

W.P. No. 9136 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 9136 of 2018

and

W.M.P. Nos. 10948 of 2018 and 21361 of 2021

N.Mohanraj

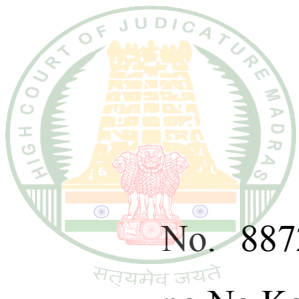
... Petitioner

-VS-

1. The District Manager
Tamil Nadu State Marketing Co-operation Ltd.
Thiruvallur
East District
Thirumalesai Unit-I
Sembarapakkam.
2. The Senior Regional Manager
Tamil Nadu State Marketing Co-operation Ltd.
LLA Buildings
Chennai – 600 002.
3. The Managing Director
Tamil Nadu State Marketing Co-operation Ltd.
Egmore
Chennai.
4. The District Collector
Thiruvallur District
Thiruvallur.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari Mandamus, calling for the records connected with the impugned memo dated 09.02.2018 relating to Shop



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No. 8872 and 8927 issued by the first respondent vide his proceedings no.Na.Ka.A9/1283/2018 and quash the same and further direct the 4th Respondent not to entertain any recovery certificate if any signed and sent by the First Respondent under the Tamil Nadu Recovery Act, 1864.

For Petitioner : Ms. G.P.Arivuchudar
for M/s. Law Square

For Respondents : Mr. K.Balakrishnan, Standing Counsel

ORDER

The writ petition has been filed challenging the memos dated 09.02.2018 relating to Shop Nos. 8872 and 8927 issued by the first respondent vide his proceedings no.Na.Ka.A9/1283/2018 and quash the same and further direct the fourth respondent not to entertain any recovery certificate if any signed and sent by the first respondent under the Tamil Nadu Recovery Act, 1864.

2. Heard Ms. G.P.Arivuchudar of M/s. Law Square, learned Counsel for the petitioner and Mr. K.Balakrishnan, learned Standing Counsel for the respondents and perused the materials placed on record, apart from the pleadings of the parties.



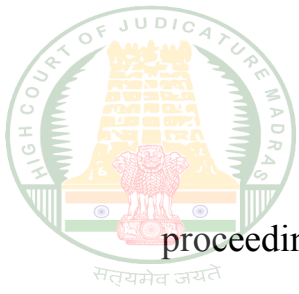
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3. The one and only contention that was made by the learned counsel for the petitioner is that the impugned memo pertaining to Shop No. 8872 has been issued only for the very same deficit which has already been noticed and for which the petitioner has already been placed under suspension. At the conclusion of the disciplinary action, he was imposed with the punishment of removal from service. She further submitted that the petitioner has filed an I.D. No. 197 of 2016 before the Principal Labour Court, Chennai. She also submitted that the suspension of the petitioner was cancelled by the first respondent by the proceedings dated 10.09.2012.

4. The learned Standing Counsel for the respondents submitted that challenging the similar memos, several writ petitions in W.P. Nos. 9133 to 9135 of 2018 have been filed by certain others, who were working with the respondents, and they were dismissed.

5. It is seen from the orders passed in the above writ petitions that there is no reference about the pending industrial dispute before the Principal Labour Court challenging the order of punishment passed on the findings that the charges are proved. Had it been brought to the knowledge of the Court in those



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proceedings, it would have been convenient for the Court to arrive at a conclusion that the impugned memos are pre-matured.

6. In the impugned memo pertaining to Shop No. 8872, it has been stated that the inspection was conducted on 03.09.2009 and during that time, the deficit of Rs.1,64,750/- was noticed. She also submitted that for the very same inspection, an earlier charge memo was issued on 05.09.2009 by fixing the deficit at Rs.19,97,154/-. Consequent to that an Enquiry Officer was appointed and Enquiry Report has been submitted by fixing the guilt on the petitioner and certain others. It is seen from the memo dated 05.09.2009 pertaining to Shop No. 8872 that the date of inspection by the Zonal Senior Manager is stated 03.09.2009 and in the impugned memo dated 09.02.2018 pertaining to Shop No. 8872, also the very same date is mentioned as the date of inspection.

7. In the another memo dated 09.02.2018 pertaining to Shop No. 8927 also reference was made about the audit inspection done on 02.08.2013. Having issued an earlier charge memo stating the same audit inspection for the same shops against the same individual, now once again memos dated 09.02.2018 have been issued in respect of Shop Nos. 8872 and 8927. The matter that has already been enquired on the earlier charge memos raised on the very same



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allegations. The Enquiry Report has also been filed and the same was challenged by the petitioner in I.D. No. 197 of 2016 before the Principal Labour Court, Chennai, which is pending. As the proceedings have not yet attained finality and they are still pending before the Principal Labour Court, Chennai, the impugned memos issued for recovery appear pre-matured and hence they are liable to be set aside.

8. With the above observations, this writ petition is allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

19.02.2025

Index: Yes/No

Index: Yes/No

Internet: Yes/No

Speaking /Non-speaking order

Maya

To

1. The District Manager
Tamil Nadu State Marketing Co-operation Ltd.
Thiruvallur
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Thirumalesai Unit-I
Sembarapakkam.
2. The Senior Regional Manager
Tamil Nadu State Marketing Co-operation Ltd.
LLA Buildings, Chennai – 600 002.



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R.N.MANJULA, J.

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3. The Managing Director
Tamil Nadu State Marketing Co-operation Ltd.
Egmore, Chennai.
4. The District Collector
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Thiruvallur.

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