



W.P.No.22567 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.22567 of 2019 and
W.M.P.No.21998 of 2019

S.Dhanasekar

... Petitioner

Vs.

- 1.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
CMDA Tower II, IV Floor, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
- 2.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Salem.
- 3.The District Manager,
The Tamil Nadu State Marketing Corporation Ltd.,
Namakkal District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the proceedings of Na.Ka.No.149/P1/CV/2009 dated 20.09.2016 by the third respondent, Se.Mu.No.990/2013/A dated 02.08.2018 by the second respondent, Se.Mu.Na.Ka.No.R.1/8579/2018 dated 04.01.2019 by the



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first respondent and quash the same in respect of the petitioner herein and consequently, direct the respondents herein to reinstate the petitioner with all consequential and attendant benefits.

For Petitioner : Mr.Girish Neelakantan.R.K.

For Respondents : Mr.M.Sekar, Standing Counsel

ORDER

This Writ Petition has been filed to call for the proceedings of Na.Ka.No.149/P1/CV/2009 dated 20.09.2016 by the third respondent, Se.Mu.No.990/2013/A dated 02.08.2018 by the second respondent, Se.Mu.Na.Ka.No.R.1/8579/2018 dated 04.01.2019 by the first respondent and quash the same in respect of the petitioner herein and consequently, direct the respondents herein to reinstate the petitioner with all consequential and attendant benefits.

2. Heard Mr.Girish Neelakantan.R.K., learned counsel for the petitioner, Mr.M.Sekar, learned Standing Counsel for the respondents and perused the materials available on record.

3. The petitioner was working as a Salesman in the respondent's



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retail outlet. In view of certain adversities found during the surprise inspection conducted by the third respondent on 30.01.2009, the petitioner was kept under suspension. Subsequently, a disciplinary action has been initiated and the report has been filed on the finding that the charges against the petitioner were proved and thereafter, the report was accepted by the disciplinary authority and he was pleased to order a punishment of dismissal from service.

4. In fact, the petitioner had filed a Writ Petition in W.P.No.19398 of 2010 on the allegation that he was not given with proper opportunity to defend himself during the enquiry proceedings. The said petition was allowed on 18.02.2011 by setting aside the impugned order of dismissal dated 04.06.2009. Thereafter, as per the directions of this Court, the matter has been remanded back and a fresh enquiry has been conducted and the enquiry report has been filed on 28.12.2015 by holding that the charges have been proved. Thereafter, the second respondent has passed an order of punishment on 20.09.2016 by imposing a punishment of dismissal from service. The revision filed by the petitioner was also



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dismissed on 02.08.2018.

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5. The learned counsel for the petitioner submitted that the petitioner has not been given with the due opportunity though directions have been issued by the Court and the co-delinquent *viz.*, Supervisor by name Sundaram has been reinstated, the petitioner alone has been dismissed. It is further submitted that the revisional authority had not properly considered the grounds of revision and passed an order that he has filed the petition after a delay.

6. The petitioner's contention that he was not given with proper opportunity cannot be accepted for the fact that the petitioner did not initiate any contempt action in case an enquiry is conducted contrary to the direction of this Court by denying him any proper opportunity. The enquiry report also revealed that the petitioner has been given with opportunity at each stage of the proceedings and hence, there is no violation of fundamental principles.

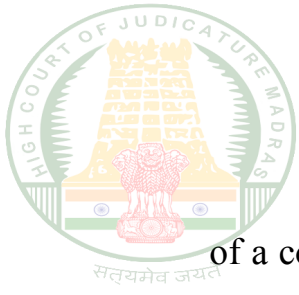


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7. So far as the submission of discrimination made between the petitioner and Sundaram, who is the Supervisor, it appears that the petitioner did not make any submission in that regard before the second respondent or the first respondent.

8. In fact, the revision filed by the petitioner has been dismissed as he had filed a revision after a delay of two years and two months. As the order has not been passed on merits but on the technical ground of delay in filing the revision petition, I feel in the interest of justice, the matter has to be remitted back to the first respondent to consider the matter afresh especially to consider the lesser punishment imposed on the co-delinquent Sundaram and pass appropriate orders on merits afresh.

9. In view of the above stated reasons, this Writ Petition is partly allowed. The order of the first respondent in Se.Mu.Na.Ka.No.R.1/8579/2018 dated 04.01.2019 is set aside. The matter is remitted back to the first respondent for fresh consideration and pass orders afresh within a period of eight weeks from the date of receipt



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of a copy of this order. No costs. Consequently, connected miscellaneous
petition is closed.

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

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R.N.MANJULA, J.

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