



W.P.(MD)Nos.11055 & 7207 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2024

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THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)Nos.11055 & 7207 of 2024

and

W.M.P.(MD).Nos.9848, 9851 & 6651 of 2024

W.P.(MD).No.11055 of 2024

Y.Xavier

... 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,
TASMAC Limited,
Plot No.100,
Anna Nagar, Madurai-625 020.

3. The District Manager,
IMFS Depot, TASMAC Ltd.,
Thondi Road, Palamalai Nagar,
Narikuruvar Colony,
Soorakulam Village,
Sivagangai District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order passed by the 3rd respondent in Na.Ka.No.A1/746/2024, dated 02.04.2024 quash the same as illegal and consequently directing the Respondents 1 to 3 herein to extend the date of superannuation of the petitioner from 58 years to 60 years of age (i.e., 31st March 2026) as per G.O.(Ms).No.29, Personnel and Administrative Reforms (S) Department, dated 25.02.2021 and confer all monetary benefits till 31.03.2026.

For Petitioner : Mr.S.Bharathy Kannan

For Respondents : Mr.H.Arumugam,
Standing Counsel

W.P.(MD).No.7207 of 2024

Y.Xavier

... Petitioner

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1. The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
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4th Floor,
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2. The Senior Regional Manager,
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Narikuruvar Colony,
Soorakulam Village,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the Respondents 1 to 3 herein to extend the date of superannuation of the petitioner herein from 58 years to 60 years of age, (i.e., 31st March 2026) as per G.O.(Ms) No.29, Personnel and Administrative Reforms (S) Department, dated 25.02.2021 and confer all monetary benefits till 31.03.2026.

For Petitioner : Mr.S.Bharathy Kannan

For Respondents : Mr.H.Arumugam,
Standing Counsel

COMMON ORDER

Heard Mr.S.Bharathy Kannan, learned counsel appearing for the petitioner and Mr.H.Arumugam, learned Standing Counsel appearing for respondent Nos.1 to 3.

2. Earlier, the petitioner has filed a Writ Petition in W.P.(MD).No.7207 of 2024 directing the respondents to consider his representation and to permit him to continue his service till 60 years of age. While the above said Writ Petition is pending, the third respondent has passed an order, dated 02.04.2024 relieving the petitioner from service stating that he has attained superannuation at the age of 58 years i.e., on 31.03.2022 and challenging the above said



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impugned order, the petitioner has preferred another Writ Petition in W.P.

(MD).No.11055 of 2024.

3. Mr.S.Bharathy Kannan, learned counsel appearing for the petitioner would submit that the petitioner is entitled for extension of service given to all Government servants on par with them. Attention was directed to the Government Orders issued in G.O.(Ms).No.51, Personnel and Administrative Reforms (S) Department, dated 07.05.2020 and G.O.(Ms).No.29, Personnel and Administrative Reforms (S) Department, dated 25.02.2021, wherein, the service of all the Government servants / Teachers have been extended from 58 to 59 and then 59 to 60. In the Government Order in G.O.(Ms).No.29, Personnel and Administrative Reforms (S) Department, it has been mentioned that the said benefit is extended to all teaching and non teaching staffs working in aided educational institutions and employees of all Constitutional / Statutory Bodies, Public Sector undertakings including all State Corporations, Local Bodies, Commissions and Societies. Since the respondent is a State Marketing Corporation, the above said Government Order is applicable to the petitioner and hence, the petitioner ought not to have been relieved on his attaining the age of 58 itself.



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4. Mr.H.Arumugam, learned Standing Counsel appearing for the respondent Corporation would submit that the petitioner is not a permanent employee and hence, he cannot claim the benefit of the above said Government Orders and the same is not applicable to the petitioner.

5. The petitioner has filed C.P.S.No.44 of 2019 against the third respondent herein before the Assistant Labour Commissioner (Enforcement), Sivagangai, who is the competent authority under Section 3(1) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, seeking permanent status for his post and the said case is now pending for disposal. It is submitted that if the said petition is allowed by the competent authority, the petitioner will be entitled to the benefit of extension at the age of retirement till 60 years. Similarly placed person is said to have filed a petition in C.P.S.No.10 of 2020 before the Assistant Commissioner of Labour (Enforcement) and he has got an order in his favour. It is learnt that the same order has been challenged by way of preferring another Writ Petition in W.P. (MD).No.7860 of 2024 and the same is pending. However, the order of the permanent Authority viz., the Assistant Commissioner of Labour (Enforcement) has not been stayed by this Court and no interim order has been obtained by the respondents in this regard.



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6. Since the petitioners's status as the permanent employee is pending for orders before the Permanent Authority, the respondents ought not to have relieved the petitioner on his attaining the age of 58 years and waited till knowing the outcome of the pending C.P.S.No.44 of 2019 for declaring his permanent status.

7. In view of the above, the Writ Petitions are **allowed** and the impugned order passed by the third respondent in Na.Ka.No.A1/746/2024, dated 02.04.2024 is quashed and the third respondent is directed to revoke the orders to reinstate the petitioner and allow him to continue in service as Assistant Salesman till the disposal of C.P.S.No.44 of 2019 forthwith. No costs. Consequently, connected miscellaneous petitions are closed.

03.06.2024

Index:yes/no

Internet:yes/no

Ncc : yes/no

TSG

Note : Issue Order Copy by 04.06.2024



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R.N.MANJULA, J.

TSG

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