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W.P.No.15253 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.15253 of 2018
and
W.M.P.No.18082 of 2018
and
W.M.P.No.6816 of 2021

A.Karaimelazhagan

...Petitioner

Vs.

- 1.The Managing Director,
Tamil Nadu State Marketing
Corporation Ltd (TASMAC)
Thalamuthu Natarajan Maaligai,
4th Floor, C.M.D.A.Building,
Egmore, Chennai – 600 008.
- 2.The Senior Regional Zonal Manager,
Chennai Region,
Tamil Nadu State Marketing
Corporation Ltd (TASMAC)
735, L.L.A.Building,
Anna Salai, Chennai – 600 002.
- 3.The District Manager,
Tamil Nadu State Marketing
Corporation Ltd (TASMAC)
Ambattur Industrial Estate (Central)
Chennai – 600 056.

..Respondents



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conducted and found that huge sum of Rs.8,0,863/- was misappropriated by the employees in the said shop and accordingly, disciplinary proceedings were initiated against all the employees based on the inspection report.

3. A charge memo was issued, stating that the petitioner is also liable for the misappropriation of the funds of the TASMACH shop to the tune of Rs.8,30,863/-. The petitioner participated in the process of enquiry and the enquiry officer, who in turn, conducted an enquiry by affording opportunity to all the charged officials, formed an opinion and submitted his report, holding that the charges are held proved. The Disciplinary Authority, accepting the findings, provided opportunity to the charged officials to submit their further objections on the report and finally, passed the impugned order of termination from service.

4. The learned counsel for the petitioner made a submission that the petitioner is no way connected with the misappropriation. He had not deposited the alleged misappropriation amount into the TASMACH account. In fact, the other employees had deposited the amount and therefore, he



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must be exonerated from the departmental disciplinary proceedings.

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5. If at all such a ground is to be considered by this Court, there must be a finding in the enquiry report. Merely saying that the petitioner is not responsible for the misappropriation of funds, there was no relevant materials available on record. If the petitioner is no way connected with the misappropriation, he would have established the same before the enquiry officer, while availing the opportunities to defend his case. Contrarily, an employee against whom the charges were held proved, cannot come and raise a ground before the High Court that he is no way connected with the misappropriation. Such statements not supported with any materials on record cannot be considered for the purpose of setting aside the order of termination.

6. The learned counsel for the respondents state that the procedures as contemplated were followed, while conducting the departmental enquiry. The petitioner was afforded with an opportunity and after passing of the final order by the Disciplinary Authority, the petitioner preferred an appeal,



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which was also rejected by the Appellate Authority. Thus, there is no reason whatsoever to entertain the writ petition and accordingly, it is to be rejected.

7. The High Court, while dealing with punishment in departmental disciplinary proceedings, has to see, whether the principles of natural justice has been followed; the procedures as contemplated were adopted and the decision taken is based on some evidences and the punishment imposed is in proportionate with the gravity of the proved charges.

8. In the present case, the petitioner was a part-time Assistant Supervisor appointed on contract basis. He was not even a permanent employee of TASMAC. He was issued with a charge memo regarding misappropriation of the funds of the TASMAC shop to the tune of Rs.8,30,863/-. The petitioner defended his case and opportunities as contemplated were provided to the petitioner at the time of conducting enquiry proceedings. The enquiry officer submitted his report, holding that the charges are proved. The Disciplinary Authority accepted the report of the enquiry officer and imposed the penalty of termination from service and the



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appeal filed by the petitioner was rejected. Thus, the procedures as contemplated were followed by the authorities competent and there is no violation of the principles of natural justice.

9. As far as the grounds raised by the petitioner is concerned, such general grounds in the absence of materials available on record cannot be considered by the High Court by exercising the powers of judicial review under Article 226 of the Constitution of India. The power of judicial review is to be exercised to scrutinize the processes, through which, a decision is taken by the competent authorities, but not the decision itself.

10. Therefore, in the present case, the misconduct against the writ petitioner was proved before the enquiry officer and the Disciplinary Authority has also considered the materials available on record and imposed the penalty of termination from service. Punishment cannot be said to be disproportionate as the proved charges are the misappropriation of the funds of the TASMACH shop to the tune of Rs.8,30,863/-.



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11. This being the facts and circumstances, this Court do not find any infirmity in respect of the order impugned passed by the 1st respondent.

12. Accordingly, the writ petition stands dismissed. No costs.
Consequently, connected miscellaneous petitions are closed.

31.10.2022

Index : Yes
Speaking order: Yes
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To

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S.M.SUBRAMANIAM, J.

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