



W.P(MD)No.28291 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.12.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.28291 of 2023

Sasikumar

... Petitioner

Vs.

1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation
(TASMAC) Ltd.,
Trichy.

2.The District Manager/Sub-Collector,
TASMAC Limited,
Thanjavur District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to grant subsistence allowances to the petitioner for the period from 12.10.2022 to 15.07.2023.

For Petitioner : Mr.K.Navaneetharaja

For Respondents : Mr.H.Arumugam
Standing Counsel



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ORDER

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The present writ petition has been filed seeking a Mandamus directing the respondents to pay subsistence allowances for the petitioner for the period between 12.10.2022 to 15.07.2023.

2. The writ petitioner herein who was working as Salesman in TASMAC retail outlet, was placed under suspension on 12.10.2022. The said order of suspension was challenged by the petitioner in W.P(MD)No.26007 of 2022 and this Court was pleased to quash the order of suspension and directed the 2nd respondent to reinstate the petitioner vide order dated 02.12.2022.

3. In compliance with the orders of this Court, the respondents herein passed an order on 29.12.2022 reinstating the petitioner. However, posting orders were issued only on 15.07.2023. Hence, the petitioner has sent a representation on 28.08.2023 seeking regularization of the suspension period and for payment of salary. Since the said request was not considered, the present writ petition has been filed.



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4. According to the learned counsel appearing for the writ petitioner, once the order of suspension has been quashed by this Court, the respondents ought to have reinstated him immediately and granted all the benefits with effect from 12.10.2022 onwards. However, the benefits for the period between 12.10.2022 to 15.07.2023 have not been conferred.

5. Per contra, the learned Standing Counsel appearing for the respondents had contended that since the petitioner has not worked for the above said period, he is not entitled to receive any salary or any other benefits.

6. I have carefully considered the submissions made on either side and perused the material records.

7. The petitioner was a Salesman working in the TASMACH, was placed under suspension by an order, dated 12.10.2022. This Court in W.P(MD)No.26007 of 2022, by an order dated 02.12.2022 had quashed the said order of suspension on the ground that it is without jurisdiction.



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Therefore, it is clear that the order of suspension is void in the eye of law. However, the order of suspension was cancelled by the authorities only on 29.12.2022 and posting orders were issued only on 15.07.2023.

8. When the order of suspension is void in the eye of law, the petitioner is entitled to the benefits for the period during which he was kept out of employment by the employer. Therefore, the petitioner is entitled to full salary and other attendant benefits for the period between 12.10.2022 till 15.07.2023.

9. In view of the above said deliberations, the respondents herein are directed to pay full salary for the period between 12.10.2022 to 15.07.2023 with all attendant benefits.

10. With the above said observations, this Writ Petition stands allowed to the extent as stated above. No costs.

13.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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- To
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Trichy.
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R.VIJAYAKUMAR,J.

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Order made in
W.P(MD)No.28291 of 2023

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