
(2014) 06 MAD CK 0113

In the Madras High Court

Case No : W.P. No. 14959 of 2014 and M.P. Nos. 1 and 2 of 2014

T. Lokesh

APPELLANT

Vs

The General Manager

RESPONDENT

Date of Decision : 11-06-2014

Acts Referred:

Citation : (2014) 06 MAD CK 0113

Hon'ble Judges : S. Nagamuthu, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S. Nagamuthu, J.—The petitioner is a Salesman in TASMACH Shop No. 8914 in Thiruvallur District. He was placed under suspension by the second respondent, by his proceedings in Se.Mu.Ka. No. A2-2997-2010, dated 01.10.2010 on the allegation that the petitioner had committed misconduct by adulterating the liquor sold in the shop. A charge memorandum was issued to him by the second respondent, by his proceedings in Na.Ka. No. A2/2997/2010, dated 01.10.2010. But neither the suspension order was revoked nor any final order was passed in the said disciplinary proceedings. Therefore, the petitioner filed a writ petition before this Court in W.P. No. 24776 of 200, seeking to quash the charge memorandum. This Court, by an order dated 10.11.2010, issued a direction to the respondents to finalise the disciplinary proceedings and to pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of the order. Thereafter, the second respondent, by his proceedings in Se.Mu.Ka. No. A2-2997-2010, dated 12.01.2011 passed an order dismissing the petitioner from service. This order was passed without even holding any enquiry into the charges as directed earlier by this Court.

2. Therefore, the petitioner filed yet another writ petition in W.P. No. 25455 of 2013 before this Court challenging the said order, dated 12.01.2011. During the course of hearing of the said writ petition, it was submitted by the learned counsel for the respondents that the petitioner had already filed an appeal

against the above said order before the Senior Regional Manager, TASMAC. Therefore, this Court disposed of the said writ petition, by order dated 12.09.2013, directing the Senior Regional Manager to dispose of the appeal, within a period of six weeks from the date of receipt of a copy of the order.

3. Now in pursuance of the said order, the first respondent by his proceedings in Se.Mu. No. 358/A3/2013, dated 13.11.2013 dismissed the said appeal, thereby, confirming the order of the second respondent. Challenging the same, the petitioner is before this Court with this writ petition.

4. This writ petition has come up today for admission. I have heard the learned counsel for the petitioner and Mr. S. Muthuraj, learned Standing Counsel appearing for the respondents. I have also perused the records carefully.

5. The narration of facts would go to show the plight of the petitioner, who has been making repeated legal fights from the year 2010 onwards. As mentioned above, he was placed under suspension on 01.10.2010 and charge memorandum was issued on the same day. Neither any enquiry was held into the charges nor the order of suspension was revoked. That is the reason why the petitioner has approached this Court by filing W.P. No. 24776 of 2010. In that writ petition, this Court directed the second respondent therein to pass final orders on the disciplinary proceedings within a time frame. This does not mean that this Court had directed the second respondent to pass final order without even holding any enquiry into the charges. But the fact remains that without holding any enquiry into the charges and without affording any opportunity to the petitioner, the second respondent passed the order dismissing the petitioner from service. When that order was challenged before this Court in a subsequent writ petition in W.P. No. 25455 of 2013, a technical objection was raised before this Court stating that the order under challenge therein was appealable and as a matter of fact, an appeal had been made by the petitioner to the first respondent herein. Accepting the said submission, this Court directed the first respondent to dispose of the appeal within a time frame. That order also has not been properly understood. The impugned order passed in pursuance of the direction issued by this Court is again a non-speaking order. Though a specific plea was taken in the appeal memorandum by the petitioner that without holding any enquiry and without affording any opportunity to defend the charges, the impugned order of dismissal was passed, the Appellate Authority did not consider the said ground. The Appellate Authority has again passed a mechanical order without adjudicating upon the issue as to whether the order of dismissal passed by the second respondent is sustainable in view of the fact that there was no enquiry held into the charges and no opportunity was given to the petitioner to defend the charges. Thus the petitioner has been again driven to this Court challenging the order of the first respondent.

6. In view of the above position, I have to necessarily interfere with the order of dismissal passed by the second respondent and confirmed by the first respondent on the ground that the order of dismissal was made without holding

any enquiry into the charges and without affording any opportunity to the petitioner.

7. In the result, the writ petition is allowed and the impugned order passed by the second respondent and confirmed by the first respondent is hereby set aside. However, liberty is given to the second respondent to conduct enquiry into the charges, by appointing an Enquiry Officer, if so advised. In the mean while, the petitioner shall be reinstated in service. No costs. Connected miscellaneous petitions are closed.