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W.P.No.20527 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.20527 of 2012
and M.P.No.1 of 2012

Tamizhaga TASMAC Pattali Thozhisangam
(Regn.No.346/KPM)
Represented by its General Secretary,
N.Ramasundaram,
S/o.Narayanan,
Pattali Thozhisanga Mayyam,
No. 1, Gandhi Street, Kaveri Nagar,
Chennai – 600 015.

... Petitioner

-Vs-

1. The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2.TASMAC Ltd.,
Represented by its Managing Director,
4th Floor, CMDA Tower-II,
Gandhi Irwin Bridge Road,
Egmore, Chennai – 600 008.

3. The Commissioner of Labour,
Office of the Commissioner of Labour,
DMS Compound, Teynampet,
Chennai – 600 002.

... Respondents



W.P.No.20527 of 2012

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondents to frame service rules and regulations to regulate and reduce the working hours of the employees of the second respondent establishment from 12 hours to 8 hours with a break of one hour for lunch and also provide other monetary and service benefits by disposing of the representation dated 19.06.2012 made by the petitioner to the respondents.

For Petitioner : Mr.K.Balu

For R1 and R3 : Mr.T.M.Rajangam
Government Advocate

For R2 : Mr.R.Sathish Kumar
Standing Counsel

ORDER

This writ petition has been filed for direction directing the respondents to frame service rules and regulations to regulate and reduce the working hours of the employees of the second respondent establishment from 12 hours to 8 hours with a break of one hour for lunch and also provide other monetary and service benefits by disposing of the representation dated 19.06.2012 made by the petitioner to the respondents.



W.P.No.20527 of 2012

WEB COPY

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner is a Trade Union registered under the Trade Union Act. Originally, in Tamil Nadu, liquor was sold out by auction and given license to private individuals who are the highest bidders. Subsequently, the Government of Tamil Nadu changed its policy and undertook to sell the liquor in retail outlets through the second respondent. The second respondent is a Company registered under the Companies Act and it is an undertaking by the State of Tamil Nadu. In order to run the shop, the second respondent had employed 7000 shop Supervisors, 8000 Salesmen, and 3000 Bar Attenders. The retail vending business is regulated under the Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules 2003. However, even till today, no service regulations or rules were framed in respect of the service condition to the employees of the second respondent. That apart, they were compelled and forced to work for 12 hours continuously from 10 A.M. to 10 P.M., without any break even for lunch. They have also no weekly holidays except some dry days.



W.P.No.20527 of 2012

WEB COPY

4. Section 9 of the Tamil Nadu Shops and Establishment Act, 1947 contemplates that no employee shall be allowed to work for more than 8 hours in a day and 48 hours in any weeks or if any employees is made to work more than the said hours, he should be paid over time and that too it should not exceed in any day and aggregate 50 hours from any week. Though the second respondent availed service of its employees 12 hours per day, they have not paid any over time wages. They have made to work under heavy pressure and also they were treated as slaveries. Insofar as the salary is concerned, they were paid below than the salary fixed under the provision of Minimum Wages Act. They have no compensation or medical facilities as provided to other employees working under the Government undertaking. Therefore, the employees of the second respondent formed an Union and gave a representation to the respondent for their grievances. The Major income of the State of Tamil Nadu is only from the second respondent Corporation. The turnover of the second respondent for each and every year is more than Rs.50,000 Crores and the entire state of Tamil Nadu runs the Government only from the income of the second respondent, but the second respondent is very stringent in taking care of its employees. The second respondent



W.P.No.20527 of 2012

failed to provide any basic facilities and amenities to its own employees.

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5. A perusal of the counter filed by the second respondent revealed that the second respondent has already framed the draft Service Rules for their employees and the same has been in the final stage of Government approval, vide File No.Rc.No.O-1/11679/2017, the same was sent to the first respondent on 05.03.2020. However, it was returned to the second respondent for some clarification and it is pending with the second respondent. After approval of the Board, again it was sent to the Government and it is pending for approval.

6. Insofar as the working hours is concerned, the State Government had issued an order in G.O.(D).No.113, Home, Prohibition and Excise (VI) Department dated 23.05.2016, stating that the working hours of the second respondent Retail vending shops and bars attached there to be reduced from 24.05.2016 onwards. Accordingly, the TASMAL Liquor Retail vending shops and attached bars thereto, are functioning from 12.00 Noon-10.00 P.M, as against the earlier working hours of 10 A.M to 10 P.M. The employees are working on a shift basis



W.P.No.20527 of 2012

WEB COPY

of 5 hours a day and they are availed weekly off. The working hours of 5 hours a day and the weekly off on rotation basis as per monthly roaster fixed by the District Manager.

7. Insofar as the wages are concerned, the minimum wages for scheduled employment are fixed by the Government for employees working in Shops and Establishments covered under the Shops and Establishment Act, 1947. However, the second respondent is exempted from the provisions of the Shops and Establishment Act, 1947 and hence, the provision of the minimum wages are technical and not applicable to the second respondent.

8. It is also seen that all the employees are employed under a consolidated salary and it has been revised annually and they are working as temporary staffs. Therefore, it is very unfortunate to state that the second respondent is running from the year 2003 and for the past 20 years, the respondents failed to frame even the Service Rules for them and no basic amenities are provided to them.



WEB COPY



W.P.No.20527 of 2012

G.K.ILANTHIRAIYAN, J.

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To

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Home, Prohibition & Excise Department,
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Chennai – 600 009.
2. The Managing Director,
TASMAC Ltd.,
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