



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2019

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P. (MD)No.17162 of 2019

M.Mariammal

... Petitioner

Vs.

1. The Deputy Inspector of General of Prisons,
Madurai Range, A.A. Road,
Arasaradi,
Madurai City.

2. The Superintendent of Central Prison,
Madurai Central Jail,
Madurai.

3. The Block Development Officer
Kolathur Panchayat Union,
Mettur Taluk,
Salem District.

4. The Tahsildar
Mettur Taluk,
Salem District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, Calling for the records of the impugned order passed by the 2nd Respondent bearing No.11279/ThaKoo2/2019 dated 01-07-2019 and quash the same and consequently direct the 2nd respondent to accept the Poverty Certificate issued by the 3rd Respondent in No.11279/ThaK002/2019 dated 01-07-2019 and refund the deducted wages amount in the account of escort duty to the petitioner's husband/LCP No.5414.

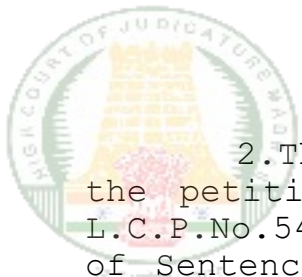
For Petitioner : Mr.J.Vijayaraja

For Respondents : Mr.R.Anandharaj

Additional Public Prosecutor

O R D E R

This writ petition has been filed challenging the order passed by the 2nd Respondent bearing No.11279/ThaKoo2/2019 dated 01-07-2019 and consequently issued by the 3rd Respondent in No.11279/ThaK002/ 2019 dated 01.07.2019 and refund the deducted wages amount in the account of escort duty to the petitioner's husband/LCP No.5414.



2.The learned counsel for the petitioner would submit that the petitioner's husband/K.Moorthy is a life convict prisoner in L.C.P.No.5414 and he availed leave under the Tamil Nadu Suspension of Sentence Rules, 1982 and came out on casual leave for 30 days during the period of emergency of family ceremonies. The petitioner's husband came out for leave with escort and therefore, they deducted a sum of Rs.31,137/- from the wages of the petitioner. He would further submit that the wife of the life convict / petitioner is very poor and she had no means of income and therefore, the petitioner approached the revenue authorities and applied for poverty certificate as contemplated under Rule 16 of the Tamil Nadu Suspension of Sentence Rules, 1982. The revenue authorities received the said application and transferred to the concerned Block Development Officer and the same was considered by the Block Development Officer and thereafter, he issued poverty certificate to the petitioner. The said certificate was directly communicated to the second respondent office by order in Na.Ka.No.1355/2017/Thi2, dated 17.06.2019 and thereafter, the petitioner's husband/life convict made representation to the second respondent, dated 25.06.2019 claiming refund of the deducted amount. Even then the second respondent rejected the claim of the petitioner by the impugned order dated 01.07.2019, for the reason that in accordance with Rule 16 of the Tamil Nadu Suspension of Sentence Rules, 1982, poverty certificate should be obtained from revenue department and since there is no fault on the petitioner. Therefore, the petitioner sought for challenging the impugned order.

3.The learned Additional Public Prosecutor would submit that according to the Tamil Nadu Suspension of Sentence Rules, 1982, Rule 16, the petitioner should obtain poverty certificate from an Officer of the Revenue Department not lower than the rank of Tahsildar. Admittedly, the petitioner obtained poverty certificate from the Block Development Officer, Kolathur Panchayat Union, Mettur Taluk, Salem District. Therefore, it is clear that violation of Rule 16 of the Tamil Nadu Suspension of Sentence Rules, 1982 is attracted. Therefore, the second respondent rightly rejected the request of the petitioner's husband/life convict, by order dated 01.07.2019.

4.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

5.The petitioner herein is the wife of the life convict prisoner in L.C.P. No.5414, who was convicted and sentence to life imprisonment. He had taken leave for 30 days on various occasions for somany reasons, finally he was granted leave with escort, for which, the second respondent deducted a sum of Rs.31,137/- from the salary of the husband of the petitioner/life convict. Therefore, the petitioner availed benefit seeking to refund the deducted amount



Accordingly, she rightly applied for poverty certificate to the revenue authorities, but the revenue authorities transferred her application to the Block Development Officer and on receipt of the same, the Block Development Officer issued poverty certificate and also directly communicated the same to the second respondent. However, the second respondent rejected their claim for the reason that the poverty certificate shall be obtained from the concerned revenue department not lower than the rank of Tahsildar under Rule 16 of the Tamil Nadu Suspension of Sentence Rules, 1982. Rule 16 of the Tamil Nadu Suspension of Sentence Rules, 1982, here under:-

"16.Escort at Government cost:- The cost of the Police escort shall be borne in full by the Government if the relative of the prisoner who makes the petition produces a poverty certificate from an Office of the Revenue Department not lower in the rank that of Tahsildar. In such cases, the amount if deposited in advance with the Superintendent of Prisons shall be refunded "

6.Though the Block Development Officer is a competent person to issue poverty certificate, the Rule 16 of the Tamil Nadu Suspension of Sentence Rules, 1982, categorically says that the poverty certificate shall be issued only by the Revenue Department that too not the rank of lower than the Tahsildar. Therefore, the second respondent is rightly rejected the claim of the petitioner.

7.In view of the above discussion, this Court is of the view that there is absolutely no infirmity or illegality in the order passed by the second respondent and it does not require any interference by this Court.

8.However, since there is no fault on the petitioner, on her application transferred to the concerned Block Development Officer by the revenue authorities, this Court is inclined to pass the following orders :-

(i) the petitioner is directed to apply fresh application for poverty certificate before the concerned Revenue Authority. On receipt of such application, the concerned Revenue official is directed to consider the same and issue appropriate certificate, in accordance with law, within a period of two weeks from the date of application from the petitioner.

9.With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Deputy Inspector of General of Prisons,
Madurai Range, A.A. Road,
Arasaradi,
Madurai City.

2.The Superintendent of Central Prison,
Madurai Central Jail,
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3.The Block Development Officer
Kolathur Panchayat Union,
Mettur Taluk,
Salem District.

4.The Tahsildar
Mettur Taluk,
Salem District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.J.VIJAYARAJA, Advocate (SR-85291[F] dated 05/09/2019)

W.P. (MD) No.17162 of 2019
04.09.2019

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