



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.04.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.8027 of 2022

and WMP(MD) Nos.6010 & 6011 of 2022

WEB COPY

R.Kanagavel

... Petitioner

Vs.

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

2.The District Manager,
The Tamilnadu State Marketing Corporation Limited
Madurai South
Madurai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the impugned order passed by the 1st respondent herein vide Na.Ka.No.327/2021-A1 dated 29.03.2022 and quash the same as illegal insofar as against the petitioner is concerned.

For Petitioner : Mr.B.Brijesh Kishore

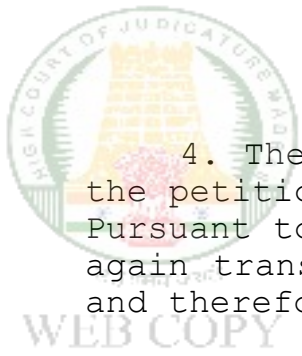
For Respondents : Mr.H.Arumugam

ORDER

The order of transfer dated 29.03.2022 issued by the first respondent is under challenge in the present writ petition.

2. The petitioner is working as a Salesman in Tamil Nadu State Marketing Corporation, TASMAC. On account of certain irregularities, disciplinary proceedings were initiated and the petitioner was terminated. He filed W.P(MD) No.202 of 2021. This Court passed an order on 29.01.2021 directing the petitioner to deposit the financial loss occurred to the respondent and on such deposit, the petitioner was reinstated.

3. The learned counsel for the petitioner made a submission that the petitioner deposited the entire loss and thereafter reinstated in service. While so, the impugned transfer order has been passed transferring the writ petitioner from Shop No.5410 to Shop No.5247, which is from one Taluk to another Taluk.



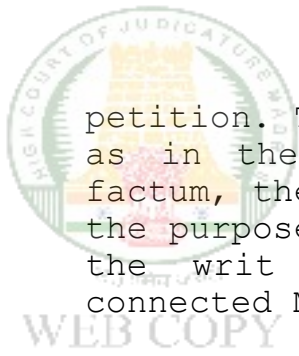
4. The learned counsel for the petitioner mainly contended that the petitioner was already imposed with a punishment of termination. Pursuant to the orders of this Court, he was reinstated. Therefore, again transferring the petitioner will result in another punishment and therefore, the impugned order is liable to be set aside.

5. The learned counsel for the respondent objected to the said contention by stating that no doubt, the petitioner was imposed with the punishment of termination on account of serious misconduct pursuant to the conditional order passed by this Court, he was reinstated. Therefore, administration formed an opinion that allowing the petitioner in the same shop would cause further prejudice to the institution and accordingly transferred the petitioner to another shop and therefore, such transfer in the interest of administration cannot be said to be a punishment or otherwise. Thus, the writ petition is to be rejected.

6. This Court is of the considered opinion that post or place can never be claimed as a matter of choice. Let us now consider the transfer order can be construed as punitive or not. The petitioner was punished for committing certain misconduct. He filed a writ petition and this Court passed a conditional order for reinstatement and on payment of the amount, the petitioner was reinstated, that does not mean that the authorities are restrained from issuing administrative transfer in the interest of administration. In the present case, the petitioner was punished for causing financial loss to the respondent TASMAG. The allegations against the petitioner was that he sold IMFL liquor with the additional rate and therefore, the administration thought that he should be posted in a shop, where the sales quantum is less.

7. The learned counsel for the petitioner relied on the circular issued by the respondent. Such circulars or guidelines are issued for the purpose of initiation of action or to effect transfer in a particular manner and such circulars would not provide an absolute right to an employee from seeking exemption from administrative transfer. Transfer and posting is the administrative prerogative and the order of transfer can be challenged only tainted with the allegation of mala fides or issued by an incompetent authority. A person, who was terminated from service on account of certain irregularities of selling IMFL liquor for higher rate and on reinstatement if he is transferred to another shop, the same cannot be construed as punitive, as the punishment was imposed for the proved misconduct and pursuant to the orders of this Court and subsequent transfer is on administrative reason and therefore, the same cannot be considered as punitive.

8. Though it is not stated in the order impugned, transfer is incidental to service, more so, a condition of service. Transfer <https://hcservices.governmentservices.com> provide a cause for the purpose of filing a writ



petition. The petitioner has to work in a place, where he is posted, as in the interest of public administration and this being the factum, the petitioner has not established any acceptable ground for the purpose of interfering with the order of transfer. Accordingly, the writ petition stands dismissed. No costs. Consequently connected Miscellaneous petitions are closed.

9. If at all the petitioner is aggrieved in respect of any other facts and circumstances, he is at liberty to approach the competent authority for the purpose of redressal of his grievance in the manner known to law.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

RR

To

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Tamilnadu State Marketing Corporation Limited (TASMAC)
Plot No.100, Anna Nagar,
Madurai -20

2.The District Manager,
The Tamilnadu State Marketing Corporation Limited
Madurai South
Madurai District.

+1 CC to M/s.H. ARUMUGAM, Advocate (SR-21824[F] dated 27/04/2022)

W.P. (MD)No.8027 of 2022

26.04.2022

MGJ(16.05.2022) 3P 4C