



WEB COPY

W.P.No.11463 of 2020



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.11463 of 2020

R.Vijayakumar

...

Petitioner

versus

1.The Managing Director, (TASMAC),
Officer of the Managing Director, TASMAC Ltd.,
4th Floor, CMDA Tower-II,
Egmore, Chennai - 600 008.

2.The Senior Regional Manager,
Office of Senior Regional Manager, TASMAC Ltd.,
56, Brindhavan Road, Fairlands, Salem-16.

3.The District Manager, (TASMAC)
Office of the District Manager,
Arakkonam District TASMAC Ltd.
Arakkonam, Vellore District.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the dismissal order made in Se.Mu.Na.Ka.A2/562/Si.Vi/2014 dated 30.06.2015 on the file of the third respondent and consequential order in Se.Mu.No.4982/2015/Aa dated 28.09.2015 on the file of the second respondent and subsequent order passed by the first respondent in his proceedings made in Se.Mu.Na.Ka.No.R1/8304/2018 dated 26.12.2018 and quash the same and direct the third respondent to reinstate the petitioner in



service with full back wages, continuity of service, consequential and other attendant benefits.

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For Petitioner : Mr.N.S.Kishore Kumar
For Respondents : Mr.K.Balakrishnan
Standing Counsel for TASMACH

ORDER

The petitioner has filed this writ petition, challenging the proceedings of the respondents 1 to 3 dated 30.06.2015, 28.09.2015 and 26.12.2018 respectively and to direct the third respondent to reinstate the petitioner into service with attendant benefits.

2. Heard Mr.N.S.Kishore Kumar, learned counsel for the petitioner and Mr.K.Balakrishnan, learned Standing Counsel for the respondents and perused the materials available on record.

3. The petitioner was appointed as a Salesman in the TASMACH shop of the respondents. Disciplinary action has been initiated in view of certain lapses on his part and as per the enquiry report, out of the 4 charges, 2 charges were proved and the remaining 2 charges were not proved. One of



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the charge is that the petitioner had allowed an outsider inside the shop and sold a day night 375 ML Brandy Bottle unauthorisedly has been proved. Hence, the petitioner was imposed with the punishment of dismissal from service. The petitioner has filed an appeal, challenging the above said order of dismissal and that was also dismissed. Thereafter, the petitioner has filed a Review Petition as against the said order. As no order has been passed in the Review Petition, the petitioner filed a Writ Petition in W.P.No.42082 of 2016. In pursuant to the direction issued by this Court in the said Writ Petition, the impugned order has been passed by the 1st respondent confirming the order of the Appellate Authority.

4. Mr.N.S.Kishore Kumar, learned counsel for the petitioner submitted that the enquiry has been conducted without following the principles of natural justice and the petitioner was not given with sufficient opportunity to defend himself in the enquiry proceedings and the order of dismissal is disproportionate to the charges proved against him and the same was not considered by the Appellate Authority and the Review Authority.



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5. The records would show that the petitioner was given with sufficient opportunity and he has admitted during the disciplinary proceedings that he did not want to cross-examine the departmental witnesses. In such circumstances, the petitioner cannot challenge the charges proved against him stating that sufficient opportunity was not granted to him.

6. Even though, I do not find any reason to interfere with the findings rendered by the Enquiry Officer which was confirmed by the Appellate Authority and the Review Authority, in the orders of the respondents there is nothing stated about the past conduct and his past service records while imposing a major punishment of removal from service. Since the charges proved against the petitioner do not commensurate with the punishment of removal, the review order is set aside without disturbing the status of removal from service. The 1st respondent is directed to reconsider the review application of the petitioner on the grounds of mercy along with the previous service records of the petitioner and pass fresh orders accordingly within a period of six (6) weeks from the date of receipt of a copy of this order.



costs.

<https://www.mhc.tn.gov.in/judis>



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R.N.MANJULA, J.

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