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W.P(MD)No.26007 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.26007 of 2022

and

W.M.P.(MD)No.20150 of 2022

S.Sasikumar

... Petitioner

Vs.

The District Manager / Sub-Collector,
TASMAC Limited,
Thanjavur District.

... Respondent

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 pertaining to the impugned order passed by the Respondent in No. 7813/A-1/2022 dated 12.10.2022 and quash the same and consequently direct the respondents to reinstate the petitioner into service with all continuation, service benefits and monetary benefits.

For Petitioner : Mr.K.Navaneetharaja

For Respondent : Mr.H.Arumugam

ORDER

Heard the learned counsel on either side.



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2. The petitioner is employed as salesman in the liquor outlet run by TASMAL. The petitioner was suspended from service vide order dated 12.10.2022 passed by the respondent. Challenging the same, this writ petition has been filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to quash the impugned order and direct the respondent to reinstate the petitioner.

4. The respondent has filed a counter affidavit. The learned standing counsel took me through the materials on record and contended that the impugned order does not call for interference. According to him, the petitioner is figuring as accused in Crime No.823 of 2022 registered on the file of Kumbakonam East Police Station for various offences. Therefore, the authority in order to maintain discipline and morale chose to pass the suspension order. According to him, the impugned order deserves to be sustained.

5. I carefully considered the rival contentions and went through the materials on record. I wanted to know the provision under which the suspension order has been passed.



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6. It is seen that the respondent has invoked the provision of Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited, 2014. Clause 6(d) deals with Investigation Procedure. Clause 6(d) reads as follows:-

(d) If the charges are grave and if it is found that the continuance of the employee in service is injurious to the interest of fair investigation / disciplinary proceedings, he may be suspended pending enquiry. In such event, he shall be paid subsistence allowance as per rules.

7. It is thus obvious that suspension can be made only pending enquiry. In other words, charge memo has to be issued and if the charges are grave and if it is found that continuance of the petitioner in service is injurious to the interest of fair investigation or disciplinary proceedings, he can be suspended. In the case on hand, this fundamental requirement has not been complied with. The impugned order has been passed without jurisdiction. It is quashed. The petitioner shall be reinstated in service forthwith and without any delay.

8. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
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G.R.SWAMINATHAN, J.

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