



W.P(MD)No.6220 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 27.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6220 of 2023
and
W.M.P.(MD)No.5920 of 2023

Kannan

... Petitioner

Vs.

1.The Managing Director,
Tamilnadu State Marketing Corporation Ltd.,
4th Floor, CMDA Building Tower II,
Ganthi Irwin Bride Road,
Egmore, Chennai – 600 008.

2.The Senior Regional Manager,
Tamilnadu State Marketing Corporation Ltd.,
Collector Office Old Building 1st Floor,
Trichy – 620 001.

3.The District Manager / Deputy Collector,
Tamilnadu State Marketing Corporation Ltd.,
TSMAC, Thuvvakudi,
Trichy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings issued by



W.P(MD)No.6220 of 2023

the 3rd respondent in Na.Ka.No.NCV1/267/2022 dated 15.03.2023 and quash the same as illegal and unconstitutional and consequently direct the 2nd and 3rd respondents to allot the petitioner to shop No.10342 situated at Manakkal.

For Petitioner : Mr.K.P.S.Palanivelrajan, Senior Counsel,
For Mr.R.Varadharajan

For Respondents : Mr.S.Sivanesan,
Standing Counsel.

ORDER

Heard the learned senior counsel for the writ petitioner and the learned standing counsel for the respondent corporation.

2.The petitioner was appointed as Salesman on 01.12.2003 in Shop No.10339 run by TASMACH at Trichy. The petitioner was working at Shop No.10342 at Manakkal in Lalgudi Taluk. On 04.11.2022, an inspection was conducted by the Audit Wing and it was found that there was shortfall in the stock to the tune of Rs.80,640/-. The petitioner was suspended from service on 05.11.2022. Enquiry was ordered. The



W.P(MD)No.6220 of 2023

charge framed against the petitioner could not be established during enquiry and that the petitioner was ordered to be reinstated. However while reinstating, the petitioner has been posted at Pappapatti. It is not in dispute that Pappapatti is at a distance of more than 160 Kms from Manakkal. The order of transfer is put to challenge in this writ petition.

3.The learned senior counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned transfer order and grant relief as prayed for.

4.The respondents have filed counter affidavit and the learned standing counsel took me through its contents. He submitted that the District Manager who passed the impugned order is very much competent to issue the transfer order and that Pappapatti is also located in Trichy District and transfer being an incident of service, the petitioner has no ground to complain. He pressed for dismissal of the writ petition.



W.P(MD)No.6220 of 2023

5.I carefully considered the rival contentions and went through the materials on record. The petitioner was originally posted only at Manakkal. He was suspended from service on certain charges. The charge against the petitioner could not be established and the petitioner was ordered to be reinstated. When the petitioner has come clean, the petitioner ought to be re-posted in the very same place. Of course the employer has the jurisdiction and authority to transfer an employee to some other place. But then, there must be some reason for effecting transfer. In Paragraph No.5 of the counter affidavit, what has been stated is that during the period of suspension of the petitioner and his colleague, the vacancy was filled up by another contractual Salesman on additional charge basis. This obviously cannot be a reason for blocking the petitioner in the original place of work. When a contractual arrangement was made to tide over the situation caused by the suspension of the petitioner and others, once the enquiry had concluded and reinstatement was ordered to be made, the contractual arrangement made during the intervening period should be terminated. Instead of adopting such an approach, the authority has chosen to vex the petitioner by posting him at Pappapatti.



W.P(MD)No.6220 of 2023

6.I also find force in the contention of the learned senior counsel for the petitioner that the authority was led to issue the impugned order of transfer more as a measure of punishment because the petitioner had moved this Court on more than one occasion and obtained relief. The contention that the impugned order is also punitive cannot be brushed aside.

7.Looked at from any angle, I find no justification for transferring the petitioner from Manakkal to Pappapatti. An administrative order must have some justification. After going through the contents set out in the counter affidavit, I am not able to notice any such justification. The interim order of stay already granted is made absolute. The impugned order of transfer is set aside and the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

27.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias



WEB COPY



W.P(MD)No.6220 of 2023

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.6220 of 2023

27.04.2023
(2/2)