



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.10525 of 2021 and
WMP(MD) No.8201 of 2021

B.Selvaganesh

...Petitioner

vs.

The District Manager,
TASMAC,
Thoothukudi,
Thoothukudi District.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned charge memo passed by the respondent in his proceeding dated 10.12.2020 in Na.Ka.No.A2/1903/2020 and quash the same as illegal.

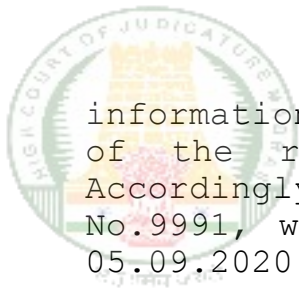
For Petitioner : Mr.K.K.Ramakrishnan
For Respondent : Mr.Jameel Arasu

O R D E R

This writ petition is filed as against the charge memo, dated 10.12.2020. By the order impugned in this writ petition, the respondent has contemplated an enquiry as against the petitioner and other salesmen of Shop No.9991, Adaikalapuram.

2.The learned counsel appearing for the petitioner submits that the impugned charge memo is issued in a vague manner, without any reference to the date of delinquency. According to the learned counsel for the petitioner, though he is posted as Salesman at Shop No.9991, he was directed to work at District Office on deputation basis, vide communication dated 20.06.2009. However, this petitioner is also made responsible for the shortage of stock that took place in TASMAC Shop No.9991, Adaikalapuram. He further submits that without assigning the date of shortage, the petitioner cannot be fixed responsible for the alleged shortage of stocks took place in the above said shop. Therefore, on the above grounds, the charge memo is liable to be set aside.

3.Mr.Jameel Arasu, learned Standing Counsel appearing for the respondent Corporation submits that the Salesmen and the supervisors of all the TASMAC Shops are duty bound to give



information on day today basis, after the sales hours/closing time of the respective shops to the concerned District Managers. Accordingly, SMS has been received from the supervisor of the Shop No.9991, with regard to the closing stock of liquor bottles as on 05.09.2020 and 06.09.2020. The details are as follows:-

Closing stock as on 05.09.2020:-

1.Low Range liquor bottles	1487 cases
2.Medium range liquor bottles	1546 cases
3.Premium range liquor bottles	475 cases
4.Beer bottles	131 cases

Closing stock as on 06.09.2020:-

1.Low Range liquor bottles	420 cases
2.Medium range liquor bottles	525 cases
3.Premium range liquor bottles	864 cases
4.Beer bottles	97 cases

4.Since, there was huge variation in respect of the available stock, the District Manager directed the Assistant Manager (Accounts) to verify the stock and to submit a report. Accordingly, the Assistant Manager (Accounts) inspected the shop on 24.09.2020 and noticed that there was shortage of stocks to the tune of Rs.1,74,95,810/-, as per the Stock Register. All the employees, who are working in the said shop are held responsible for the loss occurred. Therefore, charge memo was issued to all the persons, who are working in the said shop. The learned Standing Counsel has also relied on the Circular issued by the Managing Director, TASMAC that if any shortage or misappropriation has been committed, in connection with the collection of the amount, and shortage of stock value, every employee, who are working in the particular shop are jointly and severally responsible. He further submits that a criminal case was also registered before the District Crime Branch, Tuticorin, in Crime No.18 of 2020, for the offences punishable under Sections 406, 408, 409, 420, 477 A, 381, 120(b) and 34 IPC on 16.10.2020, as against the petitioner and others. Though in counter affidavit, it was mentioned that the date of registration of First Information Report as 01.09.2020 and alleged shortage of stock happened in Shop No.9991 as 05.09.2020 and 06.02.2020, the learned Standing Counsel while arguing the matter, informed the Court that the case has been registered on 16.10.2020 and the shortage of stock took place on 05.09.2020 and 06.09.2020. Insofar as the averment made by the learned counsel for the petitioner that the petitioner was on deputation to the District Office from 2009 onwards is concerned, the learned Standing Counsel submits that the petitioner was the salesman of the Shop No.9991, and he was working in the said shop only, at the relevant point of time and in order to substantiate the same, he produced the Attendance Register of the Shop No.9991.



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

6.It is seen that the District Manager concerned found that there was a huge difference in the stock of Shop No.9991, ordered for an enquiry and the Assistant Manager(Accounts) also conducted a spot enquiry. On inspection, it was found that there was huge shortage of stock to the tune of Rs.1,74,95,810/-. Accordingly, charge memo was issued to all the salesmen, who were on duty in the particular shop No.9991, including the petitioner, as per the circular of the Managing Director that all salesmen and supervisors of the shop are jointly and severally held responsible for the shortage or misappropriation, if any happened in the particular shop. The charge memo is under challenge before this Court on the ground that the charge memo is issued in a vague manner, even without providing the relevant details about the period of misappropriation. The learned counsel appearing for the petitioner has also taken a stand that the petitioner was on deputation at the District Office, during the relevant period. However, he was issued with the charge memo for the misappropriation taken place in the shop No.9991. Though the learned counsel has taken a stand that he was on deputation at District office during the relevant point of time, the petitioner has not placed any materials to substantiate the same. On the other hand, the learned Standing Counsel appearing for the respondents produced the Attendance Register of the Shop No.9991, wherein, this petitioner has also signed in the Register, as if he served as Salesman in the shop No.9991 on 05.09.2020 and 06.09.2020. Though the dates 05.09.2020 and 06.09.2020 are mentioned in the charge memo, the deficit stock was found by the Assistant Manager(Accounts), based on the enquiry conducted by him and subsequent to the reports submitted by the Supervisor of the TASMACH Shop No.9991 on 05.09.2020 and 06.09.2020.

7.In view of the foregoing reasons, there is no ground to interfere with the charge memo issued by the respondent in his proceeding dated 10.12.2020 in Na.Ka.No.A2/1903/2020 and accordingly, this writ petition is dismissed. It is always open to the petitioner to establish his innocence before the enquiry officer, during the enquiry proceedings. The respondent shall proceed with the enquiry and conclude the same, within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petition is closed.

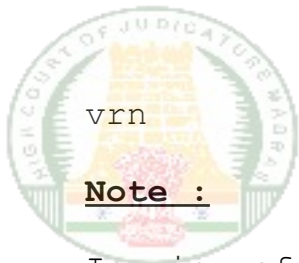
Sd/-

Assistant Registrar(CS-III)

// 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,
TASMAC,
Thoothukudi,
Thoothukudi District.

+1 CC to M/s.K.K.RAMAKRISHNAN, Advocate (SR-3263[F] dated
31/01/2022)

+1 CC to M/s.K.K.RAMAKRISHNAN, Advocate (SR-3553[F] dated
02/02/2022)

ORDER MADE IN
W.P (MD) No.10525 of 2021 and
WMP (MD) No.8201 of 2021
31.01.2022

TR(21.03.2022) 4P 4C