



W.P.(MD)No.9482 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.9482 of 2018

and

W.M.P.(MD).Nos.12674 of 2021 and 8734 of 2018

A.Suresh

... Petitioner

Vs.

1.Tamilnadu State Marketing Corporation Ltd (TASMAC),
Represented by its Managing Director,
4th Floor, CMDA tower II,
Egmore, Chennai – 600 008.

2.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd (TASMAC),
Trichirapalli.

3.The Deputy Collector/District Manager,
Tamil Nadu State Marketing Corporation Ltd (TASMAC),
Thanjavur District,
Thanjavur.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of



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the respondents in connection with the impugned orders passed by the 3rd respondent in Na.Ka.No.8122/2016/R.V.2 dated 31.07.2017 dismissing the petitioner from service, confirmed by the 2nd respondent in the appeal under his orders Moo.Mu.No.2918/17 (U) dated 19.12.2017 and reaffirmed by the 1st respondent under his orders in Se.Mu.Na.Ka.No.R1/14690/2017 dated 08.03.2018 and quash the same and consequently directing the respondents to reinstate the petitioner with continuity of his service, back wages and all other attendant benefits.

For Petitioner : Mr.C.M.Arumugam
For Respondents : Mr.N.Vignesh
for Mr.H.Arumugam

ORDER

This writ petition has been filed challenging the impugned order passed by the 3rd respondent dated 31.07.2017, dismissing the petitioner from service, confirmed by the 2nd respondent in the appeal dated 19.12.2017 and reaffirmed by the 1st respondent dated 08.03.2018 and to quash the same and consequently direct the respondents to reinstate the petitioner with continuity of service, back wages and all other attendant benefits.



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2. The case of the petitioner is that he was appointed as Supervisor in Retail Vending Shop No.8122, TASMACH., in the year 2004. On 11.02.2017, the third respondent has suspended the petitioner from service, on the ground that he has been working as a Computer Teaching Faculty in Mannar Saraboji Government College (Autonomous), while he was working as a Supervisor in the TASMACH also. The third respondent has issued a charge memo against the petitioner on 09.03.2017. The petitioner has given a detailed explanation denying all the allegations against him on 20.03.2017. However, the third respondent by proceedings dated 31.07.2017, dismissed the petitioner from service. Challenging the same, the petitioner has preferred an appeal on 16.10.2017, before the second respondent and the second respondent has dismissed the appeal on 19.12.2017. Thereafter, he has preferred a revision before the first respondent on 05.01.2018 and the same was also dismissed on 08.03.2018. Challenging the same, the present writ petition has been filed.



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3. The learned counsel appearing for the petitioner would submit that the petitioner was initially appointed as Salesman in the TASMACH Shop and subsequently, he was promoted as Supervisor. At the time of entering into the said post, he has not employed anywhere and subsequently, on the request made by the Mannar Saraboji Government College (Autonomous), he is conducting classes on honorary basis and he collected remuneration only as a tuition fee not by way of appointment issued and there is no dual employment. Further, there is no legal bar in the TASMACH Rule for getting other employment in Autonomous College. However, the third respondent has terminated the petitioner from service, which is highly disproportionate. Hence, he prayed for allowing this writ petition.

4. The learned Standing counsel appearing for the TASMACH would submit that the petitioner was appointed as Supervisor in TASMACH Shop No.8122 at Chengippatty, Budhalur Taluk, Thanjavur District. While so, on 19.09.2016, the respondent Corporation has received an information from the Principal of Raja Sarfoji Government College that the petitioner is



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in additional employment in Raja Sarfoji Government College under consolidated pay. Since the said additional employment was without permission from the TASMAC authorities, a disciplinary proceeding was initiated against him and he was suspended from service on 11.02.2017. Thereafter, the third respondent sought additional details from the Principal of the said College and also confirmed the same and a charge memo has been issued against him on 09.03.2017. The petitioner has given detailed explanation on 20.03.2017, stating that he did not receive any pay from the College, but the Principal collected fee from the students and paid into his account. Not satisfied with the same, an enquiry officer was appointed for conducting enquiry. The enquiry officer has conducted an enquiry and proved the charges against the petitioner. Hence, he was dismissed from service on 22.07.2017 and the order of termination is perfectly right and the same need not be interfered with by this Court. Hence, he prayed for dismissal of this writ petition.

5. Heard the learned counsel for the petitioner and the learned Standing counsel appearing for the respondents.



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6. The facts in the present case are not in dispute. Admittedly, the petitioner was appointed as Salesman in the TASMACH Shop run by the third respondent. The appointment of the petitioner was made only on temporary basis and the allegation made against the petitioner is that he engaged dual employment in two institutions simultaneously and the same was also not denied by the petitioner. The petitioner has also admitted that he employed in the TASMACH Shop as Supervisor as well as in Mannar Saraboji Government College as Computer Teaching Faculty.

7. In view of the dual employment of the petitioner, the third respondent has rightly passed the order of termination, which cannot be interfered with by this Court. Hence, this writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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akv



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