



W.P(MD)No.13107 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13107 of 2023

and

W.M.P(MD)No.11095 of 2023

V.Boomiraja

... Petitioner

Vs

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

2.The Senior Regional Manager,
TASMAC,
Anna Nagar,
Madurai District.

3.The District Manager,
Dindigul TASMAC,
Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of suspension made in Na.Ka.No.



W.P(MD)No.13107 of 2023

006/2022/A2 dated 02.06.2023 on the file of the third respondent and to quash the same and consequently direct the respondents to reinstate the petitioner into service as shop supervisor of TASMAL Shop No.3303, Dindigul West Taluk and District.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondents : Mr.H.Arumugam
Standing Counsel

ORDER

Heard the learned counsel on either side.

2. The petitioner is employed as Supervisor in the liquor outlet run by TASMAL. By the impugned order dated 02.06.2023, he has been suspended from service. The learned counsel appearing for the petitioner draws my attention to the order dated 02.12.2022 in W.P(MD)No.26007 of 2022. Paragraphs 6 and 7 of the said order read as follows:

“6. It is seen that the respondent has invoked the provision of Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited, 2014. Clause 6(d) deals with Investigation Procedure. Clause 6(d) reads as follows:-



W.P(MD)No.13107 of 2023

(d) If the charges are grave and if it is found that the continuance of the employee in service is injurious to the interest of fair investigation / disciplinary proceedings, he may be suspended pending enquiry. In such event, he shall be paid subsistence allowance as per rules.

7. It is thus obvious that suspension can be made only pending enquiry. In other words, charge memo has to be issued and if the charges are grave and if it is found that continuance of the petitioner in service is injurious to the interest of fair investigation or disciplinary proceedings, he can be suspended. In the case on hand, this fundamental requirement has not been complied with. The impugned order has been passed without jurisdiction. It is quashed. The petitioner shall be reinstated in service forthwith and without any delay.”

The order impugned in this writ petition is without jurisdiction, it stands quashed. The petitioner shall be reinstated in service forthwith and without any delay.

3. At this stage, the learned Standing Counsel appearing for the TASMACH points out that on 12.06.2023 the petitioner was served with charge memo. While it is open to the respondents to consider suspending the petitioner afresh, the order impugned in the writ petition cannot be sustained.



W.P(MD)No.13107 of 2023

Granting liberty to the Management to invoke their powers, if necessary, this writ petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.06.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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W.P(MD)No.13107 of 2023

G.R.SWAMINATHAN, J.

MGA

W.P(MD)No.13107 of 2023
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W.M.P(MD)No.11095 of 2023

30.06.2023