



W.A(MD)No.383 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.383 of 2024
and
C.M.P(MD)No.3412 of 2024**

- 1.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation (TASMAC) Limited,
Trichy.
 - 2.The District Manager/Sub-Collector,
TASMAC Limited,
Thanjavur.
- ... Appellants/Respondents
- vs.
- Sasikumar
- ... Respondent/Petitioner

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order in W.P(MD)No.28291 of 2023 dated 13.12.2023 by allowing the Writ Appeal.

For Appellants	: Mr.H.Arumugam
For Respondent	: Mr.K.Navaneetharaja



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JUDGMENT

[Judgment of the Court was made by R.SURESH KUMAR, J.)

This intra-court appeal has been directed against the order passed by the Writ Court, dated 13.12.2023, made in W.P(MD)No.28291 of 2023, that the respondent was the employee of the appellant TASMAL Limited, where he has been placed under suspension on 12.10.2022. Challenging the suspension, the respondent/writ petitioner had filed a Writ Petition in W.P(MD)No.26007 of 2022, that was allowed by the Writ Court, dated 02.12.2022.

2.By virtue of the said order passed by the Writ Court, the respondent/writ petitioner ought to have been reinstated into service immediately.

3.However, he has been reinstated only on 15.07.2023. Therefore, for the period from the date of suspension till the date of reinstatement, since he was entitled to get the salary, as the suspension itself has been quashed by the Court, he had requested, for which, it was not considered, therefore, he had approached this Court by filing the second



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Writ Petition in W.P(MD)No.28291 of 2023, which was allowed by the Writ Court by the impugned order, dated 13.12.2023.

4.Assailing the said order, Mr.H.Arumugam, learned Standing Counsel appearing for the appellant TASMAL would submit that, even though on 02.12.2022, the suspension was quashed, in the meanwhile, disciplinary proceeding initiated against the respondent/employee was concluded by completing the enquiry and an enquiry officer's report has been filed, where the charges framed against him have been proved. Accepting the enquiry officer's report, the disciplinary authority has imposed the punishment that, during the suspension period, since the respondent/writ petitioner had not worked, the said period shall be treated as 'no work no pay', which has been imposed as a punishment by order, dated 29.12.2022.

5.After this order, a recommendation had been made by the District Manager for reinstatement of the respondent/writ petitioner which was considered and the order was passed by the Senior Regional Manager, vide his proceedings, dated 15.07.2023, accordingly, he has been reinstated. Therefore, till 15.07.2023, the respondent/writ petitioner is not



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entitled to get any subsistence allowance or salary, despite that since it has been allowed by the Writ Court by the order impugned that cannot be sustained, he contended.

6.We have heard the learned counsel appearing for the respondent also.

7.No doubt, the suspension period, even though, has been quashed already, since there has been treated as 'no work no pay' as a punishment by order, dated 29.12.2022, which has not been challenged by the respondent/writ petitioner, as the same has become final, for the period of suspension the respondent/writ petitioner cannot seek for salary or subsistence allowance.

8.But at the same time, once the punishment order was passed on 29.12.2022, pursuant to which there could be no impediment for the appellants to reinstate the respondent/writ petitioner, which they belatedly made only on 15.07.2023, for which, even though the reason of communication gap between the two officers has been cited by the learned counsel appearing for the appellants, that reason cannot appeal to us.



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9. Therefore, atleast from 01.01.2023, the respondent/writ petitioner since is entitled to get reinstatement which was belatedly made by the appellants only on 15.07.2023, for the period from 01.01.2023 till 15.07.2023, the respondent/writ petitioner is entitled to get full salary.

10. In view of the same, the order passed by the learned Judge which is impugned, dated 13.12.2023, is modified to that effect by giving a direction to the appellants to treat the period between 01.01.2023 till 15.07.2023 as a duty period for the respondent/writ petitioner, accordingly, full salary shall be calculated and be paid to him, within a period of two months from the date of receipt of a copy of this order.

11. With this modification, this Writ Appeal is ordered accordingly. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[R.S.K.,J.] [G.A.M.,J.]
01.04.2024

NCC : Yes / No
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ps

ORDER MADE IN
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DATED : 01.04.2024