



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2022

CORAM :

WEB COPY

**THE HON`BLE MR.JUSTICE B.PUGALENDHI**

W.P(MD) No.9217 of 2020 and  
WMP(MD) Nos.8405 & 8406 of 2020

Essaki

Petitioner

Vs.

1.The Managing Director,  
The Tamil Nadu State Marketing  
Corporation Limited,  
Head Quarters,  
4<sup>th</sup> Floor, CMDA Tower -2,  
Egmore, Chennai - 600 008.

2.The Senior Zonal Manager,  
The Tamil Nadu State Marketing  
Corporation Limited,  
Madurai Division, Madurai.

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

Respondents

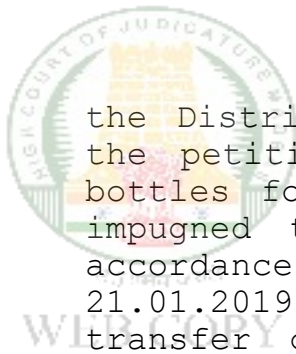
**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records of the first respondent in his proceedings in Na.Ka.No.R2/14589/2018 (Circular No.02/2019) dated 21.01.2019 and consequential order passed by the second respondent in his proceedings in Na.Ka.No.15/2020/A1 9 (Serial No.1) dated 07.07.2020 and quash the same as illegal, arbitrary, violation of law.

For Petitioner : Mr.M.Jothibas  
For Respondents : Mr.B.Jameel Arasu  
Standing Counsel

**O R D E R**

This writ petition is filed as against the order of transfer.

2.The case of the petitioner is that when he was working as Salesman in TASMACH Shop No.10895, he was transferred to Shop No.10902, alleging that during the surprise inspection conducted by



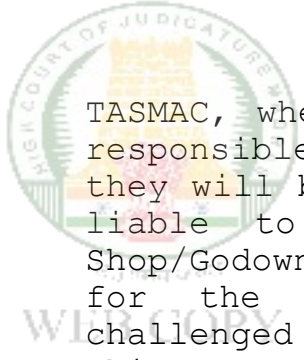
the District Manager in Shop No.10895, the Corporation found that the petitioner was involved in commission of selling the liquor bottles for more than MRP rate. According to the petitioner, the impugned transfer order has been passed by the respondent, in accordance with the guidelines framed in Circular No.02/2019, dated 21.01.2019. Challenging the aforesaid circular and the impugned transfer order, the petitioner is before this Court, with the present writ petition.

3.Learned Counsel appearing for the petitioner submits that on 23.01.2020, the third respondent issued a show cause notice, for which, the petitioner submitted a representation, on 11.05.2020, denying the charges. On 05.03.2020, the third respondent passed an order, directing the petitioner to pay a sum of Rs.11,800/- as fine, within a period of seven days, even without proving the charges contemplated as against the petitioner. Having no other option, the petitioner has paid the fine amount on 16.03.2020. The grievance of the petitioner is that though the petitioner has paid the penalty amount, the impugned order of transfer has been passed by the second respondent on 07.07.2020 as per Circular No.02/2019, dated 21.01.2019. Since the petitioner was punished twice, the aforesaid circular and the impugned order of transfer are liable to be quashed.

5.Mr.Jammel Arasu, learned Standing counsel appearing for the TASMAL made his submissions by relying upon the circular issued by the Department, Tamilnadu State Marketing Corporation Ltd, in Na.Ka.No.R-2/14589/2019, dated 21.01.2019 submits that in order to maintain certain discipline and to ensure that the salesmen and supervisors are selling the liquor bottles in the TASMAL shops, as per the MRP rates, the Department has issued the circular. He further submits that the aforesaid circular was also under challenge before this Court in W.P(MD) No.2242 of 2020 and the same was dismissed by this Court on 17.12.2020. The learned Standing Counsel has also relied upon the judgment of this Court in a batch of writ petition in W.P(MD) No.905 of 2020 etc.,wherein, similar transfer orders were challenged that it would amount to double jeopardy and this Court has dismissed the writ petitions, by referring the Circular dated 21.01.2019. Therefore, this writ petition is liable to be dismissed, in the light of the orders passed by this Court as above.

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

7.The petitioner was transferred on certain MRP violations committed by him in the capacity of Salesman. The grievance of the petitioner is that though the petitioner has paid the entire penalty amount, he has been transferred to another shop, which is illegal. The Department has issued a Circular in Na.Ka.No.R-2/14589/2019, dated 21.01.2019, in order to maintain discipline among the staff of



TASMAC, wherein, it was clearly stated that those persons, who are responsible for MRP violation or any malpractice at a particular, they will be imposed with penalty of Rs.10,000/- and also they are liable to be transferred from the existing shop to another Shop/Godown. As contended by the learned standing counsel appearing for the respondent Corporation, the aforesaid Circular was challenged in W.P(MD) No.2242 of 2020 and the same was dismissed by this Court on 17.12.2020 in the following terms.

"5. On perusal of the Circular dated 21.01.2019, it appears that in case, if anybody's selling the liquor bottles for more than the M.R.P., the respondents can impose a fine along with G.S.T., and in addition to that, they can also transfer. This Court is of the view that when a person is involved in a malpractices, it is the duty of the respondents to take adequate measures to prevent this type of malpractices. So, with that intention only, the Circular has been issued and in order to prevent frequency of malpractices, it is mandatory to make transfer and the same cannot be considered as a double punishment as stated by the learned counsel for the petitioner. In the present case, the fine amount has not been paid. In the TASMAC Shops, when the malpractices are found or if there is any wrong movement or certain illegalities, it is the discretion of the respondents to pass transfer orders and the same cannot be challenged and unless and until some stringent measures are taken by the respondents against the wrong doers, there is no chance for the respondents to curtail these type of illegalities. Hence, this Court do not find any merit in the present writ petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed."

8.It is seen that some of the TASMAC employees have challenged the transfer orders in batch of writ petitions in W.P(MD) No.905 of 2020 etc., and the same was dismissed by this Court on 08.10.2020, in the following terms:-

"7. This Court is unable to comprehend as to how these transfer orders can be successfully questioned by these petitioners. All that the Corporation has done is to relocate the petitioners to a different shop/outlet or a Depot in the interest of overall administration of the Corporation in order to minimise the effect of frequent malpractices indulged in by the vast majority of the employees. Such initiative in nature, calling for interference with the orders. In fact, this Court is of the view that the Corporation has been treating these



violations with needless leniency and relocating them only to a nearby Shop or Depot within the same region. Therefore, the petitioners cannot have any cause for complaint at all against the impugned action of the Corporation. Further, the petitioners, who were found to have violated the M.R.P., norms and made illegal revenue out of it cannot have any legitimate cause for approaching this Court questioning the transfer orders. It is always open to the respondent TASMAL to take effective initiative in order to infuse discipline among its employees and prevent them from the recurring acts of malpractices. Confronted with large scale acts of misconduct by the employees across the State, the minimum deterrent action the Corporation could take is that transfer of the employees concerned as a warning preceding a impending serious action. If such deterrent action is to be interfered by this Court, it could only lead to proliferation of malpractices undermining public interest at large. Such mass transfers in public interest with a view to arrest the repeated subversion of discipline by the vast majority of the employees ought not to be interfered with as being punitive. On the other hand, such transfers are impelled by administrative necessity to bring about a semblance of orderliness in the affairs of the Corporation vis-a-vis its employees"

9. In the light of the above orders, this Court is not inclined to entertain this writ petition and accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(A/Cs)

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/ /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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Tirunelveli District.

+1 CC to M/s.G.M.LAW OFFICE, Advocate ( SR-2542[F] dated  
27/01/2022 )

**Order made in**  
**W.P(MD) No.9217 of 2020 and**  
**WMP(MD) Nos.8405 & 8406 of 2020**  
**25.01.2022**

TR(18.03.2022) 5P 5C