



W.P.(MD)No.11723 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.11723 of 2022

and

W.M.P.(MD)No.8300 of 2022

M.Karuppiah

... Petitioner

versus

The Deputy Collector/District Manager,
Tamil Nadu State Marketing Corporation
Limited (TASMAC),

Theni,
Theni District.

... Respondent

Writ Petition filed under Article 226 of Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records pertaining to the impugned order issued by the respondent in Na.Ka.No.155/2020/A1 dated 30.05.2022 and quash the same.

For Petitioner : Mr.L.Shaji Chellan

For Respondent : Mr.Sivanesan
Standing Counsel



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ORDER

The petitioner is working as a Supervisor in the Tamil Nadu State Marketing Corporation Limited (TASMAC). He was issued with a show cause notice dated 08.12.2020 alleging that he has sold a Black Pearl Beer bottle for Rs.140/- when Maximum Retail Price (MRP) is Rs.130/-. This was noticed by the District Manager during an inspection conducted on 02.12.2020. The very same District Manager has conducted an enquiry and passed an order of punishment dated 04.01.2021, imposing a penalty of Rs.10,000/- along with GST or Rs.1800/-. The order of punishment dated 04.01.2021 was challenged by the petitioner in W.P.(MD)No.710 of 2021. This Court, by order dated 04.01.2022, allowed the writ petition, by setting aside the order of punishment dated 04.01.2021 and also directed the respondent to conduct a domestic enquiry. Thereafter, the subsequent order of punishment has been passed by the respondent on 30.05.2022, imposing a penalty of Rs.10,000/- along with GST of Rs.1800/- for having sold the beer bottle for excess amount. Challenging the same, the petitioner has filed this writ petition.



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2. The petitioner has made a specific allegation as against the respondent/District Manager that he has forcibly obtained his signature that he has only sold the beer bottle. According to him, he is only a Supervisor and he is not a Salesman and he is not expected to sell the beer bottle and he has not sold any beer bottle for the excess amount as projected by the respondent/District Manager. However, the respondent/District Manager, in order to safeguard the Salesman, who committed the mischief, has fixed the responsibility as against him.

3. With this averment, the petitioner has already filed a writ petition in W.P.(MD)No.710 of 2021 challenging the original order of punishment dated 04.01.2021. Considering the averment made by the petitioner, this Court, by order dated 04.01.2022, set aside the order of punishment dated 04.01.2021 and directed the respondent to conduct a domestic enquiry. Pursuant to the direction of this Court, an enquiry ought to have been conducted by some other officers, other than the respondent/District Manager, against whom, the petitioner has made specific allegations. However, without conducting an enquiry, the subsequent order of



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punishment dated 30.05.2022 has been passed by the very same District Manager.

4. According to the petitioner, there are Salesmen and the Salesmen are supposed to sell the beer bottles. When there are Salesmen in the TASMAL, how a Supervisor alone was made responsible for the sale of beer bottle for excess amount, without fixing the responsibility on the Salesmen.

5. Further, in this case, the District Manager himself is an Enquiry Officer and he only passed the earlier order of punishment dated 04.01.2021. The petitioner, in the earlier round of litigation, has made a specific allegation as against the respondent/District Manager and this Court also passed an order directing the respondent to conduct a domestic enquiry. Despite the direction of this Court, the respondent/District Manager, without conducting a domestic enquiry by any other officer, has passed the subsequent order of punishment imposing the similar punishment. Therefore, on this ground, this Court is inclined to allow this writ petition.



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6. Accordingly, this writ petition is allowed and the impugned order of punishment dated 30.05.2022 issued by the respondent in Na.Ka.No. 155/2020/A1 is hereby set aside. No costs. Consequently, connected miscellaneous petition is closed.

19.12.2024

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

The Deputy Collector/District Manager,
Tamil Nadu State Marketing Corporation
Limited (TASMAC),
Theni,
Theni District.



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B.PUGALENDHI, J.

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