



W.P.No.24521 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.24521 of 2021

G.Ambethsiva

...

Petitioner

/vs/

1. The Managing Director,
TASMAC,
Head Office,
4th Floor, CMDA Tower 2, Egmore,
Chennai – 600 008.

2. The Senior Regional Manager,
TASMAC, Salem.

3. The District Manager,
TASMAC, Krishnagiri.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records relating to the revision order in SE.Mu.Na.Ka.No.R.1/1466/2021 dated 29.09.2021 passed by the first respondent confirming the appeal order passed by the second respondent in Se.Mu.No.4566/2015/A dated 22.12.2015 and the order of



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dismissal passed in Na.Ka.No.1240/20013/CV-1 dated 18.05.2015 passed by the third respondent quash the same and direct the respondents to reinstate the petitioner into service with all consequential benefits.

For Petitioner ... Mr.M.P.Rajavelayutham
for Mr.S.Doraisamy

For Respondents ... Mr.M.Sekar

ORDER

The petitioner who was dismissed from service on certain proved charges has filed this writ petition seeking to quash the revision order in SE.Mu.Na.Ka.No.R.1/1466/2021 dated 29.09.2021 passed by the first respondent confirming the appeal order passed by the second respondent in Se.Mu.No.4566/2015/A dated 22.12.2015 and the order of dismissal passed in Na.Ka.No.1240/20013/CV-1 dated 18.05.2015 passed by the third respondent and to direct the respondents to reinstate the petitioner into service with all consequential benefits.

2. The petitioner was given with a charge memo dated 28.11.2003



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for certain alleged lapses for which he has given his explanation. An enquiry has been conducted and the disciplinary proceedings has also been initiated. At the conclusion of the enquiry the charges against the petitioner were found to be true and subsequently the petitioner was dismissed from service.

3. Mr.M.P.Rajavelayutham, the learned counsel for the petitioner, submitted that a copy of the enquiry report was furnished to him and the second respondent who is the appointing authority while passing order of punishment did not make any discussions as to how the enquiry report was fair and proper and why the punishment of dismissal of service was appropriate; the order of the third respondent has merely reiterated the findings of the enquiry report and straight away proceeded to impose the punishment of removal; the petitioner has filed an appeal before the second respondent and the second respondent also confirmed the order of the third respondent without speaking on the merits of the order; the petitioner has filed a revision before the first respondent by raising all the grounds which is now being addressed before the Court and the first respondent also did not consider the same and passed the impugned orders.



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4. Mr.M.Sekar, the learned counsel for the respondents, submitted that enquiry has been conducted in a fair and proper manner and the representation of the petitioner was heard before imposing the order of punishment and hence no prejudice was caused to the petitioner.

5. Even though the respondents claim that a fair opportunity was given to the petitioner during the course of enquiry and the charges were proved, the enquiry report was not been given to the petitioner. The order of punishment of removal of service has been passed only after giving opportunity to the petitioner by making his representation. However the petitioner could not have made an effective representation without receiving a copy of the enquiry report.

6. In the opinion of the third respondent, the charges proved against the petitioner were serious and grave and hence he deserves a punishment of removal of service. However the appellate authority could have considered the non-furnishing of enquiry report to the petitioner and passed a well reasoned order as to how the enquiry report was found to be proper



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and fair. In the order of the second respondent appellate authority also no such discussions were found. The order of the revisional authority also in no way better than the order of appellate authority.

7. Even though the enquiry has been conducted by giving proper opportunity to the petitioner, the petitioner ought to have been given with a copy of the enquiry report in order to enable him to make effective representation with regard to its acceptance and punishment. In that score, I feel that the writ petition may be considered for quashing the order passed by the appellate authority and the revisional authority without disturbing the status of removal of service and direct the appellate authority to reconsider the appeal by giving proper consideration for the grounds raised by the petitioner in his appeal and pass a reasoned order.

8. In view of the above, this writ petition is partly allowed and the impugned orders in SE.Mu.Na.Ka.No.R.1/1466/2021 dated 29.09.2021 passed by the first respondent and the order passed by the second respondent in Se.Mu.No.4566/2015/A dated 22.12.2015 are alone quashed,



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without disturbing the status of removal from service and the second respondent is directed to furnish a copy of the enquiry report to the petitioner within a period of two weeks from the date of receipt of a copy of this order and give two weeks of time to the petitioner to make his representation and after receipt of the same, the second respondent shall consider the same and pass an order afresh after dealing all the grounds raised in the appeal, within a period of two weeks from the date of receipt of second representation of the petitioner. The petitioner is also at liberty to make his additional grounds of appeal if any, along with his representation.

No costs.

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Index: Yes / No

Speaking order / Non-speaking order

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R.N.MANJULA ,J.

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