

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NO.26815 OF 2014

AND

M.P.NO.1 OF 2014

T.Vadivel
S/o.Thirumalai

... Petitioner

Vs.

1. The Managing Director,
TASMAC Limited,
C.M.D.A. Tower, 4th Floor,
No.8, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
2. The Senior Regional Manager,
TASMAC Limited,
141 & 142, M.S.R.Complex,
Goundampalayam,
Coimbatore - 30.
3. The District Manager,
TASMAC Ltd.,
Erode, Erode District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the third respondent in his office ref. Na.Ka.2118/2010/R-5, dated 19.08.2011 and the order passed by the second respondent in his office ref. Na.Ka.No.2121/2012/A1 dated 19.06.2012, quash the same and direct the respondent to re-instate the petitioner in service with backwages, service benefits and continuity of service within the time.

For Petitioner : Mr.P.Mani

For Respondents : Mr.K.Sathish Kumar
Standing Counsel

O R D E R

The order of termination confirmed by the appellate authority is under challenge in the present writ petition.

2. The petitioner was working as Salesman in the TASMAC Retail Shop No.3948, Erode Taluk and District. On account of certain serious allegations, a charge memo was issued against the petitioner. The petitioner submitted his explanation. However, during the enquiry before the Enquiry Officer, the petitioner confessed the allegations. The Enquiry Officer recorded the deposition of the petitioner and submitted his report.

3. Learned counsel appearing on behalf of the petitioner made a submission that the petitioner defended his case by stating that his signature was obtained in certain blank papers.

4. This Court cannot take judicial note of such allegations by the petitioner in the absence of any incriminating evidence or documents. However, the respondents are unable to establish that second show cause notice was issued to the petitioner to file his further objections on the enquiry report. Such an opportunity was denied to the petitioner before passing the order of termination. Thus, this Court is inclined to remand the matter back for re-consideration.

5. Accordingly, this Writ Petition is allowed. The order passed by the third respondent in Ref.Na.Ka.2118/2010/R-5, dated 19.08.2011 and the order passed by the second respondent in Ref. Na.Ka.No.2121/2012/A1 dated 19.06.2012 are quashed. The matter is remanded back to the third respondent for issuing second show cause notice.

6. The third respondent is directed to issue a second show cause notice along with a copy of the enquiry report to the petitioner within a period of four weeks from the date of receipt of a copy of this order. The petitioner is at liberty to submit his further explanation on the enquiry report within a period of two weeks from the date of receipt of second show cause notice to be issued by the third respondent and thereafter, the third respondent is directed to consider the further objections, if any, submitted by the petitioner and pass orders on merits and in accordance with law within a period of twelve weeks thereafter.

It is made clear that the petitioner need not be reinstated till such time final orders are passed as the matter has been remanded for compliance of the procedure of providing

opportunity by issuing second show cause notice. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Managing Director,
TASMAC Limited,
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3. The District Manager,
TASMAC Ltd.,
Erode, Erode District.

+1cc to M/s.P.Mani, Advocate, S.R.No.42267

Writ Petition No.26815 of 2014

AD(CO)
RLP(22/07/2022)