

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.467 of 2012

R.Ravi

.. Petitioner

Vs.

1.The Joint Director
Public Health Department
Kancheepuram
Kancheepuram District.

2.The District Health Officer
Kancheepuram
Kancheepuram District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorari to call for the records of the 1st respondent's impugned order dated 19.12.2011 in Na.Ka.No.11874/Ni4/2011 issued for recovery on the petitioner's salary and quash the same.

For Petitioner: Mr.G.Punniakotti

For R1 and R2 : Ms.R.Janaki
Additional Government Pleader

O R D E R

Writ Petition is filed for issuance of a writ of Certiorari to call for the records of the 1st respondent's impugned order dated 19.12.2011 in Na.Ka.No.11874/Ni4/2011 issued for recovery on the petitioner's salary and quash the same.

2(i).The petitioner is challenging the order of the 1st respondent ordering recovery of Rs.5,02,760/- in 85 monthly instalments of Rs.5,900/- from January 2012.

2(ii). According to the petitioner, on 17.06.2004, accident has occurred involving the vehicle driven by the petitioner and an auto. The persons injured in the accident filed M.C.O.P.No.4068 of 2004 on the file of the Motor Accident Claims

Tribunal, Chennai, claiming a sum of Rs.5,00,000/- as compensation. The criminal proceedings initiated against the petitioner in F.I.R.No.341/2004 was closed as 'action dropped'.

2(iii).According to the petitioner, without any show cause notice or any enquiry, the 1st respondent by the impugned order ordered recovery of Rs.5,02,760/-. The accident was not due to his mistake. If the amount is recovered from his salary, he will be put to irreparable loss and prayed for allowing the writ petition.

3.The respondents filed counter affidavit along with vacate stay petition and stated that the Motor Accident Claims Tribunal, Chennai in M.C.O.P.No.4068 of 2004, held that the accident has occurred only due to rash and negligent driving by the petitioner and awarded a sum of Rs.3,12,130/- as compensation together with interest at the rate of 9.5% per annum from the date of petition till the date of repayment with proportionate costs. On the basis of the findings of the Tribunal, the Principal Secretary to the Government by the order dated 14.09.2010 in Order No.921, Health and Family Welfare (AD-1), directed the respondents to deduct the amount awarded by the Tribunal from the salary of the petitioner. In view of the categorical finding of the Tribunal, there is no necessity to issue any show cause notice or to conduct any enquiry, order of recovery is valid and legal and prayed for dismissal of the writ petition.

4.Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader for the respondents and perused the materials available on record.

5.From the materials available on record, it is seen that the impugned order is passed on the basis of the award of the Tribunal in M.C.O.P.No.4068 of 2004 granting compensation of Rs.3,12,130/- together with interest at the rate of 9.5% per annum. According to the respondents, the Tribunal held that the accident has occurred only due to rash and negligent driving by the petitioner. The respondents have not stated that the Tribunal directed the petitioner also to pay the compensation to the injured persons. The respondents failed to consider that the criminal proceedings initiated against the petitioner were dropped by the police and no charge sheet was filed against the petitioner. The contention of the respondents that on the basis of the award of the Tribunal, the amount of compensation awarded is sought to be recovered from the petitioner and there is no necessity to issue any show cause notice or to conduct enquiry, is not acceptable. When the respondents failed to prove that the Tribunal has held that the petitioner is also liable to pay compensation, they are not entitled to recover the amount

without giving any opportunity to the petitioner to put forth his case that he is not liable to pay the amount awarded by the Tribunal. In view of the above, the impugned order is liable to be quashed and it is hereby quashed.

6. In the result, the writ petition stands allowed. No costs.

Sd/-

Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

kj

To

1. The Joint Director
Public Health Department
Kancheepuram
Kancheepuram District.

2. The District Health Officer
Kancheepuram
Kancheepuram District.

+lcc to Mr.G.Punniakoti, Advocate, S.R.No. 47577
+lcc to the Government Pleader, S.R.No. 46704

W.P.No.467 of 2012

VD(CO)
GN(08/07/2019)

WEB COPY