



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.18945 of 2020

and

WMP.No.23507 of 2020

C.Meganathan

.. Petitioner

vs.

1. The Managing Director,
Tamilnadu State Marketing Corporation Limited,
TASMAC, CMDA Building,
Egmore, Chennai-600 018.

2. The Senior Regional Manager,
The Senior Regional Manager Office,
District Collector office Campus,
Trichy.

3. The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Nagapattinam District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of suspension issued by the third respondent vide his proceedings in Na.Ka.No.439/2020-A-1 dated 13.04.2020, quash the same and consequently, direct the third respondent herein to regularize the services of the petitioner with all monetary benefits.

For Petitioner : Mr.T.Manikandan

For Respondents : Mr.N.Damodaran,
for TASMAC

O R D E R

The petitioner, challenging the impugned suspension order passed by the third respondent in Na.Ka.No.430/2020-A1 dated 13.04.2020, and for a consequential direction to the third respondent to regularize the services of the petitioner with all monetary benefits, has filed the present writ petition.



2. The case of the petitioner is that he worked as a Salesman in Shop No.5610 situated at Nagapattinam and while so, the Inspector of Police, Myladuthurai Police Station conducted an surprise inspection on 10.04.2020 and during the alleged raid, the petitioner alleged to have sold liquor bottles to private persons and hence a criminal case was registered against the petitioner and one Govindaraj in Crime No.318/2020 for offences under Sections 4(1)(aa) and 4(1)(i) of Tamil Nadu Prohibition Act r/w. 188 and 269 IPC. Pursuant to implication in a criminal case, the petitioner was issued with a suspension order on 13.04.2020 and he was placed under suspension and thereafter, a show cause notice was also issued on 08.07.2020 calling for explanation from the petitioner. Challenging the impugned order of suspension passed by the third respondent, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner submits that the suspension order has been revoked subsequently and therefore, prays for appropriate orders for concluding the enquiry proceedings at the earliest.

4. On a reference made to the two conflicting judgments rendered by the Division Benches of this Court on a challenge to the order of suspension, the Hon'ble Full Bench of this Court in W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022, has answered as under:

(i) The judgment of the Apex Court in the case of Ajay Kumar Choudhary, supra, does not lay down absolute proposition of law that an order of suspension cannot be continued beyond the period of three months if the memorandum of charges / charge-sheet has not been served within three months, or if memorandum of charges/charge -sheet is served without reasoned order of extension.

(ii) The judgment in R.Balaji, supra, has no reference to the earlier judgments of co-equal strength and is thereby rendered per incuriam.

(iii) The issue of challenge to the order of suspension should be analyzed on the facts of each case, considering the gravity of the charges and the rules applicable.

(iv) Revocation of suspension with a direction to the employer to post the delinquent in a non-sensitive post cannot be endorsed or directed as a matter of course. It has to be based on the facts of each case and after noticing the reason for the delay in serving the memorandum of charges/charge-sheet.

5. The learned Standing Counsel for the respondents submitted that appropriate steps will be taken for expeditious



conclusion of disciplinary proceedings and passing of final orders.

6. In view of the above, this Court directs the respondent to conclude the disciplinary proceedings and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

Jvm

To

1. The Managing Director,
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GPL (CO)
SU(07/04/2022)