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WP.No.18324 & 18325 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. No.18324 & 18325 of 2013

and

M.P.Nos.2 & 2 of 2013

P.Sabaresan ... Petitioner in W.P.No.18324/2013

P.Tamilarasan ... Petitioner in W.P.No.18325/2013

Vs

1.Government of Tamilnadu,
Rep.by its Principal Secretary to Government,
Home (Prison V) Department,
Secretariat,
Chennai-600 009.

2.Superintendent of Prisons
cum Administrative Officer of
Cuddalore, Villupuram District Sub-Jails
Central Jail,
Cuddalore-4.

... Respondents in both WPs

Common Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus after calling for the records from the respondents 1 & 2 relating to G.O.(Ms).No.764 – Home (Prison V) Department dated 27.08.2010 and the consequential proceedings of the 2nd respondent dated 12.04.2013 signed on 04.05.2013 bearing reference



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No.5448/KICIU/2012 & No.12886/Po1/2012 ordering recovery of Rs.50,000/- from the petitioners salary and quash the same as illegal, arbitrary, malafide and consequently direct the respondents 1 & 2 to refund whatever money they have recovered from the petitioner pursuant to the impugned proceedings together with 18% interest per annum.

For Petitioner : Ms.Raji
for M/s.S.Saravanakumar

For R1 & R2 : Mr.V.Veluchamy
Additional Government Pleader

COMMON ORDER

These Writ Petitions have been filed challenging the order passed by the respondents 1 & 2 relating to G.O.(Ms).No.764 – Home (Prison V) Department dated 27.08.2010 and the order of recovery passed by the 2nd respondent dated 12.04.2013.

2. The petitioner in W.P.No.18324 of 2013 is working as a Grade II Warder and the petitioner in W.P.No.18325 of 2013 is working as an Assistant Jailor, Central Prison, Cuddalore. On 30.12.2004 at about 11.45 a.m., the convict prisoner, who was kept in Tower 1 area, was committed suicide by hanging on the Jackfruit tree behind Tower No.6. In pursuant to the suicide, the RDO conducted an enquiry and concluded



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that no one was responsible for his suicide. The Government had sanctioned the amount of Rs.1,00,000/- to the deceased mother by passing G.O.(Ms).No.764 – Home (Prison V) Department dated 27.08.2010. In the said Government Order, the 1st respondent directed the Inspector General of Prisons to recover the entire compensation from the prison officials, who are all responsible for the lapse.

3. Admittedly, an enquiry was conducted by the RDO, who in turn filed a report stating that no one was found responsible for committing suicide by the convicted accused. Further, no disciplinary proceedings were initiated against the prison officials. Since both the petitioners were engaged in the Para duty between 6.00 a.m., and 1.00 p.m., on the fateful day namely on 30.12.2004, the compensation amount ordered to be recovered from them. The fatal incident was occurred on 30.12.2004 and the compensation was ordered only in year 2010.

4. In pursuant to the order of compensation, the second respondent issued a show cause notice on 11.03.2017 to the petitioners to explain, as to why the compensation amount paid to the deceased mother should not be recovered to them. But the petitioners submitted their



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explanation stating that they were 60 meters away from the place of occurrence, immediately after occurrence, the petitioners rushed to the place of occurrence and informed to the officials. Therefore, the deceased was taken to the hospital. Unfortunately, on the way to the hospital he died. The deceased committed suicide near Tower No.6, whereas the petitioners were engaged at Tower No.1 Door No.15 & 16.

5. However, this Court is of the view that the second respondent had failed to recover any amount from the prison in charge of Tower No.6 at the time of committing suicide. Without even conducting an enquiry, only on the basis of the Government Order, thereby ordered to pay compensation to the Government and the second respondent passed a recovery order as against the petitioners.

6. In view of the above impugned G.O.(Ms).No.764 – Home (Prison V) Department dated 27.08.2010 passed insofar as the recovery alone, the order passed by the second respondent dated 12.04.2013 is quashed.



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7. In view of the above, the order of recovery passed by the 2nd

respondent dated 12.04.2013 is hereby quashed, accordingly the Writ Petitions are allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

01.08.2023

rpl

Index: Yes/No

Internet: Yes/No

To

1.Principal Secretary to Government,
Government of Tamilnadu,
Home (Prison V) Department,
Secretariat,
Chennai-600 009.

2.Superintendent of Prisons
cum Administrative Officer of
Cuddalore, Villupuram District Sub-Jails
Central Jail,
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