



W.P.(MD) No.18590 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2023

CORAM

THE HON'BLE MR.JUSTICE BATTU DEVANAND

W.P.(MD) No.18590 of 2016

and

W.M.P.(MD) No.13460 of 2016

K. Raju

... Petitioner

Vs.

1. The District Collector,
Thanjavur District,
Thanjavur.

2. The Block Development Officer,
Thiruvaiyaru Panchayat Union,
Thanjavur District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the records of the first respondent in Na.Ka.No.3855/2016/KA4 dated 08.07.2016 and the consequential order of the second respondent in Na.Ka.No.1094/2016/a2 dated 22.07.2016.

***[Prayer amended vide order dated 07.09.2023 made in
W.M.P(MD)No.18237 of 2023 in W.P.(MD) No.18590 of 2016]***



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For Petitioner : Mr.V.Perumal
For R1 : Mr.P.Subbaraj
Special Government Pleader
For R2 : Mr.V.Muruganandam

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorari to call for the records of the first respondent in Na.Ka.No.3855/2016/KA4, dated 08.07.2016 and the consequential order of the second respondent in Na.Ka.No.1094/2016/a2, dated 22.07.2016.

2. Heard Mr.V.Perumal, learned counsel for the petitioner, Mr.P.Subbaraj, learned Special Government Pleader appearing for the first respondent and Mr.V.Muruganandam, learned counsel appearing for the second respondent and perused the material available on record.



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3. The case of the petitioner is that he joined the services of the Government in the year 1985 and served without any bad records for the past 32 years. From 19.08.2010 to 31.12.2011 and 07.03.2014 to 20.02.2015, the petitioner served as Block Development Officer at Thiruvaiyaru Panchayat Union. In the year 2005, there was an electrocution at Kadambangudi Village within the jurisdiction of Thiruvaiyaru Panchayat. One Chinnaiyan @ Chandrasekaran, who was returning from the fair price shop, fell down in the mud road and kept his hand in the wall of the Elementary School adjacent to the road. Due to rainfall and short circuit, electricity has passed on in the wall, which led to Electrocution. The father of the said Chinnaiyan came and tried to rescue his son, who also got electrocuted and died on the way to hospital.

4. The petitioner submits that the legal heirs of the deceased had filed two suits in O.S.Nos.312 and 313 of 2010 before the Additional Sub Court, Thanjavur and claimed compensation for the said accident.



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Originally, the Electricity Board and the District Educational Officer alone were arrayed as defendants and the Block Development Officer, Thiruvaiyaru was made as sixth defendant by order, dated 14.09.2011. The petitioner was holding office only upto 31.12.2011. The petitioner came to know that his successor in office has not contacted the Government Pleader or engaged any other counsel to represent on behalf of the Block Development Officer, Thiruvaiyaru. Hence, the suits were not contested by the Block Development Office. The Electricity Board and Education Department contested the case and the Trial Court has awarded a sum of Rs.5,10,000/- as compensation. Thereafter, the plaintiffs filed Execution Petitions in E.P.Nos.53 and 54 of 2015 and attachment was ordered.

5. Learned counsel for the petitioner submits that the first respondent ordered for payment of the decretal amount from the General Funds of the Panchayat Union and subsequently, the first respondent directed all the Block Development Officers, who were holding the office from 31.03.2005 to 21.02.2015, to deposit a sum of Rs.4,82,892/-. The said



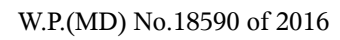
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sum was apportioned between the 11 Block Development Officers, who were holding office in that particular period. The second respondent was also directed to pay a sum of Rs.43,899/- by the said order, as he was also holding office in the said period. Subsequently, the second respondent, who is now holding the post of Block Development Officer, has passed the impugned order without considering the order of the first respondent, who is the superior authority. The second respondent had passed the impugned order without issuing any notice and without conducting any enquiry. Hence, the present writ petition.

6. Counter affidavits have been filed by the respondents.

7. It is averred in the counter affidavit filed by the first respondent that that in the year 2005, there was an electrocution in Kadambangudi Village, in which two persons died. In this regard, suits in O.S.Nos.312 and 313 of 2010 were filed before the Additional Sub Court, Thanjavur. The petitioner, while working as Block Development Officer in Thiruvaiyaru



8. Learned Special Government Pleader appearing for the first respondent submits that since the concerned Block Development Officers in the relevant period have committed dereliction of duty which resulted in loss to the Panchayat Union, the first respondent directed recovery of money from the officers who worked at the relevant period. A sum of Rs.43,899/- was fully recovered from the petitioner along with four interest free promissory notes from the officers who were in service at the time of passing of orders by the District



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Collector and the same was also permitted *vide* order, dated 16.12.2016 passed in W.M.P(MD)No.13460 of 2016 by this Court. The petitioner has not averred that he had duly intimated about the suits and taken effective steps to defend the same. The usual thing of recovery, without notice, leads to violation of principles of natural justice, could not be pleaded in the present case. The petitioner was careless, lethargic and negligent in his duty, which led to loss of money to the Panchayat Union. Therefore, the impugned order is legally sustainable. Hence, he prays for dismissal of the Writ Petition.

9. It is averred in the counter affidavit filed by the second respondent that the first respondent has instructed the second respondent to recover the amount which was deposited before the Court by the second respondent Panchayat Union from the Officers, who worked during the year 2005 to 2015. As per the direction, the second respondent has passed the impugned order. Moreover, the second respondent is the authority concerned to pass an order in this issue. So, there is no violation of



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principles of natural justice and the impugned order passed by the second respondent is valid one.

10. Learned counsel for the 2nd respondent submits that the petitioner has sent a representation to the first respondent to cancel the order against him. But, there is no order passed by the first respondent, as on date. Due to the negligent attitude of the petitioner, huge loss was caused to the Panchayat Union and prays for dismissal of the writ petition.

11. Having heard the submissions of the respective counsels and upon careful perusal of the material available on record, there is no dispute with regard to the admitted facts in this case.

12. Admittedly, in the year 2005, on the fateful day, two persons died due to electrocution at Kadambankudi Village. The legal heirs of the deceased had filed two suits in O.S.Nos.312 and 313 of 2010 before the Additional Sub Court, Thanjavur claiming compensation. Originally, the



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suits were filed against the Electricity Board and the District Educational Officer as defendants. The Block Development Officer, Thiruvaiyaru was made as the 6th defendant by order dated 14.09.2011. The said suits were decreed *ex-parte* on 05.08.2014. It is also an admitted fact that in spite of service of summons, the case went uncontested. Subsequently, the plaintiffs therein filed execution proceedings in E.P.Nos.53 and 54 of 2015 to execute the decree and attachment was ordered on 11.05.2016. Only after the attachment order, the Panchayat Union came to know about the filing of the suits. The District Collector, who was the 1st defendant therein, directed recovery of money paid towards compensation from the Officers, who worked in Thiruvaiyaru at the relevant period, i.e., from 2005 to 2015, since the concerned Block Development Officers worked in the relevant period have committed dereliction of duty, which resulted in loss to Panchayat Union.

13. The contention of the petitioner is that he worked as Block Development Officer of Thiruvaiyaru Panchayat Union from 19.08.2010 to



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31.12.2011 and 07.03.2014 to 20.02.2015. He contends that his successor in office has not contacted the Government Pleader or engaged any other counsel to represent on behalf of the Block Development Officer, Thiruvaiyaru and due to that reason, the suits were unrepresented on behalf of their office.

14. As per the material available on record, it appears that the Block Development Officer, Thiruvaiyaru was impleaded as defendant in the said suits by order dated 14.09.2011. Notice was served on 28.12.20210. Admittedly, the petitioner held the office of the Block Development Officer, Thiruvaiyar till 31.12.2011. It is not the case of the petitioner that before his transfer to Thanjavur, i.e., on 31.12.2011, summons were not served in the suits to the Block Development Officer, Thiruvaiyaru. His contention is only to the effect that his successor has not contacted the concerned counsel to represent the Block Development Officer, Thiruvaiyaru. This Court cannot brush aside the lethargic and unattended attitude of the petitioner in contesting the suits, which has



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consequently caused loss to the Panchayat Union.

15. In the counter affidavit filed by the 1st respondent, in the month of September, 2023, it is stated that a sum of Rs.43,899/- was fully recovered from the petitioner. In the absence of any material available on record to show that the petitioner has taken effective steps to defend the suits, this Court is not inclined to accept the stand of the petitioner that he is not responsible for the loss caused to the Panchayat Union.

16. In view of the above, this Court holds that the order impugned in this writ petition is legally sustainable and the petitioner failed to make out any case to substantiate his claim seeking interference of this Court under Article 226 of the Constitution of India.

17. Accordingly, this Writ Petition is dismissed.

18. There shall be no order as to costs.



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19. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes/No
Internet : Yes

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To

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BATTU DEVANAND, J.

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