



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.NOS.7813 AND 7818 OF 2022
AND
W.M.P.NOS.7835, 7837, 7841 AND 7844 OF 2022

Aathi Karuppusamy

... Petitioner in W.P.No.7813 of 2022

Munusamy

... Petitioner in W.P.No.7818 of 2022

vs

1. Government of Tamil Nadu,
rep. by Secretary,
Public (Law and Order-A) Department,
Chennai.
2. The Additional Director General of Police and
Inspector General of Prison,
Tamil Nadu Prison Department,
Egmore, Chennai.
3. The Superintendent of Prison,
Central Prison, Coimbatore.
4. The State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai-600 028.
rep. by its Registrar.

... Respondents in both cases

Prayer in both cases: Petitions filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records from the first respondent pertaining to the G.O. No.1036 dated 17.12.2021 relating to recover the amount and subsequent order passed by the third respondent in its proceedings No.1774/Po4/2022 dated 14.02.2022 pertaining to deduction of Rs.2,50,000/- from the petitioners' salary to quash



the same and consequently direct the respondents to return the amount Rs.2,500/- and Rs.5,200/- respectively deducted from the petitioners' salary for the month of February 2022.

For Petitioners : Mr.P.G.Thiyagu in both cases
For Respondent : Mr.V.P.R.Elamparithi,
Additional Government Pleader
for R1 to R3 in
W.P.No.7813 of 2022

Mr.K.Karthik Jaganathan
Government Advocate
for R1 to R3 in
W.P.No.7818 of 2022

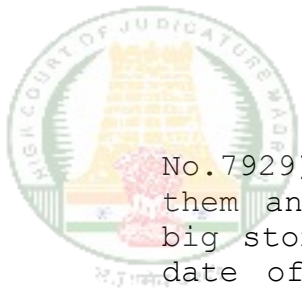
Mr.K.V.Sajeev Kumar,
Special Government Pleader for R4
in both cases

COMMON ORDER

[Order of this Court was delivered by T.RAJA, J.]

The petitioners have come to this Court, challenging the G.O. Ms. No.1036 Public (Law and Order-A) Department dated 17.12.2021 issued by the Government of Tamil Nadu, the first respondent herein and subsequent Proceedings No. 1774/Po4/2022 dated 14.02.2022 issued by the Superintendent of Prison, Central Prison, Coimbatore, the third respondent herein and seeking a direction to the respondents to return the amount of Rs.2,500/- and Rs.5,200/- deducted from their salary for the month of February 2022.

2.Learned counsel appearing for the petitioners submitted that the petitioners were appointed as Grade-II Warden at the Coimbatore Central Prison on 01.11.2017 and 14.04.2002 respectively. However, there are 800 inmates as accused and convicted persons inside the third respondent prison and there are only few officials appointed, including the petitioners for the duty to supervise such a high number of prisoners. Since some of the prisoners are disobedient and arrogant by nature, the officials are facing difficulties in managing the prisoners, who will not act in the same manner every day and they indulge in fights and arguments as part of the day today routine, inside the prison. While so, on 05.06.2018 at about 13.10 p.m., two prisoners, namely, Ramesh (Inmate No.7638) and Vijay (Inmate



No.7929), after having their lunch, initiated a quarrel between them and suddenly, the said Ramesh was attacked by Vijay by a big stone, which leading to severe injuries on his head. On the date of incident, since the petitioners were deputed to guard the tower 3 of the prison, they immediately secured the victim and taken him to the hospital, where he was declared brought dead by the Doctors. Though they are not solely responsible for the said incident, the third respondent had initiated departmental action against the petitioners under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and imposed punishment on both of them stating that the next increment postponed for six months without cumulative effect.

3.Learned counsel appearing for the petitioners further submitted that when the departmental action was initiated against the petitioners, the petitioners were under the impression that since they are not solely responsible for the said incident, justice could be done by the respondents. But the victim's wife by name R.Thangam Karunya gave a representation to the State Human Rights Commission to take action against the persons responsible for the said incident. Learned counsel for the petitioners further submitted that the State Human Rights Commission, taking note of the said representation, by exercising its suo motu power, without even giving reasonable opportunity to the petitioners, had passed an order stating that it was the duty of the State to protect the life of the prisoners in the prison and as the prison officials had failed to do so, the State was vicariously liable for the death of the prisoner Ramesh for the violation of his human rights. However, the Commission, considering the report of the Investigation Wing of the Commission along with other documents, had observed that since the prisoner Ramesh was handed over to the jail administration as per law to produce him before the Court concerned as and when required, the jail authorities cannot escape from their liability for the death of the deceased Ramesh by taking the plea that he was killed by the co-prisoner and due to the lack of supervision and negligence on the part of the jail authorities, the innocent life of the prisoner was taken away. Finally, the Commission, coming to the conclusion that since the department had already initiated departmental proceedings against the petitioners under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, there is no need to pass any order against the petitioners, directed the State Government to pay a compensation of Rs.5,00,000/- to the victim R.Thangam Karunya, wife of Ramesh, residing at Door No.9/11, Ameer Sahib Street, Coimbatore.

4.Continuing his argument, learned counsel for the petitioners submitted that when the Commission has passed an



order that the petitioners cannot be once again punished, holding that the victim is entitled to receive the compensation of Rs.5,00,000/- payable by the Government of Tamil Nadu, the payment of compensation need not be recovered from the petitioners. Therefore, the impugned order passed by the State Government, calling upon the petitioners to pay the said amount of Rs.5,00,000/- as compensation to the victim R.Thangam Karunya, W/o. Ramesh because of the lapse and willful negligence caused by them, is liable to be set aside. Concluding his argument, learned counsel for the petitioners submitted that if the petitioners were given reasonable opportunity by issuing them notice before passing such an order, they would have explained their plea and no adverse order could have been passed, since they have already faced disciplinary proceedings.

5.In reply, learned Special Government Pleader appearing for the fourth respondent submitted that the argument advanced by the learned counsel for the petitioners that the petitioners were repeatedly faced with punishment is far from truth.

6.Heard all the parties.

7.Although the State Human Rights Commission by order dated 17.11.2021 specifically made an observation that there is no need to pass another order directing the Government of Tamil Nadu to pay the compensation, the fact remains to be seen is that the petitioners, being the Grade II Warden, are having the responsibility to watch the movements of the prisoners, who are brought to jail in the Central Prison, Coimbatore for a temporary period and they have to be produced before the concerned Court, but, unfortunately, the deceased Ramesh was a remand accused to be produced before the Court as and when required. When the said Ramesh was not even found guilty nor convicted by the Court, he has to be presumed as an innocent till contrary is proved. When the jail is the shelter for the innocent persons to prove their innocence before the concerned Court, unfortunately, one prisoner Vijay indulged in a fight with the deceased Ramesh during the duty hours of the petitioners. If the petitioners were of patrol duty with all devotion and seriousness, the unfortunate incident would not have been taken place. Only the above Wardens/ petitioners could have come to the scene of occurrence and the fight inside the prison would not have taken place. Due to the negligence on their part, the deceased Ramesh was assaulted by Vijay in the prison and thereafter, he was succumbed to the injuries and rushed to the nearby hospital, where he was declared dead. Later on, when the Wife of Ramesh has taken out a case before the State Human Rights Commission to find out the cause of the death of her husband, the Commission, on receipt of the



complaint, directed the Director General of Police/Director, Investigation Wing of the Commission to investigate the matter and to place a report to the Registrar within 8 weeks. Pursuant to the directions of the Commission, Director General of Police has submitted a report on 05.09.2021 stating that on 05.06.2018, when the deceased remand prisoner was near Tower 3rd Block at about 01.15 p.m., one remand prisoner Vijay S/o. Maruthachalam picked up quarrel with the deceased Ramesh and assaulted him on his head by using stone and caused grievous injuries to him. Thereafter, the Medical Officer of the said prison also has given first aid treatment to the deceased Ramesh and then he was taken to the Coimbatore Medical College Hospital for further treatment and after examination, the medical officers declared him brought dead. Thereafter, the Commission, after perusing the medical treatment records, postmortem report and the Magisterial Enquiry Report, observed that the remand prisoner Ramesh was beaten by his co-prisoner inside the prison and the deceased died due to the injuries caused to him. This apart, the Director General of Police also stated in the report that departmental action was initiated against two Chief Head Wardens of the prison and punishment was given against them.

8.It could be seen from the typed set of papers filed before us that when the petitioner Aathi Karuppusamy has filed an Appeal before the Director General of Police praying for suspension of the punishment passed by the third respondent, the Director General of Police had imposed only a censure. When departmental proceedings initiated under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules found him guilty and punishment of stoppage of increment for six months was imposed against the petitioners, which only considered to be a minor punishment, it is not known why the Director General of Police had imposed only a censure, without considering the clear lapse and negligence committed by him. Secondly, the State Human Rights Commission, in our opinion, has rightly held that it was the duty of the State to protect the life of the prisoners in the prison and in the instant case, the prison officials had failed to do so. Since it is a clear case of negligence on the part of the petitioners, the first respondent, after complying with the direction issued by the Commission to make the payment to the wife of the deceased, recovered the amount of Rs.2,500/- and Rs.5,200/- respectively as the first instalment from the petitioners' salary for the month of February 2022, which cannot be found fault with. When we are concerned with the valuable life of the innocent victim and also his wife, who lost her husband unfortunately due to the lapse and negligence caused by both the petitioners, now the petitioners are much bothered about the money of Rs.2,50,000/- each payable to the deceased family, therefore, we find no merit in the writ petitions filed



by the petitioners and the same are liable to be dismissed. Accordingly, the writ petitions are dismissed. Consequently, W.M.P. Nos.7835, 7837, 7841 and 7844 of 2022 stand closed. No costs.

WEB COPY

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

vga

To

1. Government of Tamil Nadu,
rep. by Secretary,
Public (Law and Order-A) Department,
Chennai.
2. The Additional Director General of Police and
Inspector General of Prison,
Tamil Nadu Prison Department,
Egmore, Chennai.
3. The Superintendent of Prison,
Central Prison, Coimbatore.
4. The State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai-600 028.
rep. by its Registrar.

+2ccs to Mr.P.G.Thiyagu, Advocate, S.R.Nos.23556, 23794

+2ccs to Mr.K.V.Sajeev Kumar, Advocate, S.R.Nos.24010, 24011

+1cc to the Government Pleader, S.R.Nos.24300, 24301

W.P.Nos.7813 and 7818 of 2022 and
W.M.P.Nos.7835, 7837, 7841 and 7844 of 2022

EV(CO)
RLP(01/06/2022)