



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.9798 of 2017  
and  
W.M.P.No.10786 of 2017

M. Murali

.. Petitioner

Vs.

- 1.The Principal Secretary to Government,  
Home Department,  
Fort St. George,  
Chennai – 600 009.
- 2.The Director General of Police,  
Tamil Nadu,  
Chennai – 600 004.
- 3.The Deputy Inspector General of Police,  
Thanjavur Range,  
Thanjavur.
- 4.The Superintendent of Police,  
District Police Office,  
Thiruvarur District.

.. Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the 4<sup>th</sup> respondent herein in his proceedings



P.R.No.12/2010 u/r. 3(b) dated 15.11.2010 and the consequential recovery order passed in Ma.Aa.No.207/207, Na.Ka.No.C1/1568/2010 dated 29.03.2017 and the order passed by the 3<sup>rd</sup> respondent herein in his proceedings in Na.Ka.No.B2/Me.Mu/79/2010 dated 06.10.2011 and the 2<sup>nd</sup> respondent in his proceedings in Rc.No.231308/AP.I(1)/2011 dated 22.10.2014 and to quash the same.

For Petitioner .. Mr. B. Manimaran

For Respondents .. Mr. U. Bharanidharan, AGP

### **ORDER**

This Writ Petition has been filed in the nature of Certiorarified Mandamus relating to the records of an order of the 4th respondent, the Superintendent of Police, Thiruvarur District dated 15.11.2010 in P.R.No.12 of 2010 under Rule 3(b) and the consequential recovery order passed in Ma.Aa.No.207/2017, Na.Ka.No.C1/1568/2010 dated 29.03.2017 and the order passed by the 3<sup>rd</sup> respondent in his proceedings in Na.Ka.No.B2/Me.Mu/79/2010 dated 06.01.2011 and by the 2<sup>nd</sup> respondent in his proceedings in Rc.No.231308/AP.I(1)/2011 dated 22.10.2014 and to quash the same.



2.The petitioner was working as Special Sub-Inspector of Police at Vepery Police Station, Chennai, at the time of filing of the writ petition. He joined police service as Grade-II Police Constable on 01.11.1995 and was promoted as Grade-I Police Constable in the year 2005 and was due for promotion as Head Constable in the year 2010, but was given promotion only in the year 2012.

3.On 30.01.2009, while he was working as driver, he was directed to drive the police vehicle Tata Bus bearing Registration No.TN-50-G-0083 from Trichy Central Prison to Thiruvavur. At that time, when the driver of a two wheeler Prasad, bearing Registration No.TN-49-TP-1141 (Bajaji CD-100) was trying to overtake the petitioner's bus, he dashed in the middle of the bus and fell down, but the pillion rider of the two wheeler had fallen in the middle of the bus and the back wheel of the bus ran over the pillion rider, Raji and he died. An FIR in Crime No.23 of 2009 had been registered under Section 279, 337 and 304 A IPC.

4.There were three separate proceedings, which had been initiated against the petitioner herein. The first one was the proceedings under the



Motor Vehicles Act, for compensation initiated by the dependants of the deceased. The petitioner was not a respondent, but substantially consequent to the death, the Government had an obligation to pay necessary compensation as determined by the Court. The second one was the criminal trial consequent to the registration FIR in Crime No.23 of 2009. The third one was the disciplinary proceedings initiated against the petitioner by the respondents.

5.Insofar as the claim of the compensation is concerned in M.C.O.P.742 of 2009 by a judgment dated 06.08.2012 the learned Additional District Judge, Thanjavur, had granted a total compensation of Rs.8,11,000/- together with interest and other conditions. With respect to the criminal case namely, C.C.No.108 of 2010, by judgement dated 14.05.2013, the learned Judicial Magistrate – III, Thanjavur, had acquitted the petitioner herein, granting him benefit of doubt. In the disciplinary proceedings, however, the charge was held established and punishment of postponement of increment for one year with cumulative effect was awarded. This order of imposition of penalty was questioned by the petitioner by filing an appeal and a revision and both the said authorities confirmed the said punishment.



6.The learned counsel for the petitioner placed reliance on the judgment in the Calender Case aforementioned and stated that since the petitioner had been acquitted of all charges, whether it be on evidence or owing to benefit of doubt, that particular acquittal should have been considered in its proper light by the disciplinary proceedings authorities. It is the contention of the learned counsel that even in the MCOP case, it had also been found that the two wheeler had tried to overtake the bus driven by the petitioner and had dashed against the bus driven by the petitioner and the pillion rider of the two wheeler had therefore fallen between the wheels of the bus and the back wheel of the bus had run over the pillion rider. It was therefore stated that negligence cannot be attributed only on the petitioner and there was negligence on the part of the driver of the two wheeler also. It is therefore contended that grant of punishment of postponement of increment with cumulative effect should be reconsidered by this Court.

7.However, it is not his contention that opportunity had not been granted during the course of enquiry. The order of the criminal case and the order of the MCOP had been considered. One factor, which had been pointed out by the learned counsel for the petitioner is that the Revision



Authority had stated that the FIR had very clearly stated that there was a witness to the accident. The learned counsel called in question placing reliance on the FIR, which is only an information given and is not at all a substantial piece of evidence, except to record a fact. Further investigation alone would substantiate the information which had been given to the Station House Officer.

8.To that extent, the contention of the learned counsel is correct. But as a fact, the petitioner, as a driver of a Government vehicle should have exhibited much care and caution and should not be responsible to cause death to anybody. Though the Revision Authority had placed reliance on the FIR still, the fact that the petitioner was also responsible for the accident is evident and this Court cannot interfere on that particular aspect.

9.It is also seen that the respondents had granted promotion to the petitioner. He was Grade-I Police Constable at the time of the accident and subsequently, he had also been promoted as Head Constable and at the time of filing the writ petition he was serving as Special Sub-Inspector of Police at Veppery Police Station, Chennai. To that extent, the promotional avenue



has not been withheld by the respondents.

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10.The other aspect is, reliance placed on the G.O.Ms.No.393 Home (Transport.IV) Department dated 01.03.1988. By this Government Order, the Government had reconsidered the issue of providing insurance to vehicle belong to the Central and State Governments. A decision was taken that such vehicles need not be insured and therefore, in the Government Order, it had been further stated as follows:-

*“3.In order to enforce strict discipline among the drivers of Government vehicles, Government have examined the question of recovering token amount from the drivers in cases of accidents to Government vehicles. Government consider that under the provisions of Rule 8(v)(a) of the Tamil Nadu Civil Services (C.C.A) Rules, when any pecuniary loss is caused recovery from their pay of the whole or part of such pecuniary loss may be made by way of penalty. In these circumstances, Government, consider that there is no need for making separate rules for effecting token recovery from the drivers in case Government vehicles get involved in accidents.”*



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11. It is seen that this particular Government order had also been taken into consideration by the respondents and there was also an internal circular. Taking resort to the aforementioned extract to the Government order, the 4<sup>th</sup> respondent had directed recovery from the monthly salary of 1% of the compensation, which had been directed to be paid by the MCOP Court. This was not to be recovered in one whole lumpsum, but in instalments.

12. The Government order has been passed with good intention to impress responsibility and discipline among the drivers of the Government vehicles. The reasons given in the Government order have not been questioned by the petitioner herein.

13. Taking a total view of the circumstances, I do not think that this is a fit case where the impugned orders can be interfered with by this Court.

14. The learned Additional Government Pleader also reiterated that the recovery was only to an extent of 1% of the total pecuniary loss, which had



been suffered by the respondents, consequent to the compensation amount granted. The penalty imposed in the disciplinary proceedings was also justified by the learned Additional Government Pleader, who pointed out that the petitioner had been acquitted only on benefit of doubt. It is the contention of the learned Additional Government Pleader that there is no dispute that the petitioner was the driver of the vehicle and that the vehicle was involved in the accident and that consequent to such accident, the pillion rider of the two wheeler had died by being crushed under the wheels of the bus driven by the petitioner. These facts according to the learned Additional Government Pleader can never be denied or disputed. It is for that particular purpose that the punishment was imposed in the disciplinary proceedings and recovery was also ordered.

15. In view of all these facts, I am afraid that there cannot be any interference with the orders passed by the respondents. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

16. It is to be noted that the respondents have not affected the



promotional aspect of the petitioner. They have actually promoted him. This order should not come in the way of any further promotion, if the petitioner is eligible for the same.

20.07.2023

Index: Yes/No  
Internet: Yes/No  
Neutral Citation: Yes/No  
Speaking order: Yes/No  
smv

To

1. The Principal Secretary to Government,  
Home Department,



Fort St. George,  
Chennai – 600 009.

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2. The Director General of Police,  
Tamil Nadu,  
Chennai – 600 004.
3. The Deputy Inspector General of Police,  
Thanjavur Range,  
Thanjavur.
4. The Superintendent of Police,  
District Police Office,  
Thiruvarur District.

**C.V.KARTHIKEYAN,J.**

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