



W.P.No.12499 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on : 21.04.2026

Orders pronounced on : **28.04.2026**

CORAM :

THE HON'BLE MR.JUSTICE T.VINOD KUMAR

W.P.No.12499 of 2017
and W.M.P.Nos.13290 and 13291 of 2017

G.Venkatesan

.. Petitioner

Versus

1. The Managing Director,
Tamilnadu State Marketing Corporation Limited
(TASMAC),
IV Floor, CMDA Tower-II, Egmore,
Chennai – 600 008.
2. The Senior Regional Manager,
Tamilnadu State Marketing Corporation Limited
(TASMAC),
Salem Region, No.56, Brindavan Road, Fairylands,
Salem – 16.
3. The District Manager,
Vellore District,
Tamilnadu State Marketing Corporation Limited
(TASMAC),
SIPCOT, Ranipet, Wallaj Taluk,
Vellore District.
4. N.Dhurvasulu

.. Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records of the order of the 3rd respondent bearing proceedings in Se.Mu.Na.Ka.No.A2/1291/C.V/2013, dated 19.11.2013 which was confirmed by the second respondent in Se.Mu.No.3215/2015/A, dated 18.12.2015 which was confirmed by way of Review by the first respondent in Se.Mu.Na.Ka.No.R1/12957/2016, dated 01.12.2016 and to quash the same and consequently direct the respondent's herein to reinstate the petitioner into service with the continuity of service with all attendant benefits and other relevant benefits.

For Petitioner : Mr.F.Terry Chella Raja
for M/s.M.Malar

For Respondents : Mr.K.Balakrishnan,
Standing Counsel, for RR-1 to 3

: No appearance for R4

ORDER

Heard the learned Counsel for the petitioner and the learned Standing Counsel for the respondent Nos.1 to 3 and perused the record.

2. The petitioner, by the present Writ Petition, has assailed the action of the third respondent in issuing proceedings, dated 19.11.2013, as confirmed by the second respondent vide proceedings, dated 18.12.2015,



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which was further confirmed by the first respondent vide proceedings, dated 01.12.2016.

3. The case of the petitioner is that he was recruited as Shop Supervisor on contractual basis under the first respondent on 24.11.2003; that thereafter on 05.02.2004, his work was extended as additional charge of Area Supervisor of the Arcot Town; that on 25.05.2004, he was appointed as Physical Verification Officer in Shop No.11140, located at R.R. Road, Ranipet; that from the date of his appointment till date, he has been discharging his duties honestly and sincerely without any blemish and to the utmost satisfaction of his superior officials.

4. The petitioner also contended that his superior officials, being satisfied with his work, appointed him as Supervisor in Shop No.11213, Arakkonam; that while working as Supervisor in the said shop, one of the salesmen in the shop had stolen the cash from the sales account on two occasions; that he had intimated the same to the third respondent on 26.02.2013 and 12.06.2013; that on 05.11.2013, when he had gone to attend his father-in-law's ceremony, he had received a phone call from the salesman informing him that inspection team of the respondents came to



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the shop for inspection and recorded that the salesman namely, Govindarajan, alone was on duty and another salesman namely, Lingeswaran, was absent from 15.10.2013 till date and instructed the salesman, who was present in the shop, to deposit the license amount on the seventh day of every month and informed him that the petitioner should appear before the District Manager, i.e., the third respondent on 06.11.2013; and that no further allegation or illegality was noticed.

5. The petitioner further contended that he had appeared before the third respondent and submitted his explanation for not being available in the shop on the day of inspection; and that the third respondent, finding the aforesaid explanation offered by the petitioner to be satisfactory, allowed the petitioner to continue to work as Supervisor in the same shop.

6. It is the further case of the petitioner that he had properly maintained the stock report, liability register and other relevant records regularly; that the third respondent, however, all of a sudden, placed him under suspension on 19.11.2013 for not discharging his duty on 05.11.2013; that the third respondent further stated that when he had inspected the shop on 05.11.2013, he had found adulteration of liquor with



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water in addition to funnel, needle and empty caps which were found in the shop; that the salesman admitted that the petitioner is aware of the said malpractice; that based on the statement of the salesman, the third respondent sought an explanation from the petitioner; and that the petitioner had given explanation on 18.11.2013.

7. The petitioner further contended that the third respondent, not being satisfied with the explanation, had issued suspension order, even though the petitioner had attended his duties till 21.11.2013 and signed the Attendance Register; that thereafter, he was issued with charge memo, dated 13.03.2014 claiming that at the time of inspection of Shop No.11213 by the third respondent, it was found mixing of water with liquor and that the authorities also found funnel, needle and empty caps in the shop; and that the petitioner, being the Supervisor of the shop, failed to discharge his duties properly.

8. It is the further case of the petitioner that on 10.05.2014, the Assistant Manager of the third respondent gave notice to the petitioner for submitting explanation to the allegation; that after giving explanation, the authorities, having found the said explanation, not to their satisfaction,



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decided to commence Domestic Inquiry and appointed one R.Natarajan as Inquiry Officer and gave liberty to the petitioner to contest the case by examining the witnesses on his behalf and also cross-examining the witnesses of the respondent and to produce the oral and documentary evidence; that the Inquiry Officer, by conducting the inquiry proceedings, had submitted his report, dated 10.01.2015; that based on the aforesaid inquiry report, the second respondent had issued show-cause notice, dated 13.03.2015 as to why the petitioner should not be dismissed from service; that he had given reply to the same on 26.03.2015; and that the second respondent, without considering his explanation in correct prospective, had issued the order, dated 06.04.2015 dismissing him from the service as Supervisor with effect from 08.04.2015.

9. It is also the further case of the petitioner that though, against the order of dismissal from service, he had availed the remedy of appeal to the second respondent and review to the first respondent, the respondents however confirmed the order of his dismissal from service without considering the pleas taken by him and his absence on the day of inspection for the purpose of attending his father-in-law's ceremony and as such, the petitioner cannot be made liable for what was found in the shop



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during the inspection by the third respondent on 05.11.2013 in his absence.

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10. In the course of hearing of the present Writ Petition, it is also contended by the petitioner that though the second respondent had issued the show-cause notice, dated 13.03.2015 on the basis of the Inquiry Report submitted by the Inquiry officer, dated 10.01.2015, did not furnish a copy of the said Inquiry Report to the petitioner nor seek any explanation from him before issuing the show-cause notice, dated 13.03.2015; and that the first appellate authority as well as the review authority failed to consider the said aspect while confirming the order of the disciplinary authority.

11. Contending as above, the petitioner seeks for setting aside the order of dismissal, dated 06.04.2015 as affirmed by the second respondent vide proceedings, dated 18.12.2015 and further confirmed in review by the first respondent vide proceedings, dated 01.12.2016, as illegal and in violation of principles of natural justice.

12. Counter-affidavit on behalf of the third respondent is filed.

13. The respondent, by the counter-affidavit, contended that the



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petitioner was appointed as Supervisor in the respondent Retail Liquor Shop on temporary-contract basis on consolidated wages; that while he was working as Supervisor in TASMAC Shop No.11213, Salai, Arakkonam on 05.11.2013, District Manager i.e., the third respondent, Depot Manager, Arakkonam, caused surprise inspection and found that the petitioner indulged in the act of sale of liquor mixed with water and found a bottle of brandy of 375 ml with batch No.104/23, funnel, empty caps and needles for causing adulteration; that the authorities have seized the bottle, funnel, empty caps and needles; that mixing of water in sealed liquor bottle would amount to “fraud” as defined in clause – 2(e)(i) of Code of Prevention and Detection of Fraudulent Acts in TASMAC, 2014, for which, the employee is liable for disciplinary action; that the petitioner was placed under suspension pending inquiry; and that thereafter, a charge memo was issued and Domestic Inquiry was ordered by appointing an Inquiry and Presenting Officers.

14. On behalf of the respondent, it is further contended that the Inquiry Officer conducted the inquiry by following principles of natural justice and found that the charges levelled against the petitioner were proved and submitted his report to the District Manager and on the basis of



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the Inquiry Report and after issuing show-cause notice, dated 13.03.2015, the petitioner was dismissed from the services of TASMAC.

15. On behalf of the respondent, it is also contended that before resorting to the aforesaid action, the respondent got the bottle of liquor seized by them tested by the State Forensic Science Department on 03.02.2013; that the Forensic Department, on 03.02.2013, had certified that the seized brandy was unfit for sale; that based on the aforesaid report, charge memo, dated 13.03.2014 was issued to the petitioner calling for explanation to the charges levelled against him; that the petitioner offered his explanation on 20.03.2014; that as the explanation was found not satisfactory, the respondents appointed Inquiry Officer on 19.11.2014 to conduct an inquiry into the charges levelled against the petitioner and submit his report; that the Inquiry Officer sent his inquiry findings on 17.12.2014 holding that the charges against the petitioner are proved; that on the basis of the findings of the Inquiry Officer, a show-cause notice was issued to the petitioner on 13.03.2015 seeking his further explanation; that on due consideration of the explanation of the petitioner, the petitioner's services were terminated by the third respondent vide the order, dated 06.11.2013 (appears to be a wrong date mentioned in the counter); that

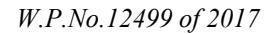


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aggrieved by the aforesaid order, the petitioner had preferred appeal before the second respondent; that the second respondent, vide the order, dated 18.12.2015, rejected the said appeal; the petitioner thereafter sought for review of the order by filing a Review Petition on 27.06.2016; and that the first respondent, vide the order, dated 01.12.2016, dismissed the said Review Petition; and thus, the order of the disciplinary authority has been affirmed by the appellate authority as well as the reviewing authority and as such the said orders do not call for any interference. Contending as above, the respondent seeks for dismissal of the Writ Petition.

16. I have taken note of the respective contentions urged.

17. Without dwelling into the respective contentions urged on either side on merits and also having regard to the limited scope of interference by a Writ Court under Article 226 of the Constitution of India, this Court is only required to see whether the respondent, while passing the order, dated 06.04.2015 dismissing the petitioner from the service, which order has been confirmed by the respondent Nos.2 and 1 by dismissing of the appeal and rejection of the Review Petition, had adhered to principles of natural justice or not.



19. The learned Standing Counsel appearing on behalf of the respondents, however, submitted that a copy of the Inquiry Report was furnished to the petitioner along with the show-cause notice, dated 13.03.2015, despatched on 18.03.2015, whereby, the third respondent had sought explanation from the petitioner as to why proposed action should



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not be taken against the petitioner. Thus, the learned Standing Counsel contended that the respondents have sufficiently complied with the requirement of furnishing of Inquiry Report when the same was sent to the petitioner along with the show-cause notice, dated 13.03.2015 on 18.03.2015. Thus, it is contended that the same would amount to sufficient compliance of the requirement.

20. However, it is to be noted that the Hon'ble Apex Court, in the cases of *Union of India Vs. Mohd. Ramzan Khan* [(1991) 1 SCC 588] and *State of Uttar Pradesh through Principal Secretary, Department of Panchayati Raj, Lucknow* [2025 SCC OnLine SC 891], had held that if the disciplinary authority himself is the Inquiry Officer, there is no need to furnish a copy of the Inquiry Report to the delinquent. However, if the inquiry is held by different person as Inquiry Officer, the disciplinary authority is required to furnish a copy of the Inquiry Report to the delinquent informing him of the findings recorded by the Inquiry Officer and seek for his explanation thereon. On furnishing of explanation or failure to furnish explanation only, the disciplinary authority can initiate further action by issuing what is otherwise called as second show-cause notice and take further action by considering the explanation, if any,



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submitted.

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21. In the facts of the present case as noted herein above, admittedly, the respondent did not furnish a copy of the Inquiry Report to the petitioner between the date of receipt of Inquiry Report from the Inquiry Officer i.e., 17.12.2014 and 10.01.2015 till the date of issuance of show-cause notice, dated 13.03.2015. Thus, non-furnishing of the Inquiry Report and seeking explanation of the petitioner on the findings recorded by the Inquiry Officer before issuing the show-cause notice, dated 13.03.2015, in the considered view of this Court, resulted in violation of principles of natural justice.

22. Mere fact of the order, dated 06.04.2015 having been affirmed by the appellate authority i.e., the second respondent and further Review Petition being rejected by the first respondent, cannot cure the defect of violation of principles of natural justice for the respondents to claim that the said order having attained finality. Then, this Court is of the view that the order, dated 06.04.2015 as affirmed by the second respondent vide the proceedings, dated 18.12.2015 and the order of the first respondent rejecting the Review Petition, vide the order, dated 01.12.2016,



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cannot be sustained.

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23. Accordingly, this Writ Petition is allowed. The proceedings of the third respondent, dated 06.04.2015, the proceedings of the second respondent, dated 18.12.2015 and the proceedings of the first respondent, dated 01.12.2016, are set aside and the matter is remitted back to the third respondent to take further action in accordance with law by seeking explanation from the petitioner on the findings of the Inquiry Officer, and take further action by considering his explanation; and in the event of deciding to proceed further, issue show-cause notice indicating the proposed action to be taken, consider the explanation, if any furnished, granting opportunity of hearing to the petitioner and passing a speaking order thereafter and communicating the same to the petitioner within two weeks from the date of passing of the order. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

28.04.2026

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs



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To

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T.VINOD KUMAR, J.

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