



W.P.No.33851 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.33851 of 2018

and

W.M.P.No.39319 of 2018

K.Athimoolam

... Petitioner

Vs.

- 1 The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
(TASMAC), Thalamuthu Natarajan Maaligai,
4th Floor, CMDA Building,
Egmore,
Chennai-8.
- 2 The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Limited,
(TASMAC),
Salem District.



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3 The District Manager,
Tamil Nadu State Marketing Corporation Limited,
(TASMAC), Arakkonam,

Vellore District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relevant to the order in SE.MU.NO.3057/2015/A dated 18-06-2015 passed by the 2nd respondent by confirming the order of the 3rd respondent in Se.Mu.Na.Ka.No.A2/723(4) C.V.2012 dated 13-10-2014 and quash the same as illegal improper, unreasonable, arbitrary and against the principles of natural justice and thereby direct the respondents to reinstate the petitioner into his service in the respondents departments and pay back all service benefits to the petitioner with effect from 23-08-2012.

For Petitioners : Mr.B.Sunarapandian

For Respondents : Mr.K.Balakrishnan
Standing Counsel



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ORDER

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This Writ Petition has been filed to quash the order of the 2nd respondent dated 18-06-2015 by confirming the order of the 3rd respondent dated 13-10-2014 as illegal, improper and arbitrary and thereby to direct the respondents to reinstate the petitioner into service and to pay back all service benefits to the petitioner with effect from 23-08-2012.

2.The petitioner was appointed in the respondent Department as Salesman in the TASMACH Shop at Sumaithangi, Vellore District. Subsequently, he was transferred to various shops. Finally, he was transferred into the TASMACH Shop No.11025 at Arcot, Vellore District. The petitioner claims that he, while working as Salesman in Shop No.11025 on 22.08.2012 has faced a disciplinary proceeding, as the surprise inspection done by the jurisdictional District Manager, revealed certain



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irregularities like 35 bottles were in open condition without labels, labels in torn condition and with only half bottle of liquor, etc., and he was placed under suspension on 27.08.2012, and the seized bottles was confiscated. The petitioner would state that he was issued with a charge memo on 11.09.2012, granting seven days time to submit his explanation and it was also submitted, and not satisfied with the same, Enquiry Officer was appointed, who held that the charges framed against the petitioner and enquiry report dated 20.08.2014. The 3rd respondent on consideration of the materials placed before him has imposed the punishment of removal from service vide order dated 13.10.2014. Being aggrieved by the same, the petitioner preferred an appeal to the 2nd respondent who vide order dated 18.06.2015 has dismissed and confirmed the order of the 3rd



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respondent.

3.The petitioner would further state that after enquiry, it was held that the charges were proved and the petitioner was not issued with any show cause notice and after serving the report of the Enquiry Officer, he was removed from service vide order dated 18.06.2015, and challenging the legality of the same, the present Writ Petition is filed.

4.The learned Counsel appearing for the petitioner would submit that the charge memo was issued by the District Manager viz., Ms.Mageswari, and the order of suspension was also passed by 27.08.2012, and after receipt of the enquiry report, the impugned order of removal was passed on 18.06.2015. He would further submit that in similar facts and circumstances,



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this Court vide order dated 5.3.2015, made in W.P.No.28066 of 2014, has set aside the matter with a direction to the Authority to reinstate the concerned petitioner and to conduct a fresh enquiry in accordance with the Regulations, and since the petitioner is similarly placed, same kind of order may be passed.

5.Per contra, Mr.K.Balakrishnan, learned Standing Counsel, who accepted notice on behalf of the respondents, would submit that the petitioner is having an effective alternate remedy in the form of revision to the 1st respondent and hence, a direction may be issued to avail the said remedy.

6.This Court has carefully considered the rival submissions and also perused the materials placed before it.

7.As rightly contended by the learned Counsel appearing



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for the petitioner, the respondent/District Manager has assumed the role of all Authorities and she started with the issuance of charge memo and actively participated in the Disciplinary Proceedings, which culminated in the impugned order of removal from service.

8.This Court in similar facts and circumstances, has passed an order dated 5.3.2015, in W.P.No.28066 of 2014, and set aside the order of removal passed against the petitioner therein, by granting liberty to the respondent viz. the District Manager, TASMAC, Tiruvallur District, to proceed afresh. In the considered opinion of the Court, the said order squarely applies to the facts of this case.

In the result, the Writ Petition is partly allowed and the



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impugned order dated 18.06.2015, passed by the 2nd respondent, is set aside and the matter is once again, remanded to the respondent for fresh adjudication strictly in accordance with law/Rules/Regulations and pending culmination of the disciplinary proceedings, the 2nd respondent is directed to reinstate the petitioner forthwith. The question of payment of back-wages and conferment of attendant benefits shall be decided subject to the result of the enquiry proceedings. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No
Speaking order :Yes/No
Neutral citation:Yes/No
mps

To

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V.BHAVANI SUBBAROYAN, J.

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