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W.P. No.15153 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.15153 of 2017

V.Jayakumar

... Petitioner

Vs

1.The Air Force Officer,
Central Commander,
Air Force Station,
Tambaram, Chennai - 600 046.

2.The Inspector of Police,
S-14 Peerkankaranai Police Station,
Peerkankaranai,
Chennai - 600 063.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 1st respondent herein pay a compensation of Rs.10,00,000/- (Rupees ten lakhs only) for the injuries sustained by the petitioner on 13.05.2013 at Senthilmurugan 2nd Street, Thilagavathi Nagar, Irumbuliyur, Chennai due to the negligent act of the 1st respondent herein pursuant to the representation dated 25.10.2016.



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For Petitioner : No Appearance
For Respondents : Mr.M.Venkataswamy Babu
Senior Panel Counsel for R1
Mrs.P.Rajarajeswari
Government Advocate
for R3

ORDER

There is no representation on behalf of the petitioner.

2.The petitioner has filed this writ petition for a mandamus, to direct the first respondent to pay compensation of Rs.10 lakhs on account of bullet injury allegedly caused on account of shooting of bullet by Air Force Men from the Air Force Station Tambaram on 13.05.2013 at about 12.00 pm.

3.The petitioner appears to have referred to different hospital and eventually operated and the bullet was taken out and thereafter lodged a criminal complaint before the second respondent, Peerkankaranai Police Station, Chennai – 600 003 which culminated in Registration of FIR in Cr.No.777 of 2013 dated 14.05.2013. In the FIR, the petitioner has merely asked the respondent to investigate. Thereafter, a crime scene visit report by mobile Forensic science laboratory, Chennai was prepared on 14.5.2013



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wherein it has been concluded that possibly the bullet could have fired by one of

the trainee who has been trained by the first respondent in the campus. The

Assistant Director and Firearms Expert Ballistics Division, Forensic Science

Department, Chennai by their letter dated 10.10.2013 addressed to Judicial

Magistrate, Tambaram has confirmed has follows:-

“(i) item 1 and 2 are fired 9 mm caliber bullets; they could have been fired from 9 mm caliber semi-automatic pistol, or 9 mm caliber sub-machine gun;

(ii) the effective range of 9 mm caliber pistol is 50 meters and that of 9 mm caliber sub-machine gun is 200 meters. The ballistics data of 9 mm bullet fire from sterling submachine gun indicate that the kinetic energy of a bullet at 1000 meters range is about 60ft/lbs. The hold energy to penetrate human skin is 58 ft/lbs. Hence at 1000 meters range the 9 mm bullet has got sufficient energy to penetrate human skin.”

4. The writ petition is resisted by the first respondent stating that the distance between the firing range and the perimeter wall of Air Force Station, Tambaram is approximately 900 metres and the distance between the firing range and the scene of incident was about 1350 mtrs and not about half kilometre as was stated by the petitioner and that as per manual, the effective range of sten Machine Carbine is 200 yard.

5. That apart, the first respondent has further stated that mere recovery of



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9 mm diameter and 14 mm length bullet from the petitioner's leg ipso facto

would not justify a conclusion that the bullet was from the air force station Tambaram firing range. It is submitted that same kind of ammunition is also used by other security forces, state police and illegal weapon users. It is submitted that more than 50 years training has been taking place in the Air Force Station, Tambaram Firing Range and that no such incidence was reported earlier. Hence, it is submitted that the writ petition is liable to be dismissed.

6. That apart, it is submitted that a criminal case is also pending and no conclusion has been arrived in the said proceedings.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

8. The petitioner is seeking for compensation for bullet injury on account of the injuries suffered by him on 13.05.2013. The letter of the Forensic Science Department, Chennai dated 10.10.2013 confirms that the bullet would have travelled a longer distance of kinetic energy at 100 metres range and that is sufficient energy to penetrate. The petitioner should have approached a civil court for remedy for seeking compensation. The petitioner has however sought



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for a compensation for a sum of Rs.10 lakhs on account of the injury. While awarding compensation, Civil Courts are not concerned with strict proof. It is preponderance of probability which is required to be established.

9.Considering the over all facts and circumstances and considering the fact that the petitioner is aged about 64 years and considering the fact that there is no dispute that petitioner had suffered a bullet injury near air force station, it is to be reasonably assumed that the bullet injury caused to the petitioner was on account of firing from the Firing Range by the Trainees who were practising shooting on 13.05.2013. The criminal proceedings which have been initiated at best can result in punishments where the burden of proof is much higher on the State to establish that the person, who is charge, was guilty of the offence committed under Sections 286 and 387 of IPC. However, the petitioner is seeking compensation.

10.Considering the fact that the petitioner has indeed suffered bullet injury and also considering the fact that there are no records to substantiate that injury has completely debilitated the petitioner or immobilized him or has resulted in complete disability, I am inclined to exercise under Article 226 of the constitution of India, to award a reasonable compensation to the petitioner



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by directing the first respondent to pay to the petitioner a sum of Rs.2 lakhs for the injuries suffered by the petitioner. The amount of compensation shall be paid to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

12.This writ petition stands allowed with the above observations. No costs.

24.11.2022

Index: Yes/ No
Internet : Yes/No
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To

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C. SARAVANAN, J.

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