



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.14883 of 2016

and

W.M.P. (MD) .No.10987 of 2016

P.Saravanakumar

... Petitioner

Vs.

1.The Inspector General of Police,
Technical Service,
Police Tele-Communication Office,
Mylapore, Chennai-4.

2.The Deputy Inspector General of Police,
Technical Service,
Police Tele-Communication Office,
Mylapore, Chennai-4.

3.The Superintendent of Police,
Theni District, Theni.

4.The Inspector of Police,
Bodi Traffic Police Station,
Bodinayakanoor, Theni District.

... Respondents

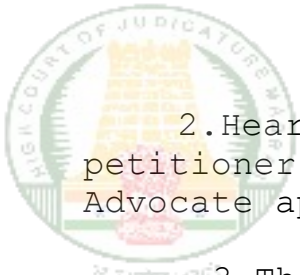
Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the recovery order of the 3rd respondent dated 30.06.2016 in Ma.Order No.656/2016, Na.Ka.No.T1/49017/2015 and quash the same as illegal.

For Petitioner : Mr.S.Sukumar

For Respondents : Mr.J.Gunaseelan Muthaiah,
Government Advocate.

O R D E R

This Writ Petition has been filed by the petitioner to issue a Writ of Certiorari calling for the records relating to the recovery order of the 3rd respondent dated 30.06.2016 and quash the same as illegal.



2. Heard Mr.S.Sukumar, learned counsel appearing for the petitioner and Mr.J.Gunaseelan Muthaiah, learned Government Advocate appearing for the respondents.

3. The petitioner in this case, is working in the Police Department as Head Constable. While he was in service, it was alleged that the petitioner was responsible for the loss of a walkie-talkie which was given to the Inspector of Police. However, without issuing any show cause notice and holding any enquiry, a recovery order was passed against the petitioner directing him to pay a sum of Rs.5,814/- to the State Account. This order is challenged in the present writ petition. On perusal of the impugned order dated 30.06.2016, the recovery order has been passed in violation of Principles of Natural Justice. Hence, *prima facie* this court is satisfied that the recovery without issuing show cause notice to the petitioner and without holding any enquiry is un-sustainable.

4. The learned counsel for the petitioner also relied upon the judgment of this court reported in **2010 Writ L.R.505 (K.Gunasekaran Vs. The Senior Regional Manager, Tamil Nadu Civil Supplies Corporation Ltd., Tiruvarur Region, Tiruvarur)** wherein the learned Single Judge of this court has held that whenever the order of recovery is passed against a petitioner, he must be put on notice calling upon to explain as to why such an order of recovery could not be made against him. Unless such a notice is given, and an opportunity of hearing is provided to the delinquent, the recovery will be in violation of Principles of Natural Justice.

5. Hence, this Writ Petition is liable to be allowed. The impugned order dated 30.06.2016 directing the petitioner to pay a sum of Rs. 5,814/- to the State Account is quashed. However, the respondents are at liberty to initiate proceedings after issuing show cause notice and holding an enquiry in accordance with law.

6. In the result, this writ petition is allowed with the above direction. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1. The Inspector General of Police,
Technical Service,
Police Public Communication Office,
Mylapore, Chennai-4.



2.The Deputy Inspector General of Police,
Technical Service,
Police Tele-Communication Office,
Mylapore, Chennai-4.

WEB COPY

3.The Superintendent of Police,
Theni District, Theni.

4.The Inspector of Police,
Bodi Traffic Police Station,
Bodinayakanoor, Theni District.

+1 CC TO MR.S.SUKUMAR,ADVOCATE,SR NO.52113

+1 CC TO SPECIAL GOVERNMENT PLEADER SR NO.52239

GSP/MR

MAS/KP/SAR4:21.04.2017:3P-7C

ORDER MADE IN
W.P. (MD) .No.14883 of 2016
13.04.2017