



W.P.No.16961 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16961 of 2017
and W.M.P.No.18410 of 2017

M.Tirupathi

... Petitioner

Vs.

1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation (TASMAC)
Salem.

2.The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC)
SIPCOT,
Vellore District.

... Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to orders passed by the 2nd respondent dated 06.04.2015 bearing No. Se.Mu.Na.Ka.A2/735/C.V./2012 and the consequential order dated 17.10.2015 bearing No.Se.Mu.No.3547/2015/A passed by the 1st respondent, quash the same and consequently direction, directing the Respondents to reinstate the petitioner in service, with all service monetary and attendance benefits.



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For Petitioner : Mr.Raja Rao
For Respondents : Mr.Balakrishnan
Standing Counsel

ORDER

The termination of service, which was confirmed by the appellate authority, is under challenge in the present writ petition.

2.The petitioner was employed as a Salesman in TASMAL on consolidated pay salary. On 01.09.2012, an inspection was conducted and the 2nd respondent found misappropriation of a sum of Rs.46,625/- and further found loose sale of 375ml old kemp rum. Hence, the petitioner was placed under suspension and charge memo was issued in proceedings dated 05.09.2012. The petitioner submitted his explanation which was not accepted by the respondents and an Enquiry Officer was appointed. The Enquiry Officer conducted an enquiry, wherein, the petitioner participated and defended his case. The Enquiry Officer submitted his report holding that the charges are



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held proved. Accepting the report, the disciplinary authority followed the procedures and passed the order of termination from service. The petitioner preferred an appeal before the 1st respondent who in turn rejected the appeal. Thus, the present writ petition is filed..

3.The learned counsel for the petitioner mainly contended that the petitioner was already imposed with the punishment of fine and therefore, the second punishment of termination is unsustainable. That apart, the petitioner is not responsible for the said allegations. The disciplinary authority himself participated in the inspection and therefore, he could not have passed the order of termination. Since, the inspection as well as the final order were passed by the 2nd respondent, the order is to be set aside. It is contended that the 2nd respondent reinstated a Supervisor viz., Mr.Anbu Sakthi on payment of penalty of Rs.2000/- and therefore, the similar yardstick is to be adopted in respect of the petitioner also. The Co-salesman was also reinstated after imposing penalty. For all these reasons, the impugned order of termination is to be set aside.



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4.The learned counsel for the respondents objected the said contention by stating that the petitioner submitted his explanation to the charge memo on 11.10.2010, seeking pardon and reinstatement. The petitioner has paid a fine amount of Rs.2000/- himself to the TASMAC in the form of Demand Draft along with the letter seeking reinstatement. However, the said explanation was not accepted. The Assistant Manager, Vellore was appointed as an Enquiry Officer to conduct an enquiry. Accordingly, the enquiry was conducted and the Enquiry Officer held that the charges are proved. The petitioner himself has stated in his explanation that the shortage of amount of Rs.46,625/- was deposited on 06.09.2012 and 07.09.2012. That apart, a second memo for explanation dated 16.02.2015, was served on the petitioner by the 2nd respondent to submit his explanation against the report of domestic Enquiry Officer and the copy was also enclosed. However, the petitioner reiterated the same explanations, which he had submitted earlier and therefore, the disciplinary authority passed the order of removal from service w.e.f. 05.09.2012. Thereafter, the petitioner preferred an appeal and the said appeal was also rejected by the 1st respondent.



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5.It is not in dispute that the procedures as contemplated were scrupulously followed by the authorities while conducting the disciplinary proceedings. The petitioner was provided with an opportunity to defend his case. The petitioner also defended his case by participating in the process of enquiry. The charges of misappropriation were held proved against the writ petitioner and therefore, the disciplinary authority imposed the penalty of removal from service. Thus, there is no violation of principles of natural justice in the manner of conduct of enquiry proceedings. The petitioner also participated in the process of enquiry and thus, there is no infirmity.

6.The allegation of misappropriation of the funds are grave in nature. The petitioner was working as Salesman on consolidated pay salary. He was not even a permanent employee of TANSAC. Thus, the proved allegation of misappropriation of the funds was considered as a grave charge as against the writ petitioner and consequently, the disciplinary authority imposed the penalty of removal from service. The authorities had considered the



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involvement of the petitioner and accordingly had taken the decision. Thus, this Court do not find any disproportionality in the mater of quantum of punishment imposed on the petitioner. With reference to the Co-salesman and the Supervisor, this Court is of the considered opinion that the authorities competent has considered the documents and evidence independently and formed of an opinion that the petitioner is responsible for the misappropriation and accordingly, imposed the penalty removal from servcie. The petitioner being a consolidated pay salary employee is not entitled for any further relief, since the allegation of misappropriation of funds of the TASMAC had been proved against the petitioner. Thus, the writ petition is devoid of merits and stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

26.09.2022

Index : Yes / No
Internet : Yes / No
Speaking order/Non-Speaking order
ssr



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To

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S.M.SUBRAMANIAM, J.

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