



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.05.2022

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P(MD)No.10374 of 2022

and

W.M.P. (MD)No.7377 of 2022

H.Bringlin

... Petitioner

Vs.

1.The Senior Regional Manager,
TASMAC Limited,
Madurai -20.

2.The District Manager,
District Manager Office,
TASMAC Limited,
Thoothukudi, Thoothukudi District.

... Respondents

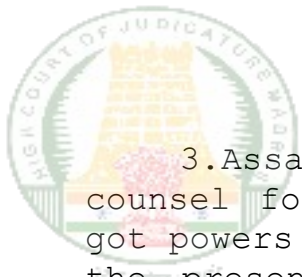
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned transfer order passed by the second respondent in his proceedings in Na.Ka.No.A2/886/2021 dated 18.05.2022 and quash the same as illegal.

For Petitioner : Mr. C.Venkatesh Kumar
For Respondents : Mr.B.Jameel Arasu
Standing Counsel

ORDER

The impugned order dated 18.05.2022, though styled as a transfer order, according to the learned counsel for the petitioner, it is not a transfer order, but it is a punitive order, arising out of the complaint made against the petitioner. The petitioner was a Salesman in a TASMAC Shop No.9929 of respondent, where there has been some allegation against the petitioner, as he allegedly sold the IMFL bottles for higher rate than the one fixed by the TASMAC.

2.Therefore, on the basis of such allegation and the complaint made against the petitioner, he has been transferred through the impugned order to TASMAC Shop No.9970. Challenging the same, the present writ petition has been filed.



3.Assailing the impugned order, Mr.C.Venkatesh Kumar, learned counsel for the petitioner submits that though the respondent has got powers to transfer the petitioner from one shop to another shop, the present order of transfer is not a mere transfer order or transfer order simplicitor. It is an order, arising out of a complaint. Therefore, there is a stigma attached to the said order. On that ground, the order is vitiated.

4.Heard Mr.B.Jameel Arasu, learned Standing counsel appearing for the respondent, who would submit that the petitioner has sold the IMFL bottles above the MRP rate. Therefore, on that ground, he has been transferred.

5.I have considered the said submission made by both sides. For any such violation, if at all noticed, only disciplinary action has to be taken. Contemplating disciplinary action, even the petitioner could have been suspended from service, however as a punitive action, transfer cannot be made, as in number of cases, in earlier occasions, this Court had indicated that transfer is not a solution for disciplinary action or alternative for the same.

6.In that view of the matter, the impugned order is liable to be interfered with. Accordingly, the impugned order is set aside and the matter is remitted back to the respondents for reconsideration as to whether the petitioner can be retained in the same shop towards the disciplinary action to be initiated against the petitioner or the petitioner can be placed under suspension. In that case, it is open to the respondents even to take a decision to place the petitioner under suspension, contemplating any disciplinary proceedings against him, in order to enquire the complaint made against the petitioner.

7.With these observations and directions, this writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Vacation Officer/
Assistant Registrar

// True Copy //

28/05/2022

Sub Assistant Registrar(CS)



To
1.The Senior Regional Manager,
TASMAC Limited, Madurai -20.

2.The District Manager,
Distict Manager Office, TASMAC Limited,
Thoothukudi, Thoothukudi District.

**W.P (MD) No.10374 of 2022
and
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TR(28.05.2022) 3P 3C