



WP(MD)Nos.18230 of 2021 and 1185 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)Nos.18230 of 2021 and 1185 of 2022
and
WMP(MD)Nos.15065 to 15068 of 2021

1.M.Karthikeyan (died)
2.K.Gayathri
3.K.Shobana
4.K.Charubala
5.K.Harini
6.Sivagangai Ammal

... Petitioners in both WPs

[Petitioners 2 to 6 are substituted as
petitioners vide orders dated 18.11.2024
vide WMP(MD)Nos.23299 & 23298 of
2024 respectively]

Vs

Tamil Nadu State Marketing Corporation
Represented by its District Manager,
Tiruchirappalli – 620 015.

...Respondent in both WPs

PRAYER in WP(MD)No.18230 of 2021: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records relating to the impugned proceedings issued by the respondent bearing Se.Mu.Ka.No.CEEVEE-1/388/2021, dated 22.07.2021 and quash the



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same only insofar as it denies salary to the petitioner from 01.09.2020 to 22.07.2021 and consequently direct the respondent to pay salary to the petitioner from 01.09.2020 to 22.07.2021 within a time frame.

PRAYER in WP(MD)No.1965 of 2022: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the records relating to the impugned show cause notice issued by the respondent bearing Na.Ka.No.CEEVEE-2/388/2021, dated 14.12.2021 and quash the same within a time frame.

For Petitioner : Mr.K.M.Ramesh

For Respondent : Mr.S.Sivaneswar

Nos.1 and 2 Standing Counsel

ORDER

The petitioner Karthikeyan was a Supervisor in TASMACH. He was placed under suspension on 11.5.2020 contemplating an enquiry. He was also issued with a charge memo on 14.12.2021, which is challenged in WP(MD)No.1185 of 2022. The petitioner has made a request to the respondents seeking subsistence allowance for the suspended period from 11.05.2020 till 22.07.2021, it was rejected by order dated 22.07.2021 and the same is challenged in WP(MD)No.18230 of 2021



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2.Since both writ petitions are interconnected, they are taken up together for hearing and disposed of by this common order.

3.It is reported that the petitioner Karthikeyan has passed away on 02.12.2022 pending these writ petitions. Therefore, the legal heirs have been substituted as petitioners 2 to 6 in these writ petitions.

4.The writ petition in WP(MD)No.1185 of 2022 is filed challenging the charge memo. Though the charge memo was issued on 14.12.2021, it appears that the enquiry had not been completed. Since the petitioner died pending the enquiry, this writ petition in WP(MD)No.1185 of 2022 is disposed of that the charges are abated.

5.Insofar as the writ petition in WP(MD)No.18230 of 2021 is concerned the petitioner was suspended from service on 11.05.2020. Challenging the same he has filed a writ petition in WP(MD)No.6823 of 2020 and this Court by order dated 09.07.2020 directed the respondent to initiate and to complete departmental proceedings within a period of six weeks and if not, the order of suspension shall stand revoked.



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Subsequently he was issued with the charge memo only on 14.12.2021.

Though the charge memo was issued on 14.12.2021, the respondent did not complete the enquiry as directed by this Court. The petitioner, who was suspended on 11.05.2020 was subsequently reinstated into service effect from 23.07.2021. Whoever is suspended from service is entitled for the payment of subsistence allowance during the suspension period. The Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited – 2014 deals with the departmental proceedings in the respondent Corporation.

6.Clause 6(d) of the Code of Prevention and Detection of fraudulent Acts in Tamil Nadu State Marketing Corporation Limited, 2014, is relevant and the same is extracted as under:

“6.Investigation Procedure:

(d) If the charges are grave and if it is found that the continuance of the employee in service is injurious to the interest of fair investigation / disciplinary proceedings, he may be suspended pending enquiry. In such event, he shall be paid subsistence allowance as per rules.”



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Therefore, the deceased employee is entitled for subsistence allowance for the suspension period.

7.In view of the above, the writ petition in WP(MD)No.18320 of 2021 is partly allowed by setting aside the impugned order with a direction to the respondent to pay the subsistence allowance as per clause 6(d) of the Code to legal heirs / petitioners 2 to 6 within a period of eight weeks from the date of receipt of copy of this order. No costs. Consequently connected miscellaneous petitions are closed.

18.11.2024

Internet : Yes / No

DSK

To

The District Manager,
The Tamil Nadu State Marketing Corporation,
Tiruchirappalli – 620 015



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B.PUGALENDHI.J.,

DSK

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