



W.P.(MD).No.648 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.648 of 2024

S.Sivasamy

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
CMDA Tower-II, 4th Floor,
Egmore, Chennai-600 008.

2.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd.,
141 & 142, M.S.R.Complex,
Goundam Palayam,
Coimbatore-30.

3.The District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Compartment No.1, Ware Housing Corporation,
V.S.Vellapatty Post,
Karur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent forthwith to reinstate petitioner in service at the Shop No.4933, Aathur as per the recommendation, dated 05.04.2023 made by the 2nd respondent by



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considering petitioner's representations, dated 15.05.2023 and 19.06.2023 within time frame fixed by this Court.

For Petitioner : Mr.J.Senthil Kumaraiah

For Respondents : Mr.H.Arumugam
Standing Counsel

ORDER

The present writ petition has been filed seeking direction to the 1st respondent forthwith to reinstate petitioner in service at the Shop No.4933, Aathur as per the recommendation, dated 05.04.2023 made by the 2nd respondent by considering petitioner's representations, dated 15.05.2023 and 19.06.2023 within time frame fixed by this Court.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner was appointed as Supervisor of TASMACH shop no.4908 at Karur District on monthly consolidated pay on 31.12.2003. Thereafter, his service was regularized and now, he is working under the control of 3rd respondent at shop no.4924. On 28.11.2022, the 3rd respondent inspected the



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shop no.4908 and thereafter, on the very same day, he suspended the petitioner from service. Following which, the 3rd respondent issued a charge memo, dated 19.12.2022, for not attending the duty after having signed in attendance register and not-cooperating with employees and not following the Code of Prevention and Detection of Fraudulent Act in Tamil Nadu State Marketing Corporation Rules, 2014, indulging in activities of causing revenue loss and tarnishing the reputation of the corporation and for not selling some stocks for more than 90 days. For which, the petitioner submitted a detailed explanation on 11.01.2023 to the 3rd respondent. On 18.01.2023, one Balasubramanian was appointed as Enquiry Officer. The petitioner participated in the enquiry and also submitted his explanation and the Enquiry Officer has also submitted his enquiry report on 28.02.2023. Thereafter, the 3rd respondent issued a show cause notice on 14.03.2023 to the petitioner calling for explanation. For which, a detailed explanation was submitted by the petitioner on 14.03.2023. Following which, the 3rd respondent imposed cost of Rs.5,000/- as punishment for the said charges and the same was remitted by the petitioner along with GST to a tune of Rs.5,900/- on 16.03.2023. That apart, for absent days, it was affirmed as 'No Work No Pay'. On 23.03.2023, the 3rd respondent had sent a communication to the 2nd respondent recommending to transfer the petitioner from shop no.4924



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to shop no.4933, Aathur. The 2nd respondent through proceedings, dated 05.04.2023 recommended the 1st respondent to forthwith reinstate the petitioner in service. On 15.05.2023, the petitioner made a representation to the 1st respondent seeking to reinstate back to service. However, the same is not considered. Hence, this writ petition came to be filed.

4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

5. Without going into the merits of the case, this Court hereby direct the 1st respondent to consider the petitioner's representations, dated 15.05.2023 and 19.06.2023 and pass appropriate orders in accordance with law within a period of four (4) weeks from the date of receipt of copy of this order.



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6. With the above said observations, this Writ Petition stands disposed of. No costs.

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

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L.VICTORIA GOWRI, J.

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