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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.32630 OF 2018

AND

W.M.P.NOS.37836 AND 37837 OF 2018

1. G.S.Madhavan
2. K.Nilavazhagan
3. L.Sarojini
4. P.Kannaki

... Petitioners

-vs-

1. The Deputy Inspector General of Police
Vellore Region, Vellore.
2. The Superintendent of Police
District Police Office
Vellore District, Vellore.

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to order of the Second Respondent in R.C. No. G1(3)/39945/170/2016.D.O. No. 654/2018 dated 14.06.2018, to quash the same and to consequently direct the respondents to forthwith refund the amount recovered from the respective petitioners.

For Petitioner : Ms.N.R.Jasmine Padma

For Respondents : Mr.P.Gurunathan
Additional Government Pleader

O R D E R

Heard Ms.N.R.Jasmine Padma, Learned Counsel for the Petitioners and Mr. P.Gurunathan, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.



2. The Petitioners, who are in police service, had been posted at Vaniyampadi Town Police Station on 13.03.2012 when one M.Samiyullah was arrested and detained there and had later filed a complaint in that regard in SHRC Case No. 2695 of 2012 before the State Human Rights Commission, Tamil Nadu in which the order dated 13.07.2016 had been passed observing as follows:-

"19. Based on the discussion held above, this Commission holds that the human rights of the Complainant were violated by the police officers attached to Vaniyambadi Town Police Station on the night of 13.03.2012 and it has not been proved that these Respondents had beaten the Complainant and caused injuries to him and consequently it is held that these Respondents have not been proved to have violated any of the human rights of the Complainant and this Point is answered accordingly.

20. Even though the Complainant has not proved that these Respondents had beaten him and inflicted him injuries, still, it has been held by this Commission while answering Point No. 1 that the Complainant was beaten inside the Vaniyambadi Town Police Station on the night of 13.03.2012 and hence, it amount to violation of his human rights, i.e., his right to life and dignity. If so, the Complainant is entitled to receive compensation from the Government of Tamil Nadu. This Commission is of the further view that awarding a compensation of Rs. 25,000/- (Rupees Twenty Five Thousand only) to the Complainant would be fair and reasonable in the facts and circumstances of this case.

21. Hence, this Commission holds that the Complainant is entitled to receive a compensation of Rs. 25,000/- from the Government of Tamil Nadu for the violation of his human rights by the police officials attached to Vaniyambadi Town Police Station on the night of 13.03.2012 and this Point is answered accordingly. (As it is held that these Respondents have not been found to have violated the human rights of the Complainant, no disciplinary action is recommended against the Respondents).

16. In the result, this Commission recommends as follows:-

The Government of Tamil Nadu shall pay a compensation of Rs. 25,000/- (Rupees Twenty Five Thousand only) to the Complainant Thiru M.Samiyullah, S/o. Mahaboob Basha, residing at Church Street, New



Town Bypass Road, New Town, Vaniyambadi, Vellore District, within two months from the date of receipt of a copy of this Recommendation."

The Government of Tamil Nadu in G.O. (D) No. 574, Home (CITZ.II) Department dated 10.05.2017 while implementing the said order had held as follows:-

"5. The Director General of Police is also requested to take action for fixing the responsibility on the officials involved in committing violation of human rights in this case and to take action to recover the compensation amount Rs. 25,000/- which is now being paid to the Complainant by the Government from the erring officials after following due procedures and requested to send the detailed report accordingly."

Thereafter, the Second Respondent by Proceedings in D.O. No. 654/2018 dated 14.06.2018 ordered to recover Rs. 6,250/- from each of the Petitioners in three installments of Rs. 2,250/-, Rs. 2,000/- and Rs. 2,000/- from their monthly salary, which is assailed in this Writ Petition.

3. Learned Counsel for the Petitioners vehemently contended that the apportionment of liability of the Petitioners for reimbursing the compensation of Rs. 25,000/- paid by the State Government to the said M.Samiyullah has not been made after due notice and proper enquiry affording opportunity of personal hearing to the Petitioners to explain their position before passing the impugned order.

4. At this juncture, it would be necessary to refer to the ruling of the Full Bench of this Court in Abdul Sathar -vs- Principal Secretary to Government [(2021) 3 CTC 129] where the following among other questions was considered and answered as follows:-

"(iv) Whether initiation of appropriate disciplinary proceedings against the Officers of the State under the relevant service rules, if it is so empowered, is the only permissible mode for recovery of the compensation amount directed to be paid by the State to the victims of violation of human rights under sub-clause(i) of clause(a) of Section 18 of the Protection of Human Rights Act, 1993, from the Officers of the State who have been found to be responsible for causing such violation?

Ans: As far as the initiation of disciplinary proceedings under the relevant Service Rules is



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concerned, for recovery of compensation, mere show cause notice is sufficient in regard to the quantum of compensation recommended and to be recovered from the Officers/employees of the concerned Government. However, in regard to imposition of penalty as a consequence of a delinquent official being found guilty of the violation, a limited departmental enquiry may be conducted only to ascertain the extent of culpability of the Official concerned in causing violation in order to formulate an opinion of the punishing Authority as to the proportionality of the punishment to be imposed on the official concerned. This procedure may be followed only in cases where the disciplinary authority/punishing authority comes to the conclusion on the basis of the inquiry proceedings and the recommendations of the Commission that the delinquent official is required to be visited with any of the major penalties enumerated in the relevant Service Regulations."

There is nothing to show from the impugned order or in the Counter-Affidavit filed by the Second Respondent that the exercise required in that authoritative pronouncement holding the field has been carried out in the instant case.

5. In that view of the matter, the impugned Order in D.O. No. 654/2018 dated 14.06.2018 passed by the Second Respondent is set aside. However, it would not preclude the concerned authorities from taking necessary further action following the prescribed against the responsible persons in accordance with the principles of natural justice, uninhibited and uninfluenced by the impugned order.

In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

Maya



To

1. The Deputy Inspector General of Police
Vellore Region, Vellore.

2. The Superintendent of Police
District Police Office
Vellore District, Vellore.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.19932

+1cc to the Government Pleader, S.R.No.20371

W.P.No.32630 of 2018

SR-II(CO)
RLP(11/05/2022)