



W.P.No.30955 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

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P. Chandran

.. Petitioner

Versus

1. The Managing Director,
TASMAC, Head Office, 4th Floor, CMDA, Tower-2
Egmore, Chennai-8
2. The Senior Regional Manager,
TASMAC Limited, Salem
3. The District Manager/Deputy Collector
TASMAC Limited, Salem

.....Respondents

Prayer: This writ petition is filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned in his proceedings in No.Se.M.Na.Ka.Na.R1-1170/2016 dated 04.08.2017 passed by the first respondent confirming the proceedings in Se.Mu. No. 2474/2015/A dated



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22.07.2015 passed by the second respondent confirming the order of the 3rd respondent in his proceedings in Na.Ka.No.2602/A4/C.V dated 17.02.2015 and quash the same and consequently direct the respondents to reinstate the petitioner and regularize the period of removal from service as duty and fix the seniority of he petitioner over and above the immediate junior of the petitioner with backwages and pass orders.

For Petitioner
For Respondent

:Mr.R.Muruga Bharati
:Mr.K. Balakrishnan
Standing counsel

ORDER

This writ petition is filed calling for the records pertaining to the impugned in his proceedings in No.Se.M.Na.Ka.NaR1-1170/2016 dated 04.08.2017 passed by the first respondent confirming the proceedings in Se.Mu. no. 2474/A dated 22.07.2015 passed by the second respondent confirming the order of the 3rd respondent in his proceedings in Na.Ka.No.2602/A4/C.V dated 17.02.2015 and quash the same and consequently direct the respondents to reinstate the petitioner and



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regularize the period of removal from service s duty and fix the seniority of he petitioner over and above the immediate junior of the petitioner with backwages.

2. The case of the petitioner is that the petitioner was appointed as Superintendent in the 3rd respondent shop in the year 2003. Whiles, a charge memo was issued to the petitioner and enquiry was also conducted. Based on the enquiry report the third respondent passed an order on 17.02.2015 in Na.Ka.No.2602/2014/A4/C.V stating that the petitioner has misappropriated funds to the tune of Rs.20,600/- Against which the petitioner preferred an appeal before the second respondent who confirmed the order passed by the third respondent in Se.Mu.2474/2015/A on 22.07.2015. Aggrieved over the same, the petitioner preferred an review before the first respondent who confirmed the order passed by the second respondent in Se.Mu.Na.Ka.Na.No.1170 of 2016 dated 04.08.2017. Challenging the same the petitioner has come up with this writ petition.



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3. The learned counsel for the petitioner submitted that he was not hale and healthy to manage the office work and go to bank and deposit the collection amount in the bank, due to which he has instructed one of his relative to deposit the amount in the bank, who had committed misappropriation. He further submitted only at the time of inspection he came to know that there was a shortage of Rs.20,600/-. However, he deposited the amount of Rs.20,600/- in the bank. Hence he prays to allow this petition.

4. Per contra, the learned standing counsel for the respondent submitted that the deposit was not done on a single day. It was the deposits made from the period 10.04.2014 to 20.09.2014. It is pertinent to note that the petitioner has deducted the amount and made an adjustment in the entries and deposited the collection amount which amounts to misappropriation. Hence, prays to dismiss this petition.

5. On a perusal of records it is made clear that the petitioner has misappropriated funds of the third respondent to the tune of Rs.20,600/-



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and he has also remitted the same. The reason given by him for the offence committed is that he was not feeling well due to which he instructed one of his relative to deposit the amount in the Bank, who has committed misappropriation. Even assuming the relative of the petitioner has committed misappropriation, it is the duty of the petitioner to monitor the same on the first day which was not done by the petitioner. Furthermore to substantiate the contention of the petitioner that he is not hale and healthy he has to take Medical leave which was also not done by the petitioner.

6. In the enquiry report, the enquiry officer has made an observation that the delinquent has permitted his relative to discharge his duty which is not correct. To arrive at a different conclusion than the finding given in the enquiry report that the petitioner has not committed the misappropriation, the petitioner ought to have deposited the alleged amount before enquiry. Rather he has admitted his guilt only after the enquiry and deposited the alleged amount. The main contention of the petitioner is that due to ill health he has instructed his relative to deposit the collection amount, but, to substantiate the said contention the petitioner ought to have taken medical leave which was also not done.



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7. In view of the above facts, it is made clear that there is no merits in the submission made by the petitioner and this petition deserves to be dismissed. Accordingly, this writ petition is dismissed. No order as to costs.

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Speaking order : Yes/No

Neutral citation : Yes/No

Index : Yes/No

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To.

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V.BHAVANI SUBBAROYAN, J.

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