



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.12466 of 2016

and

W.M.P. (MD) .No.9439 of 2016

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A.Muneshwaran Rathinam

... Petitioner

Vs.

1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Madurai.

2.The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Sipcot, Thoothukudi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned memo of the second respondent dated 08.07.2016 pertaining to the petitioner and quash the same and further directing the respondents to reinstate the petitioner as salesman in the respondent Corporation.

For Petitioner : Mr.G.Prabhu Rajadurai
For Respondents : Mr.B.Jameel Arasu,
Standing Counsel.

ORDER

This Writ Petition has been filed to quash the impugned order dated 08.07.2016 and direct the respondents to reinstate the petitioner as Salesman.

2. The brief facts of the case are that the petitioner was appointed as Salesman in the year 2003 in the respondent Corporation and the petitioner has deposited security amount of Rs.15,000/-. He was allotted Shop No.9950 and thereafter, he was working in Shop No.9977. The contention of the petitioner is that the Supervisor namely, Krishnamoorthy having grudge on the petitioner insisted him to sell the liquors for the price more than MRP in which the petitioner refused. Therefore, the said Krishnamoorthy has given a false complaint against the petitioner on 18.07.2014 as if the petitioner was handed over the collection to the tune of Rs.67,260/- to deposit in the Bank, but the petitioner has not deposited and misappropriated the same and the case was registered in Crime No.272 of 2014 under Section 406, 420 of IPC and the petitioner was



arrested on 20.07.2014. Later, he was released on bail after twenty days. The respondents have not issued any charge memo but suspended the petitioner from service. The suspension order is only oral in nature and there is no written order of suspension. The claim of the petitioner is that he was suspended but no subsistence allowance was paid to him. The impugned order states that the petitioner have to pay the amount of Rs.67,260/- on or before 15.07.2016 otherwise the petitioner service will be terminated. Since the petitioner has not paid the amount, the petitioner was terminated from service on 15.07.2016. Aggrieved over the termination order, the present Writ Petition has been filed.

3. The respondents have not filed any counter. On instructions the Learned Counsel for the respondents submitted that the petitioner has misappropriated Rs.67,260/- and the Supervisor has already paid the said amount. The respondents also prayed since there is no violation of principles of natural justice, the case is remitted back to the authority for conducting fresh enquiry.

4. Heard Mr.G.Prabhu Rajadurai, learned counsel for the petitioner and Mr.B.Jameel Arasu, learned Standing Counsel for the respondents.

5. It is seen from the records that the petitioner was working as Salesman. According to the statement of the respondents the Supervisor namely, Krishnamoorthy has already deposited the amount on 15.07.2016 and it is an admitted fact that the enquiry was not conducted and there is violation of principles of natural justice. The petitioner is out of service from 08.07.2016 onwards.

6. Therefore, this Court is of the considered opinion that the impugned order is liable to be set aside and hence the impugned order is set aside. The respondents shall reinstate the petitioner with immediate effect. The petitioner is entitled to the subsistence allowance from 17.07.2014 to 08.07.2016. Thereafter, the petitioner is entitled to back wages from 15.07.2016 until reinstatement. The respondents are also directed to conduct fresh enquiry and pass appropriate orders, after giving opportunity to the petitioner.

7. With the above observations, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

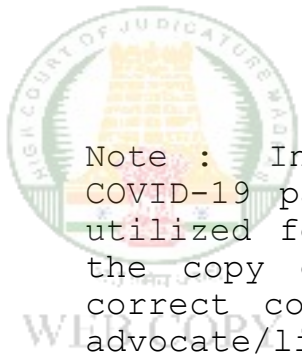
Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /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 Senior Regional Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Madurai.

2.The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Sipcot,
Thoothukudi.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-8645[F] dated
25/02/2022)

+1 CC to M/s.G. PRABHU RAJADURAI, Advocate (SR-21593[F] dated
27/04/2022)

**W.P. (MD) .No.12466 of 2016
26.04.2022**

MK/25.05.2022/3P/5C