



W.P.No.3281 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 01.02.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.3281 of 2020

and

W.M.P.Nos.3795 and 23565 of 2020

M/s.Dr.R.V.Saranya Alagu Venmani,

... Petitioner

Vs.

1.The Government of Tamil Nadu
rep. by the Secretary to Government,
Health and Family Welfare Department,
Fort Saint George,
Chennai - 600 009.

2.The Director of Medical Science,
D.M.S. Campus,
Anna Salai,
Chennai - 600 018.

3.The Deputy Director of Medical Rural Health
Services and Family Welfare District,
Family Welfare Bureau,
Kancheepuram.

4.The Block Medical Officer,
Government Primary Health Centre,
Beerakuppam,
Thiruvallur District - 631 205.

... Respondents



W.P.No.3281 of 2020

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari to call for the records relating to the proceedings of the 3rd respondent made in Na.Ka.No.5795/E-1/2016, dated 10.01.2020 and quash the same.

For Petitioner : Mr.G. Jaisivaramaraj

For Respondents : Mr.Stalin Abhimanyu,
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned proceedings of the third respondent dated 10.01.2020 directing the recovery of a sum of Rs.10,85,737.50p from the monthly salary of the petitioner.

2.The case of the petitioner is that he is an Assistant Doctor working under the third respondent. The petitioner was assigned duty at the Primary Health Centre. On 22.09.2016, the petitioner was asked to visit nearby Village to attend a Dengue Fever Camp. While returning back from the Camp, the driver of the Government jeep fainted and hence, the petitioner drove the Government jeep to take the driver to the hospital.



W.P.No.3281 of 2020

When the petitioner entered into the hospital in the Government jeep, the deceased all of a sudden crossed the hospital gate and he was hit by the jeep which ultimately ended as a fatal accident.

3.A motor accident claim was initiated by the legal heirs of the deceased in M.C.O.P.No.7033 of 2016 before the Motor Accidents Claims Tribunal at Chennai. The Tribunal by an Award dated 28.03.2019 awarded a sum of Rs.8,62,000/- with interest @7.5% per annum.

4.An Execution Petition was filed by the claimants in E.P.No.850 of 2019 and the third respondent had to deposit a sum of Rs.10,85,737.50p. The grievance of the petitioner is that the third respondent through the impugned proceedings dated 10.01.2020 was pleased to direct recovery of the compensation amount from the monthly salary of the petitioner. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5.The third respondent has filed a counter affidavit. The main stand that has been taken in the counter affidavit is that the petitioner



W.P.No.3281 of 2020

should not have driven the jeep and it was only because of the rash and negligent driving of the petitioner, the accident took place and the same resulted in the respondents being made to pay a huge amount towards compensation. The further stand taken in the counter affidavit is that it is the petitioner who was solely responsible for the accident and hence, the compensation amount had to be recovered from the monthly salary of the petitioner.

6.Heard Mr.G. Jaisivaramaraj, learned counsel appearing for the petitioner and Mr.Stalin Abhimanyu, learned Additional Government Pleader appearing for the respondents.

7.It is seen from the records that the third respondent had initiated disciplinary proceedings against the petitioner and a charge memo dated 05.09.2019 was also issued to the petitioner under Rule 17(b) of Tamil Nadu Civil Service (Discipline & Appeal) Rules. The charges that were framed against the petitioner pertained to the rash and negligent manner in which the jeep was driven by the petitioner without any authority and the resultant compensation that was fixed and the



W.P.No.3281 of 2020

respondents were made to pay. On receipt of the charge memo, the petitioner also gave his written explanation dated 22.10.2019. Even before the disciplinary proceedings was concluded, the impugned order came to be passed by the third respondent on 10.01.2020 directing for the recovery of the compensation amount from the monthly salary of the petitioner.

8.Learned Additional Government Pleader appearing on behalf of the respondents submitted that an Executive Officer was also appointed to conduct the enquiry and a report was also submitted and the disciplinary proceedings is at its final stages.

9.In the considered view of this Court, the third respondent ought not to have issued the impugned order dated 10.01.2020 even before the completion of the disciplinary proceedings. The order should not have been passed by the third respondent just because the claimants had filed an Execution Petition based on the Award passed by the Motor Accidents Claims Tribunal. The order was passed even without considering the defence taken by the petitioner in the disciplinary proceedings. The impugned order passed by the third respondent virtually amounted to a punishment even before the conclusion of the disciplinary proceedings.



W.P.No.3281 of 2020

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10. In the light of the above reasons, this Court has absolutely no hesitation to interfere with the impugned order of the third respondent dated 10.01.2020 and the same is accordingly set aside. The disciplinary proceedings initiated against the petitioner has already reached the final stage and hence, it is left open to the third respondent to proceed further depending upon the result of the disciplinary proceedings.

In the result, this Writ Petition is allowed in the above terms.

No costs. Consequently, connected Miscellaneous Petitions are closed.

01.02.2023

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order
mps

To

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W.P.No.3281 of 2020

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W.P.No.3281 of 2020

N. ANAND VENKATESH, J.

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