



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.14372 of 2020 and
WMP(MD) No.12018 & 12019 of 2020

Paramasivan

Petitioner

Vs.

1.The Senior Regional Manager,
Tamilnadu State Marketing Corporation Limited,
(TASMAC),
Madurai.

2.The District Manager,
Tamilnadu State Marketing Corporation Limited,
(TASMAC),
Munneerpallam,
Tirunelveli,
Tirunelveli District.

Respondents

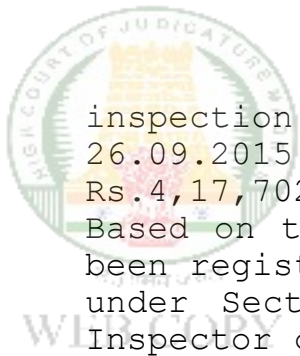
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the second respondent on 12.09.2017 in his proceedings in Na.Ka.R.1/2150/2015, quash the same, for a consequential direction directing the respondents to refund the penalty amount and to reinstate the petitioner into service as salesman.

For Petitioner	:Mr.T.Balaji
For Respondents	:Mr.B.Jameel Arasu Standing Counsel

O R D E R

This writ petition is filed as against the order passed by the second respondent in proceedings in Na.Ka.R.1/2150/2015, dated 12.09.2017 and for a consequential direction, directing the respondents to refund the penalty and reinstate the petitioner into service.

2.The learned counsel for the petitioner submits that the petitioner, who was working as Salesman in Shop No.10633, Nanguneri, was removed from service, pursuant to the charge memo, dated 17.03.2016, alleging that the first respondent conducted surprise



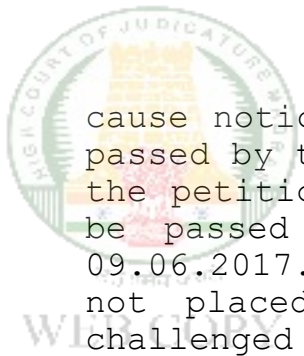
inspection of the stocks available in the Shop No.10633, on 26.09.2015 and found that there was shortage of liquor bottles worth Rs.4,17,702/-, between the stock Register and the Sales Register. Based on the report of the Special Squad, a criminal case has also been registered in Crime No.174 of 2015, for the offences punishable under Sections 406 & 409 IPC on 04.10.2015, on the file of the Inspector of Police, Nanguneri Police Station. Based on the criminal case, departmental proceedings was initiated as against the petitioner and he was removed from service on 26.09.2015. Based on the enquiry report, the respondent arrived at a conclusion that the petitioner along with two others are responsible for the shortage amount of Rs.5,12,578/-. The second respondent has arrived at a conclusion that Rs.3,77,713/- has to be paid to the Corporation and penalty of Rs.11,314/- was also imposed on the petitioner. The petitioner has also paid Rs.1,13,350/- to the credit of the Corporation on 15.07.2020. The grievance of the petitioner is that even after the payment has been made by him, the respondents insisted to pay interest for the misappropriation of amount and not re-instated the petitioner into service. Aggrieved over the same, the present writ petition is filed.

3.Mr.Jameel Arasu, learned Standing Counsel appearing for the respondent Corporation submits that the petitioner was already removed from service and he has also paid the penalty amount. He further submits that without challenging the earlier orders and having admitted the guilt and paid the penalty amount, the petitioner is challenging the present order directing the petitioner to pay the dues to TASMAC. Hence, the petitioner is not at all entitled for the relief.

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

5.Admittedly, the petitioner was placed under suspension from service on 29.09.2015 and enquiry was also conducted in the year 2016 and this petitioner also held responsible for the shortage amount and was also directed to pay differential amount. The petitioner has also stated in his affidavit that he has paid a sum of Rs.1,13,350/- to the credit of TASMAC on 15.07.2020. However, he made a submission that in the hope that he will be reinstated into service, he has paid the amount in the year 2020. But, now by the impugned order, the respondent has directed the petitioner to deposit the differential amount, failing which, suitable action will be initiated and the same is under challenge.

6.The petitioner has not challenged any of the earlier proceedings. But, now he is challenging the order impugned in this writ petition, wherein, the petitioner was directed to pay the differential amount to the credit of TASMAC, which has been demanded by the respondent, pursuant to the show cause notice, dated 07.09.2017. The petitioner has not furnished any reply to the show



cause notice dated 07.01.2017 and thereafter another order has been passed by the respondent in R1/2150/2015 dated, 09.06.2017, removing the petitioner from service. Thereafter, the impugned order came to be passed on 12.09.2017. Proceedings of the respondents, dated 09.06.2017. subsequent to the show cause notice dated 07.01.2017 is not placed before this Court and the petitioner has not even challenged any of the earlier proceedings.

7.In view of the foregoing reasons, the petitioner is not entitled to challenge the present impugned order, which is consequential proceedings, in and by which, the petitioner was directed to pay dues to the TASMAL. Hence, this writ petition is dismissed. It is always open to the petitioner to challenge the order of dismissal in the manner known to law. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Deputy Registrar (LA&MC)

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/ /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.

+1 CC to M/s.A.SRINIVASAN, Advocate (SR-2530[F] dated 27/01/2022)

W.P(MD) No.14372 of 2020 and
WMP(MD) No.12018 & 12019 of 2020
25.01.2022

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