



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.8641 of 2013  
and  
M.P.(MD) No.1 of 2013

S.Dhanasekaran

... Petitioner

vs.

1.The Commissioner of Police  
Madurai City, Madurai

2.Assistant Commissioner of Police  
Armed Reserve  
Madurai City Police, Madurai

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.F2/27552/205/12, Ka.Aa.Aa.No.629 of 2013, dated 10.05.2013 and to quash the same as illegal, arbitrary and in violation of principle of natural justice.

For Petitioner : Mr.B.Saravanan

For Respondents : Mr.K.Mu.Muthu  
Additional Government Pleader

### O R D E R

The order of recovery issued by the first respondent in proceedings dated 10.05.2013 is sought to be quashed in the present writ petition.

2. The writ petitioner was working as a Head Constable at Armed Reserve and was posted with a duty to drive the Police vehicle. While driving the security convoy to escort a V.V.I.P. namely, the Home Minister, the vehicle met with an accident and consequently, a criminal case was also registered against the writ petitioner. In this regard, the impugned order of recovery was issued against the writ petitioner in respect of the financial loss caused to the vehicle on account of the accident.



3. The learned counsel appearing for the writ petitioner states that no proper enquiry was conducted in respect of the accident took place and in fact, the writ petitioner is noway responsible or liable to repay the financial loss as he had not committed any negligence or otherwise.

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4. The learned Additional Government Pleader appearing for the respondents also states that the similar case filed by Mr.R.Prabhakaran and Mr.K.Jeyaprakash in W.P.(MD) Nos.8896 & 8908 of 2013, this Court passed an order remanding the matter for the purpose of issuing a show-cause notice to the writ petitioners and passing orders on merits and in accordance with law.

5. In respect of the present writ petition, no show-cause notice or opportunity was provided to the writ petitioner. This Court is of the considered opinion that any order affecting the service condition or right of an employee must be passed by the competent authority, after providing reasonable opportunity to the employee concerned. Thus, the impugned order issued without providing any opportunity to the writ petitioner is in violation of the principles of natural justice. Thus, this is a fit case for remand.

6. Accordingly, the impugned order in Na.Ka.No.F2/27552/205/12, Ka.Aa.Aa.No.629 of 2013, dated 10.05.2013, passed by the first respondent, is quashed. The respondents are directed to issue a show-cause notice to the writ petitioner setting out the entire facts and details, within a period of four weeks from the date of receipt of a copy of this order. On receipt of such show-cause from the respondents, the writ petitioner is directed to submit his explanations along with the documents, if any, within a period of three weeks from the date of receipt of the show-cause notice from the respondents. Thereafter, the respondents are directed to consider the facts and circumstances as well as the explanations to be submitted by the writ petitioner and take a decision and pass orders on merits and in accordance with law, within a period of four weeks therefrom.

7. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS )



To:

1.The Commissioner of Police,  
Madurai City,  
Madurai.

2.The Assistant Commissioner of Police,  
Armed Reserve,  
Madurai City Police, Madurai.

+1 CC to M/s.B.SARAVANAN, Advocate ( SR-67135[F] dated 06/06/2019 )

+1 CC to SPL GP ( SR-66935[F] dated 04/06/2019 )

**W.P. (MD) No.8641 of 2013**  
**and**  
**M.P. (MD) No.1 of 2013**  
**03.06.2019**

CS: (11/06/2019) 3P 5C