



W.P(MD)No.23387 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.23387 of 2022

and

W.M.P.(MD)No.17473 of 2022

G.Viju

... Petitioner

Vs.

1.The Managing Director,
Tamilnadu State Marketing Corporation Limited (TASMAC),
CMDA Tower-II, 4th Floor,
Egmore, Chennai- 600 008.

2.The Senior Regional Manager,
Tamilnadu State Marketing Corporation Limited (TASMAC),
Plot No.100, Anna Nagar, Madurai- 20.

3.The District Manager,
Tamilnadu State Marketing Corporation Limited (TASMAC),
TASMAC IMFS DEPOT,
Bethal Nagar, Chenbagaramanputhur,
Aralvaimozhi, Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the Impugned order passed by the 3rd respondent herein vide Na.Ka.No. A1/724/2022 dated 20.09.2022 and quash the same as illegal.



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For Petitioner : Mr.B.Brijesh Kishore

For Respondents : Mr.S.Sivanesan,
Standing Counsel.

ORDER

Heard the learned counsel for the writ petitioner and the learned standing counsel for the respondents.

2.The writ petitioner has been employed as Salesman by the respondent corporation. He is working in TASMACH Shop No.4825 in Vilavancode Taluk, Kanyakumari District. By the impugned order dated 20.09.2022, the District Manager, TASMACH, Kanyakumari District had suspended the petitioner pending enquiry. Challenging the same, the petitioner has filed the present writ petition.

3.The learned counsel for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He drew my attention to the Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited, 2014. He laid particular stress on clause 7(b)(I)(iv) which contemplates suspension from service as punishment.



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He also places reliance on the interim order dated 13.08.2022 made in W.M.P.

(MD)Nos.14803 to 14805 of 2022 in W.P.(MD)Nos.20439 to 20441 of 2022. A learned Judge of this Court accepting the contention of the learned counsel for the petitioner had held that suspension as punishment as contemplated under the Code cannot be imposed without conducting an enquiry. In that view of the matter, an interim stay was also granted. It is well settled that an interim order passed in another writ petition will not act as a binding precedent, when final order is being passed in a writ petition. It is true that suspension from service as punishment cannot be imposed without holding an enquiry. But an employer is always entitled to and is at liberty to place an employee under suspension pending enquiry. Clause 6(d) of the Code enables the employer to suspend an employee pending enquiry. In this case, the impugned order clearly refers to the occurrence said to have taken place on 17.09.2022 involving a customer. In that regard, Crime No.89 of 2022 has also been registered on the file of Pazhugal Police Station, Kanyakumari District. Of course in the said FIR, the petitioner has not been named in person but the defacto complainant refers to the misconduct of three employees of TASMAC. According to the employer, the petitioner is one of the three, the other two being one C.Ramakrishnan and V.Jayan. Of course, whether the petitioner was actually involved in the occurrence is to be found out only during enquiry. The petitioner has only been



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suspended pending enquiry. He will be entitled to subsistence allowance. I would also expect the employer to conclude the enquiry as expeditiously as possible. It is also open to the petitioner herein to submit a representation seeking revocation of the suspension. If any representation is filed, the competent authority will dispose of the same on merits and in accordance with law within a period of two weeks thereafter. I am more than satisfied that the impugned suspension order is well within the power and authority of the third respondent. I, therefore, decline to interfere.

4. With the aforesaid observations and granting liberty to the petitioner to approach the authority for revocation of suspension order, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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G.R.SWAMINATHAN, J.

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