
(2005) 11 MAD CK 0078

In the Madras High Court

Case No : Writ Petition No. 6893 of 2005 and W.P.M.P. No. 7494 of 2005

V.L. Lakshmanakumar

APPELLANT

Vs

The District Manager, "TASMAC" Limited and Another

RESPONDENT

Date of Decision : 25-11-2005

Acts Referred:

Citation : (2006) 2 LLJ 685 : (2006) 2 MLJ 317

Hon'ble Judges : D. Murugesan, J

Bench : Single Bench

Advocate : K. Srinivasan, for the Appellant; Thick Vijayapandian, for the Respondent

Final Decision : Allowed

Judgement

D. Murugesan, J.—The petitioner was appointed on contractual basis in the post of Bar Supervisor in TASMAC. By the impugned order, his services were terminated. The impugned order is questioned on the ground that inasmuch as the same was passed on the ground of certain misconduct, it causes stigma.

2. The respondents have filed the counter affidavit.

3. I heard Mr. K. Sreenivasan, learned Counsel appearing for the petitioner, and Mr. Thickaiya Pandian, learned Counsel appearing for the respondents.

4. So far as the appointment of the petitioner is concerned, there is no dispute that it was purely on contractual basis as could be seen from the appointment order. In fact, one of the conditions in the appointment order relates to the summary dismissal for breach of the Rules and Regulations. By the said conditions imposed in the appointment order, the respondents are entitled to pass a summary order of termination and to that extent there cannot be any dispute.

5. However, a perusal of the impugned order shows that the petitioner was not dismissed pursuant to the contract. For the purpose of dismissal, the first

respondent has relied upon a surprise inspection carried out in the TASMACH shop, which revealed that some of the bottles were adulterated by mixing water and that such act of the staff of the TASMACH had brought disrepute to the Corporation. Therefore, the petitioner/Supervisor has been removed from service.

6. By the above reasoning the first respondent has found that the petitioner has committed certain misconduct and the impugned order is not an order of termination simpliciter. Whether an order is an order of simple termination or would amount to stigma, thereby resulting in civil consequences, is only to be determined considering the facts and circumstances of each case. A plain reading of the impugned order passed by the first respondent makes it clear that it is not an order of termination simpliciter.

7. The Apex Court, in more than one case, has held that when an order of termination involves civil consequences and consequently amounts to stigma, the same cannot be passed without there being a charge memo, enquiry and the finding as to those charges. This proposition of law has been recently reiterated by the Apex Court in the judgment *State of Haryana and Another Vs. Satyender Singh Rathore*, . In that judgment, the Supreme Court has relied upon the earlier judgment *Dipti Prakash Banerjee Vs. Satvendra Nath Bose National center for Basic Sciences, Calcutta and Others*, , and has held that if findings were arrived at in an enquiry as to misconduct behind the back of the officer or without a regular departmental enquiry, the simple order of termination is to be treated as "founded" on the allegations and will be bad.

8. In view of the above pronouncement of the Apex Court, the impugned order cannot be sustained. Accordingly, the same is set aside and the writ petition is allowed. However, the order of this Court will not stand in the way of the respondents to initiate action against the petitioner strictly in terms of the appointment order.

No costs. Consequently, the connected W.P.M.P. is closed.