



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2022

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.17768 of 2020 and
WMP(MD) No.14839 of 2020

C.Nagarajan

Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
4th Floor, CMDA Towers,
Gandhi Irwin Bridge Road,
Egmore, Chennai.

2.The Senior Regional Manager,
TASMAC,
No.100, Anna Nagar,
Madurai -20,
Madurai District.

3.The District Manager,
TASMAC,
Munneerpallam,
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, to call for the records pertaining to the impugned order in Se.Mu.Na.Ka.No.R1/12371/2017, dated 15.11.2017 and the consequential impugned order in Se.Mu.Na.Ka.No.R1/2767/2019, dated 28.05.2020, on the file of the respondent No.1 and quash the same as illegal and consequently for a direction, directing the respondents to reinstate the petitioner as Salesman, with all service and monetary benefits, within the time stipulated by this Court.

For Petitioner : Mr.T.Aswin Rajasimman
for Mr.T.Lajapathi Roy

For Respondents : Mr.B.Jameel Arasu
Standing Counsel



O R D E R

This writ petition is filed as against the order of the first respondent in Se.Mu.Na.Ka.No.R1/12371/2017, dated 15.11.2017 and consequential impugned order in Se.Mu.Na.Ka.No.R1/2767/2019, dated 28.05.2020. By the orders impugned in this writ petition, the first respondent rejected the review application filed by the petitioner as against the order of removal from service.

2.The petitioner was appointed as salesman in the year 2003 in TASMAL. Subsequently, he was removed from service, pursuant to the allegation made as against the petitioner that he has mixed water in the liquor bottles. The second respondent conducted an enquiry with regard to the charges, by order dated 30.09.2015, pursuant to which, the petitioner was terminated from service. As against the order of termination, the petitioner preferred an appeal before the Senior Regional Manager on 28.11.2020. The appeal filed by the petitioner was not taken up for hearing and therefore the petitioner has made several representations for deciding his appeal and also approached this Court for a direction in W.P.(MD) No.18758 of 2016 and this Court has also passed an order, on 30.09.2016, directing the respondent to dispose of the appeal within a period of four weeks. The first respondent has also taken a decision and rejected the appeal on 25.11.2016, upholding the order of termination. The petitioner has filed review petition before the first respondent on 30.08.2017 and the same was rejected by the order dated 15.11.2017. Thereafter, the petitioner has filed another petition to reconsider his review, vide representation dated 29.03.2019 and the same was also rejected by the first respondent on 28.05.2020. As against the orders dated 15.11.2017 and 28.05.2020, this writ petition has been filed that the first respondent has not considered the grounds raised by this petitioner and has passed the order in a mechanical manner.

3.Mr. Jameel Arasu, learned Standing Counsel appearing for the respondent Corporation submits that on 23.11.2014, the Senior Manager has made a surprise inspection of the Shop No. 10848 and found that the petitioner mixed water in the liquor bottles and based on his observation, he sent a report to the District Collector, Tirunelveli and the petitioner was placed under suspension on 03.01.2015. Thereafter, the District Manager, Tirunelveli issued a charge memo and also appointed an enquiry officer, for conducting enquiry vide proceedings D/2573/2014. The enquiry officer has also submitted his report on 15.06.2015. Pursuant to the enquiry, the Disciplinary Authority has passed an order of termination on 30.09.2015, since charges were found to be proved. The petitioner has filed an appeal and the same was also dismissed confirming the order of Disciplinary Authority. Thereafter, the petitioner has filed review petition before the first respondent and the first respondent has also enquired,



recorded the petitioner's statement and thereafter passed a detailed order on 15.11.2017. According to the learned Standing Counsel, the petitioner has filed another mercy petition before the first respondent and the same was rejected by the first respondent on 25.11.2017.

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

5. The petitioner, who was working as a salesman in a TASMACH shop No.10848 was terminated from service, based on proved allegation that the petitioner mixed water in the liquor bottles, pursuant to which, he was placed under suspension. The District Manager appointed an enquiry officer and enquiry was conducted, charges were proved, thereby the petitioner was dismissed from service on 30.09.2015. Appeal filed as against the order of dismissal was also confirmed by the Appellate Authority. As against the orders, the petitioner has preferred a review petition. The first respondent has also provided an opportunity of personal hearing to the petitioner, recorded his statement, gone through the entire documents and passed a detailed order, rejecting the review application, dated 13.11.2017. Thereafter, the petitioner has filed another petition for reconsidering the review petition and the same was also dismissed by the respondent on 28.05.2017. As against that order, the present writ petition is filed that the respondent has passed a cryptic order. The petitioner has not established his right on filing such an application for reviewing the orders of the review petition. When there is no scope for entertaining the application for reviewing the orders of the review application, this Court does not find any error in the orders passed by the first respondent on 28.05.2020. The first respondent has applied his mind, provided an opportunity to the petitioner, recorded his statement, while deciding his review application in the year 2017. Even after passing the order of review, the petitioner has once again submitted an application to review the orders passed in the review petition. That was rejected by order dated 28.05.2020.

6. In view of the above, this Court finds no merit in this writ petition and accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

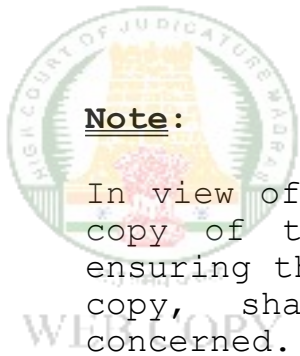
Sd/-

Assistant Registrar (CS-II)

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/ /2022

Sub Assistant Registrar(CS)



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

1.The Managing Director,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
4th Floor, CMDA Towers,
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Madurai -20,
Madurai District.

3.The District Manager,
TASMAC,
Munneerpallam,
Tirunelveli District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-2524[F] dated
27/01/2022)

W.P(MD) No.17768 of 2020 and
WMP(MD) No.14839 of 2020
25.01.2022

RD(15/03/2022) 4P 5C