

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 17.09.2018

CORAM

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.10417 of 2018 and
W.M.P.Nos.12384 & 19007 of 2018

M.Ramasamy

....Petitioner

Vs

Superintendent of Police,
District Police Office,
Perambalur District

....Respondent

Prayer:-

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records relating to the impugned order passed by the respondent herein in his proceedings D.O.No.127/2018, C.No.C2/8343/2018 dated 16.04.2018 and quash the same.

For Petitioner : M/s.G.Bala and Daisy

For Respondent : Mrs.R.Janaki,
Additional Government Pleader

ORDER

The learned counsel for the petitioner submits that the petitioner while working as Driver Police Constable under the respondent, while driving the vehicle during the course of discharge of official duty caused an accident of said vehicle which resulted in the payment compensation to the injured 3rd party. The aforesaid compensation having been paid by the respondent, placing reliance on the Government Order in G.O.Ms.No.155 Home Department dated 01.03.1988, the said amount was decided to be recovered from the petitioner by the respondent. The petitioner came to challenge the same to be impermissible being violative of principle of Audi Alteram Partem inasmuch as no chance of hearing was given to him though the aforesaid visits the petitioner with the civil consequences. Hence he has made prayer in this writ petition to quash the said order dated 16.04.2018.

2. Counter affidavit has been filed in this writ petition, wherein it is indicated that principles of natural justice has been followed inasmuch as the petitioner has received the aforesaid order.

3. I have heard the learned counsel for the parties and gone through the materials on record.

4. Regard being had to the facts and submissions made, especially the fact that even though the petitioner's vehicle met with an accident, which resulted in the payment compensation of amount to the injured third party by the respondent, but before making recovery of the aforesaid compensation amount from the salary of the petitioner, placing reliance on the aforesaid GO, the impugned order could not have been issued to the petitioner, without giving a chance of hearing before making such recovery. Therefore, the impugned order being violative of principles of natural justice, and I am of the view that the same cannot be sustained scrutiny in the eye of law. Accordingly, the impugned order stands quashed.

5. However, the quashment of the impugned order shall not stand on the way of the respondent to proceed against the petitioner for recovery, if any by giving a chance of hearing, seeking his response and addressing the same in accordance with law.

6. With the aforesaid order, this writ petition stands disposed of. Consequently, connected miscellaneous petitions are allowed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

Superintendent of Police,
District Police Office,
Perambalur District

+1cc to M/s.G.Bala and Daisy, Advocate, S.R.No.64397

W.P.No.10417 of 2018

CS/09/10/2018