



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.31791 of 2023

1.R.Sathish

2.P.Ilayaraja

... Petitioners

Vs.

1.The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
IVth Floor, CMDA Tower II,
Egmore,
Chennai – 8.

2.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Limited,
Chennai Zone,
Ambattur,
Chennai – 58.

3.The District Manager,
Tamil Nadu State Marketing Corporation Limited,
P.4 Ambattur Estate,
Chenna [South] District.

... Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the third respondent vide proceedings No. Se.Mu.No. RV-



1/358/2023 dated 26.10.2023 and to quash the same and consequently direct the third respondent to reinstate the petitioners in service with all attendant benefits.

For Petitioners : Mr.Vijayakumar
Senior Counsel
For Mr.A.V.Balusamy

For Respondents : Mr.K.Sathish Kumar
Standing Counsel

ORDER

On the strength of certain charges levelled under a Charge Memo dated 10.10.2023, the respondents have sought for explanation from the petitioners and it is claimed that the petitioners have given a representation to the charged levelled against him on 10.10.2023 itself. The Enquiry Officer seems to have been appointed on 12.10.2023 and has submitted his report on 25.10.2023 holding that the charges as proved. The next day, punishment order dated 26.10.2023 has been passed.

2. From the aforesaid dates, it is quite obvious that a due opportunity has never been extended to the petitioners throughout the disciplinary proceedings for the original show cause notice, which is claimed to have



been issued on 06.10.2023. The petitioners had given a reply on 10.10.2023 on the same day i.e., on 10.10.2023 the charges have been framed and it is affirmed by the respondents that the petitioners have also given his reply to the levelled charges on 10.10.2023.

3. To make things worse, after the enquiry, when the Enquiry Officer had submitted his report on 25.10.2023, the Disciplinary Authority has passed the punishment order on the next day i.e., on 26.10.2023.

4. In this background, this Court is of the view that the principles of natural justice has been totally violated commencing from the framing of charges till the punishment was imposed.

5. The learned Senior Counsel appearing on behalf of the petitioners submitted that after the charges were framed, the petitioners were handed over the charges and asked to give his reply in writing on the same day, to which he had obliged. The dates on which the charges were framed and the reply given, indicate that no due opportunity was extended to the petitioners to give their valuable reply for the framed charges.



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6. This apart, after the Enquiry Officer filed his report on 25.10.2023, the Disciplinary Authority is mandated to issue a second show cause notice calling for the further explanation of the delinquent employee, seeking for his objections to the findings of the Enquiry Officer's report. This procedure is conspicuously absent in the present proceedings. Thus, the entire disciplinary proceedings commencing from the framing of the charges till the imposition of the punishment is faulted and hence is liable to be set aside on the ground of procedural irregularity. Consequently, the punishment also cannot be sustained.

7. In result, the impugned punishment in proceedings No. Se.Mu.No. RV-1/358/2023 dated 26.10.2023 is quashed. However, the respondents are at liberty to issue a fresh show cause notice to the charge memo dated 10.10.2023 by granting due opportunity to the petitioners to give their reply, which period shall be at least not less than 15 days. Thereafter, if the Disciplinary Authority is not inclined to accept the explanation of the petitioners, the procedure contemplated under the Service Regulations governing the respondent-Corporation with regard to the conduct of



disciplinary proceedings, shall be strictly followed and while conducting such an enquiry, the principles of natural justice are to be adhered to.

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8. With the above directions, this Writ Petition stands allowed. No costs.

18.12.2023

Jeni
Index : Yes
Neutral Citation : Yes
Speaking order

To

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