



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2022

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.10076 of 2021
and
WMP(MD) No.7794 of 2021

D.Sivakumar

... Petitioner

Vs.

The District Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
Madurai South,
Madurai.

... 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 pertaining to the impugned order issued by the respondent in Na.Ka.No.39/2020/A, dated 05.05.2021, and quash the same.

For Petitioner : Mr.L.Shaji Chellan

For Respondents : Mr.H.Arumugam
Standing Counsel

O R D E R

This writ petition is filed for as against the relieving order passed by the respondent in Na.Ka.No.39/2020/A, dated 05.05.2021.

2.The case of the petitioner is that the petitioner was working as Supervisor in Shop No.5286. On 30.06.2020, when the petitioner was not available inside the shop, a surprise inspection was conducted and found that there was MRP violation, for which the petitioner was transferred to Godown. The grievance of the petitioner is that when he was packing the empty boxes outside the shop, the alleged inspection was conducted and for the offence committed by the salesman of the particular shop, the petitioner was transferred to Godown. Hence, this petition.

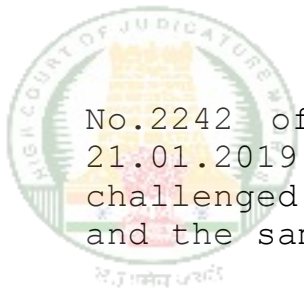


3.The learned counsel appearing for the petitioner submits that the inspection of the shop itself was not recorded in the register and he has not been issued with any complaint as against him. He further submits that the petitioner is supervisor of the shop and he was imposed with the punishment of transfer, for the offence committed by the salesman. Hence, the order impugned in this writ petition is liable to be quashed.

4.Mr.H.Arumugam, learned Standing Counsel appearing for the respondent submits that on 30.06.2020, a surprise inspection in Shop No.5286, where the petitioner was working as Supervisor was conducted and found MRP violation. As a Supervisor of the said shop, it is the duty of the petitioner to prevent such MRP violations. For the stand taken by the petitioner that the inspection was not registered and no complaint copy has been given to him, the learned Standing Counsel submits that it is the duty of the respondent Corporation to conduct surprise inspection of every shops, periodically to prevent the sale over and above MRP and also the MRP violation was found during surprise inspection, for which, no complaint is necessary. The learned Counsel relied on the Circular in Na.KaK2/14589/2018, dated 22.01.2019, wherein, it was held that the persons, who are responsible for MRP violation shall be imposed with penalty and also subjected to transfer. He further submits that the said 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 21.01.2019. The learned Standing Counsel has also relied upon the judgment of this Court in a batch of writ petitions 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. Hence, there is no need to interfere with the impugned order.

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

6. On 30.06.2020, a surprise inspection was conducted in Shop No.5286, where the petitioner was working as Supervisor and found certain MRP violations, thereby the petitioner was transferred and subsequently relieving order has been issued and the same is under challenge in this writ petition. The petitioner, being the supervisor of the particular shop has to monitor the day today affairs of the shop. As per circular in Na.KaK2/14589/2018, dated 22.01.2019, the salesmen, who are responsible for MRP violation and the supervisors of the shop, shall be imposed with penalty and also subjected to transfer. The learned Standing counsel has also brought to the knowledge of this Court that the above said circular was challenged before this Court in W.P(MD)



No.2242 of 2020 and the same was dismissed by this Court on 21.01.2019. More over, similar transfer orders were also challenged in batch of writ petition in W.P(MD) No.905 of 2020 etc and the same was also dismissed by this Court.

7. In view of the above, this writ petition is dismissed. However, considering the claim of the petitioner that at the time of inspection, he was not available, there shall be a direction to the respondent to conduct an enquiry and to ascertain whether the petitioner was on duty and take further course of action. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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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

The District Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
Madurai South,
Madurai.

+1 CC to M/s.L.SHAJI CHELLAN, Advocate (SR-2447[F] dated 25/01/2022)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-2708[F] dated 27/01/2022)

Order made in
W.P(MD) No.10076 of 2021 and
WMP(MD) No.7794 of 2021
25.01.2022

USK/04.03.2022/3P/4C