



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2022

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.4545 of 2021 and
WMP(MD) Nos.3655 of 2021

P.Thambu

...Petitioner

Vs.

1.The Managing Director,
The Tamil Nadu State Marketing
Corporation Limited, (TASMAC)
4th Floor, CMDA Tower -2,
Egmore,
Chennai - 600 008.

2.The Senior Regional Manager,
The Tamil Nadu State Marketing
Corporation Limited, (TASMAC)
Plot No.100, Anna Nagar,
Madurai - 20.

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

...Respondents

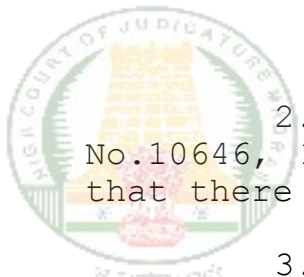
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected to the impugned order in ந.க.எண்.ஆர் 1 /2480/2020, dated 09.12.2020, on the file of the respondent No.3 and quash the same as illegal and consequently directing the respondents to reinstate the petitioner in service.

For Petitioner
For Respondents

:Mr.S.Malaikani
:Mr.B.Jameel Arasu
Standing Counsel

O R D E R

This writ petition is filed as against the order of suspension, dated 09.12.2020, passed by the third respondent in ந.க.எண்.ஆர் 1 /2480/2020.



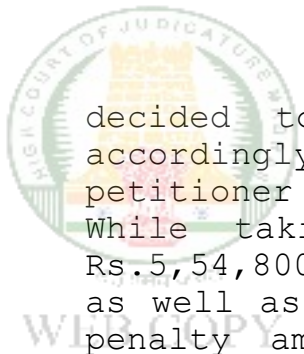
2. The petitioner, who was working as a Salesman in Shop No.10646, Palayamkottai in Tirunelveli was placed under suspension that there was shortage of stock to the tune of Rs.5,54,820/-.

3.The learned counsel appearing for the petitioner submits that the petitioner is only a salesman and the respondents have not taken any action against the other two salesmen and supervisor in the shop No.10646, instead the respondents have taken action as against the petitioner alone, suspending him from service. He further submits that during Covid 19 pandemic, the Government imposed a restriction to close down all the TASMAC shops on 24.03.2020 and announced lock down from the next day onwards. The petitioner could not remit the amount of sales. However, the petitioner was held responsible that there was shortage of stock to the tune of Rs.5,54,800/-. The learned counsel further submits that similar such events were taken place in several other outlets also in all over Tamil Nadu and in those cases, the salesmen were permitted to remit the balance amount and allowed to continue in the work. However, in this case, they have contemplated for an enquiry and the petitioner was placed under suspension.

4.Mr.Jameel Arasu, learned Standing Counsel appearing for the respondent Corporation submits that during Covid 19 outbreak, pursuant to the lockdown imposed by the Government, the liquor bottles were shifted to the godown on 21.04.2020. At that time, it was noticed that the liquor bottles worth Rs.5,54,800/- were sold from the said shop during lock down period. The petitioner along with other salesmen in the said shop have jointly admitted the guilt and paid the amount on 22.04.2020. Thereafter, the respondent has issued show cause notice on 27.06.2020 to the petitioner and to other employees of the shop and for the show cause notice, one of the supervisor, Mariappan has submitted a reply stating that on 24.03.2020, the petitioner has forcibly taken away the key from him. Based on the statement of the said Mariappan, further show cause notice was issued to the petitioner on 04.11.2020. The petitioner went on leave without any intimation from 31.09.2020 to 16.10.2020. Thereafter, he submitted three explanations on 09.11.2020, 30.10.2020 and 21.12.2020 with different reasonings and being not satisfied with the reasonings of the petitioner, the respondents decided to conduct an enquiry and pending the enquiry, the petitioner was placed under suspension. Therefore, there is no need to interfere with the order impugned in this writ petition.

5.This Court paid its anxious consideration to the rival submissions made and perused the materials placed on record.

6.The petitioner was a salesman of the shop No.10648. The said TASMAC shop was closed pursuant to the outbreak of Covid 19 w.e.f. 24.03.2020. During the lock down period, the petitioner said to have sold the liquor bottles for higher price. Since there were



decided to shift all the liquor bottles to the Godown and accordingly, liquor bottles from the shop No.10648, where the petitioner was working were shifted to the Godown on 21.04.2020. While taking stocks, they noticed that liquor bottles worth Rs.5,54,800/- were sold during the lock down period. The petitioner as well as the other salesmen have admitted the guilt and paid the penalty amount on 22.04.2020. Thereafter, the respondents have intended to proceed with the further enquiry and issued show cause notice. For the show cause notice issued by the respondents, the supervisor of the shop one Mariappan has submitted a statement that the petitioner has taken away the key of the shop forcibly from him on 24.03.2020, based on which, further explanation was called from the petitioner. However, the petitioner went on leave from 31.09.2020 to 16.10.2020. Subsequently, the explanations given by the petitioner on various dates are contrary to each other and therefore, not satisfied with the different explanations of the petitioner, the respondents intended to proceed with the enquiry as against the petitioner and pending the enquiry, the petitioner was placed under suspension. Since the petitioner and other salesmen admitted the guilt and paid the penalty, there is no question of quashing the impugned suspension order. More over, the respondent is intended to conduct enquiry.

7.In view of the above, this Court is not inclined to interfere with the orders of the respondents. Accordingly, this writ petition is disposed of with a direction to the respondents to conduct the enquiry and to conclude the same within a period of six months from the date of receipt of a copy of this order. The petitioner shall co-operate with the enquiry. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vrn

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

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(TASMAC), Tirunelveli District.

+1 CC to M/s.S.MALAIKANI, Advocate (SR-2660[F] dated 27/01/2022)

Order made in
W.P(MD) No.4545 of 2021 and
WMP(MD) Nos.3655 of 2021
25.01.2022

MA (CO)
GC (05.03.2022) 4P 5C