



W.P.(MD).No.16912 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.16912 of 2023

and

W.M.P(MD)No.14144 of 2023

P.Lenin

... Petitioner

Vs.

1.The Senior Regional Manager,
Madurai Region – TASMAL,
Madurai.

2.The District Manager,
TASMAL Thoothukudi District,
Thoothukudi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned order on the file of 2nd respondent vide proceeding in Na.Ka.No.A2.162/2023 dated 18.04.2023 and quash the same as illegal and devoid of merits and further direct the 1st and 2nd respondents to revoke the Impugned order of suspension and re-instate the petitioner into service based on the petitioner's representation, dated 17.05.2023.



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For Petitioner : Mr.Raja Karthikeyan

For Respondents : Mr.S.Sivanesan
Standing Counsel

ORDER

The present writ petition has been filed to call for the records pertaining to the Impugned order on the file of 2nd respondent vide proceeding in Na.Ka.No.A2.162/2023 dated 18.04.2023 and quash the same as illegal and devoid of merits and further direct the 1st and 2nd respondents to revoke the Impugned order of suspension and re-instate the petitioner into service based on the petitioner's representation, dated 17.05.2023.

2. The petitioner was working as Salesman in TASMAC Shop No.9918 at Kayathar, Thoothukudi District. On 12.04.2023, the petitioner was placed under suspension by the 2nd respondent in view of the criminal case registered against him in Crime No.14 of 2023 on the file of the District Crime Branch, Thoothukudi District. In connection with the said criminal case, the petitioner was arrested and remanded to judicial custody for more than 48 hours. As per the General Rules, since he was placed under suspension, the 2nd respondent



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issued a show cause notice, dated 26.04.2023 and sought for explanation for the criminal case and subsequent judicial custody from the petitioner.

3. The petitioner gave an explanation on 16.05.2023 explaining that he had purchased a land on 02.09.2020 at Kollankinaru Village and there was a dispute with respect to that and nothing is attributable to his work. Hence, he was a *bona fide* purchaser and without being aware of the family dispute in the family of the seller from whom the petitioner purchased the property, those issues emanated. In view of the same, Crime No.14 of 2023 was registered against him and that particular criminal case is no way connected with his TASMAL service in the post of Salesman and criminal case against him is a private issue which is not connected to the service conditions of his service. Despite that explanation, he was placed under suspension from 12.04.2023 and now, more than 3 months have lapsed. He was not paid with subsistence allowance during the period of suspension also. Now, even after the completion of 3 months from the date of suspension, enquiry is not yet completed and hence, he is subjected to difficulty and penury.



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4. It is settled proposition of law as decided by the Hon'ble Apex Court in its judgment reported in 2015 (7)SCC 291 (*Ajay Kumar Choudhary Vs. The Union of India & Another*) wherein a specific direction has been given by the Hon'le Apex Court that the order of suspension should not be extended beyond 3 months. However, in this case, a charge memo has been issued on 11.05.2023. For which, the petitioner gave his explanation on 16.05.2023 and even after that, no action has been taken in his disciplinary proceedings. By now, a period of more than 90 days has lapsed. Hence, the petitioner made a representation on 17.05.2023 to review the order of suspension against him and reinstate him in service. However, the same was not considered. Hence, this writ petition came to be filed.

5. The learned standing counsel for the respondents submitted that enquiry officer has already been appointed and very shortly, the enquiry will be concluded. Hence, no interference is called for in this matter.

6. Considering the fact that the petitioner is placed under suspension for more than 3 months, this Court is inclined to direct the respondents to reinstate



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the petitioner into the service without prejudice to the enquiry proceedings which has been initiated against him and which is pending.

7. With the said observations, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

13.07.2023

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

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To

- 1.The Senior Regional Manager,
Madurai Region – TASMAC,
Madurai.
- 2.The District Manager,
TASMAC Thoothukudi District,
Thoothukudi.



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L.VICTORIA GOWRI, J.

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