for the petitioner states that the petitioner remained absent on account of an accident met by him and he underwent treatment. Such a reason ought to have been considered by the competent authorities. Normally, unauthorized absence if explained by the employee and if the authorities found that the reason is genuine, then imposing major penalty is to be avoided.



6. However, in the present case, the petitioner was a temporary contract employee and was receiving consolidated pay salary. Further, disciplinary proceedings were conducted in accordance with the procedure as contemplated. This being the factum, the case of the writ petitioner needs to be considered for re-engagement as temporary employee, if vacancy arises in the respondent corporation.

7. In view of the above facts and circumstances, the respondents shall consider the case of the writ petitioner for his re-appointment as temporary contract employee, if any need arises in the Corporation.

8. With the above observations, the writ petition stands disposed of.
No costs.

01.12.2022

Index : Yes / No
Speaking order / Non-Speaking order
mrn

To
1. The Managing Director,
Tasmac, Egmore,
Chennai – 600008.



WEB COPY

W.P.No. 13531 of 20



2. The Senior Regional Manager,
Tasmac,
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S.M.SUBRAMANIAM, J.

mrn



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