



W.P.Nos.956, 3409 & 4007 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. Nos.956, 3409 & 4007 of 2020
and W.M.P.No.1165 of 2020

P.Venkatraman	...	Petitioner in W.P.No.956/2020
K.Pitchaya Bhaskar	...	Petitioner in W.P.No.3409/2020
P.Kailasasundaram	...	Petitioner in W.P.No.4007/2020

/vs/

1. The Principal Secretary to Government,
Municipal Administration & Water Supply Department,
Fort St. George,
Chennai – 600 009.
 2. The Commissioner of Municipal Administration,
Urban administration Buildings,
M.R.C.Nagar,
Chennai – 600 028.
 3. The Commissioner,
Kadayanallur Municipality,
Kadayanallur,
Tenkasi District.
- ... Respondents in all W.P's.



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WEB COPY Writ Petitions are filed under Article 226 of the Constitution of India

to issue a writ of certiorarified mandamus to call for the records in pursuant to the first impugned order of punishment issued by the second respondent in proceedings Na.Ka.No.21362/2010/J4 dated 03.08.2018 & the subsequent impugned appellate order issued by the first respondent in proceedings G.O.Ms.Nos.228, 229 & 230 Municipal Administration & Water Supply (Na.Pa.3) Department dated 14.06.2019 and quash these orders and consequently to direct the respondents to restore the withheld increments of the petitioners with all consequential attendant service and monetary benefits.

For Petitioner:

in W.P.No.956/2020	...	Mr.R.Prem Narayanan
in W.P.No.3409/2020	...	Mr.A.Prakash
in W.P.No.4007/2020	...	Mr.M.Sasikumar

For Respondents:

in all W.P's.	...	Mr.T.Arunkumar
		Government Advocate for R1
	...	Mr.M.Saravanakumar for R3



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COMMON ORDER

WEB COPY These Writ Petitions are filed for the issuance of a writ of certiorarified mandamus to call for the records relating to the impugned order issued by the second respondent in proceedings Na.Ka.No.21362/2010/J4 dated 03.08.2018 & the subsequent impugned appellate order issued by the first respondent in proceedings vide G.O.Ms.Nos.228, 229 & 230 Municipal Administration & Water Supply (Na.Pa.3) Department dated 14.06.2019 and quash the same and consequently direct the respondents to restore the withheld increments of the petitioners with all consequential attendant service and monetary benefits.

2. The petitioners are the employees of the third respondent municipality within which limit a person by name Syed Ayesha died on 05.01.2009. The parents of the deceased Syed Ayesha by name Ahamed Ali and Mumtaaz were also the employees of the third respondent municipality. All the petitioners have been given with the charge memo and on which disciplinary proceedings have been initiated and the



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petitioners have been awarded with the punishment of stoppage of one increment with six months cumulative effect. The petitioners who have taken the matter on appeal, have lost the appeal.

3. Immediately after the death of Syed Ayesha, her father, Ahamed Ali applied for a death certificate by producing the medical documents by stating that his daughter had died naturally due to illness. By believing the medical documents, one Venkatraman who is the petitioner in W.P.No.956/2020 had issued the death certificate by stating that the death was natural. Subsequently, the mother of deceased had given a police complaint by stating that the death of her daughter has taken place under suspicious circumstances and in pursuant to that a case was registered in Cr.No.104/2009. During the course of investigation the body was exhumed and autopsy was done. In that course it was found that the death of Syed Ayesha was not natural but it was a suicide. Subsequently the Inspector of Police, who had undertaken the investigation has given a request to the third respondent municipality to issue a death certificate by stating the reasons correctly.



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4. Though the the matter has to be attended by one Pitchaya Bhaskar who is the petitioner in W.P.No.3409/2020, the matter was dealt by one Kailasa Sundaram who is the petitioner in W.P.No.4007/2020. Since Pitchaya Bhaskar was not available on the relevant day, Kailasa Sundaram who belonged to a different Zone had handled the file and issued the death certificate by stating that the death of Syed Ayesha was not natural but it is a suspicious death.

5. In the meanwhile, the husband of the deceased had given a complaint to the higher authorities of the Local Administration and exposed that two different death certificates have been given quoting two different cause for death of the deceased. This had caused embarrassment to the third respondent and the reputation of the third respondent was lowered in the eye of public and hence the third respondent had initiated disciplinary against all the petitioners who had dealt the files of issuing the death certificate.



6. According to the third respondent, the petitioners ought to have conducted themselves in a responsible manner when a death is reported and an application for getting death certificate was made. It is alleged that the said Venkatraman, knowing fully well that the death of the deceased was caused due to suicide, had purposefully suppressed the said fact and had issued the death certificate by stating that it is a natural death. It is further submitted that the said Kailasasundaram who has no business in issuing death certificate connecting to Zone-I, had interfered and moved the file for issuing the second death certificate.

7. It is learnt that a news was published in newspapers that the third respondent municipality had issued two different death certificates by giving two different causes for the death and it had defamed the municipality. But the petitioners did not appear to have any intention in doing so. The father of the petitioner who had initially applied to get the death certificate had produced medical documents and made Venkatraman to believe that the death of his daughter was natural. Since the father of the deceased was also working in the very same municipality, the petitioner



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Venkatraman has got every reason to believe the statement of the father because the father would not have any intention to suppress the cause of death of his own daughter unless there is any criminal action is taken immediately subsequent to the death of Syed Ayesha.

8. Admittedly, the mother of the deceased had given the police complaint after three months from the date of death. So no one would have even thought of the fact that there could have been some suspicion in the death of Syed Ayesha. Had there been an autopsy at the first instance on suspecting the cause of death, the concerned officials of the third respondent municipality would have got an opportunity to know that something is suspicious in the death of Syed Ayesha. Since everything was normal as how it used to be in natural death, the first petitioner seemed to have to issue the death certificate as natural death. The things had a different form after the mother of the deceased lodged a criminal complaint and subsequent to which the body of the deceased was exhumed and the autopsy done.



9. Even though the petitioner Pitchaya Bhaskar was the rightful person who has to deal the file, on the relevant time he was not available and Kailasasundaram handled the file. Unless there is any *mala fide* intention on the part of the petitioners Pitchaya Bhaskar & Kailasasundaram, the subsequent issuance of death certificate by stating that the death was caused due to suspicious circumstances cannot be considered as something unusual.

10. The learned Government Advocate submitted that even in that case, the concerned officials ought to have amended the cause of death in the earlier death certificate and ought not to have given an one more certificate. Since several persons are involved and a police case has been registered, it appears that Kailasasundaram had chosen to move the file afresh. It is not known from the records whether Pitchaya Bhaskar and Kailasasundaram had the knowledge that a death certificate has already been issued at the first instance. Sometimes things go out of bounds even without anyone's intention and this is a typical example of such an event. Even an amended certificate is given, it is still possible for any miscreants



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to get a previously downloaded unamended certificate and the later amended certificate and cause mischief by posing both. Even according to the respondents, none of the petitioners have got any ulterior motive or they were not benefited in some way or other in the above exercise. The husband of the deceased who was said to have exposed the third respondent in poor light, could have been a person who is interested in the outcome of criminal investigation. For such an over reaction on the part of a third person, the petitioners seem to have got punished.

11. In this regard, I feel it is appropriate to refer Section 28 of the Registration of Births and Deaths Act, 1969 which reads as under:

“28. Protection of action taken in good faith:

(1) No suit, prosecution or other legal proceeding shall lie against the Government, the Registrar General, any Registrar, or any person exercising any power or performing any duty under this Act for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this act or any rule or order made thereunder.



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12. When the petitioners who are the officials of the third respondent municipality get the immunity from the civil and criminal consequences of any action done by them in their official capacity in good faith, it is needless to state that such a benefit is available to them as against their own department as well, except when there are reasons to believe that there is any negligence or any other dereliction with or without malafides.

13. The fundamental protection given under law has not been properly considered before issuing charge memo to the petitioners. Normally in disciplinary action, this Court cannot be expected to sit as an appellate authority to cancel or modify the punishment imposed in disciplinary actions.

14. But by considering the extraneous and exceptional circumstances of this nature which also a bearing on Section 28 of the Registration of Birth and Deaths Act, 1969, for a limited extent, I feel it is appropriate to interfere.



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`15. In the light of the reasons stated above, these Writ Petitions are allowed and the impugned order passed by the second respondent in Na.Ka.No.21362/2010/J4 dated 03.08.2018 and subsequent impugned appellate orders issued by the first respondent in G.O.Ms.Nos.228, 229 & 230 Municipal Administration & Water Supply (Na.Pa.3) Department dated 14.06.2019 are hereby quashed and the respondents are directed to restore the withheld increments of the petitioners with all consequential attendant service and monetary benefits. No costs. Connected miscellaneous petition is closed.

16.10.2023

Index: Yes / No
Speaking order / Non-speaking order
bkn



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To:

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