

(2011) 03 MAD CK 0553

In the Madras High Court

Case No : Writ Petition No's. 5295 to 5300 of 2011

R. Allimuthu

APPELLANT

Vs

The District Manager, Tamil Nadu State Marketing Corporation
Ltd. (TASMAC)

RESPONDENT

Date of Decision : 25-03-2011

Acts Referred:

Citation : (2011) 03 MAD CK 0553

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : P.S. Sivashanmugasundaram, for the Appellant; J. Ravindran, for the Respondent

Final Decision : Dismissed

Judgement

T. Raja, J.—As the facts leading to all the writ petitions and the issue arising there-from being identical, they are disposed of by this common order.

2. For better appreciation, the facts involved in one of the writ petitions i.e., W.P. No. 5295 of 2011, are briefly stated hereunder:

The Petitioner was appointed as Supervisor on 03.12.2003 in the Respondent Corporation, which is run by the Tamil Nadu State Marketing Corporation Ltd. (TASMAC) on depositing a sum of Rs. 50,000/- as security deposit. Thereafter, he was working as Salesman at Shop No. 8275 (Vandipettai) Udahagai Taluk, Nilgiris District, with a salary of Rs. 4,200/-. While so, a written complaint was received from the Senior Zonal Manager, TASMAC, Nilgiris, and thereafter, the Assistant General Manager conducted spot inspection. During the spot inspection, it was alleged that the liquors, which were kept for sales, were adulterated by mixing with water.

On the basis of the inspection report submitted by the Assistant General Manager, the Petitioners, in all writ petitions, were placed under suspension by order dated 13.12.2009. Thereafter, a report was obtained and on receipt of the

report, an explanation was also called for from the Petitioners. Subsequently, a charge memo was also issued on 15.07.2010 against the Petitioners containing three charges, calling for an explanation as to why the action should not be taken against them.

After receipt of the said charge memo, the Petitioners submitted their explanations by specifically denying that they did not involve in any adulteration of liquor by using water. Thereafter, when the Petitioners were awaiting for an enquiry, so as to prove their innocence, all of a sudden, they have passed the impugned order dated 23.02.2011, imposing the major penalty of dismissal from service of the Respondent Corporation.

3. The learned Counsel appearing for the Petitioners submitted that when the Respondent has initiated enquiry after issuing the charge memo, the Petitioners admittedly have submitted their explanations denying all the charges, therefore, the next course of action would be to hold a proper enquiry by appointing an enquiry officer. But without holding any enquiry by appointing the enquiry officer, straight away, the Respondent Corporation passed an order of dismissal from service. The said order imposing major penalty of dismissal from service, is not only arbitrary, but also violation of principles of natural justice. On that basis, he further submitted that such an order imposing major penalty of dismissal from service without holding an enquiry, is liable to be set aside. In support of his submission, he has also relied upon a judgment of the Apex Court in the case of *Meenglas Tea Estate Vs. Its Workmen*, .

4. On the other hand, there was no counter filed by the Respondent in order to justify the reasoning given in the impugned order. Therefore, the argument advanced by the learned Counsel for the Petitioner that there was no enquiry conducted after the receipt of the charge memo dated 15.07.2010 is required to be accepted.

5. Secondly, it is admittedly true that the Petitioners have suffered a departmental proceedings for giving a room for issuance of charge memo dated 15.07.2010. Further, the records produced by the parties before this Court shows that the charge memo has been issued on 15.07.2010 and on receipt of the charge memo, the Petitioners have also submitted their written explanations on 02.08.2010 and thereafter, there is no more records produced by the Respondent to show that there was any further proceedings initiated leveled against the Petitioners. But, all of a sudden, all the Petitioners were dismissed from service violating all the canons of law.

6. Be that as it may, the order of removal imposed against the Petitioners without holding an enquiry whatsoever is liable to be interfered with. Accordingly, the same is set aside as unsustainable in law. However, it is made clear that the Respondent is at liberty to proceed against the Petitioners by holding proper enquiry by appointing enquiry officer and complete the enquiry in accordance with law within a period of three months from the date of receipt of a copy of this

order.

7. With the above direction, the present writ petitions are disposed of by setting aside the impugned order. No Costs. Consequently, all the connected miscellaneous petitions are closed.