



W.P(MD)Nos.26501 & 26697 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2023

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THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.26501 & 26697 of 2023

and

W.M.P(MD)Nos.22962, 22963, 22784 & 22785 of 2023

S.Kathiravan

... Petitioner in
W.P(MD)No.26501 of 2023

N.Yesudhas

... Petitioner in
W.P(MD)No.26697 of 2023

Vs.

1.The Director General of Police,
Head of Police Force, Tamil Nadu,
Chennai-4.

2.The Superintendent of Police,
District Police Office,
Nagercoil,
Kanyakumari District.

... Respondents
(In Both Cases)

Common Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the first respondent in RC.No:1722464/HR.1/2021, dated 14.06.2023 and quash the same.



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For Petitioners : Mr.C.S.Lenin (In Both Cases)

For Respondents : Mr.S.Shaji Bino
Special Government Pleader
[W.P(MD)No.26501 of 2023]

For Respondents : Mr.J.Ashok
Additional Government Pleader
[W.P(MD)No.26697 of 2023]

COMMON ORDER

The present writ petitions have been filed by two Special Sub Inspector of Police challenging two independent orders passed by the first respondent herein on 14.06.2023 directing recovery of a sum of Rs.25,000/- on the basis of orders passed by the State Human Rights Commission on 09.11.2021 in S.H.R.C No.8409 of 2017.

2. According to the learned Counsel appearing for the writ petitioner, the petitioners in both these writ petitions were arrayed as second and third respondents in S.H.R.C No.8409 of 2017. Though the State Human Rights Commission found the first respondent to be responsible for Human Rights violation, the respondents 2 and 3 therein (petitioners herein) were exonerated. Without properly appreciating the observations in the order of the State Human



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Rights Commission, the first respondent has proceeded to pass the impugned orders on 14.06.2023 effecting recovery of the compensation amount that was awarded by the State Human Rights Commission.

3. Admittedly, the writ petitioners herein are respondents 2 and 3 before the State Human Rights Commission in S.H.R.C No.8409 of 2017. The order of the State Human Rights Commission in paragraph Nos.43 and 44 is extracted as follows:

"43.This Commission is also considered opinion that as the second and third respondents are only the subordinate officials of the first respondent and acted on his advice only. Therefore, as there is no specific allegation against the second and third respondents by the complainant, the complaint against them is liable to be dismissed. This point is answered accordingly.

44. While answering the Point No.1, this Commission has held that the first respondent alone had violated the human rights of the complainant. It is now a well accepted proposition in most of the jurisdiction, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants. Hence this Commission is of the



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considered view that the complainant is entitled to receive compensation for the violation of human rights by the first respondent only and fixing of Rs.25,000/- as compensation to the complainant would be fair and reasonable and would meet the ends of justice. Hence this Commission holds that the complainant is entitled to get Rs.25,000/- (Rupees twenty five thousand only). This point is answered accordingly."

4. Under the impugned order, the first respondent was under the impression that there is an order as against the petitioners also and has proceeded to effect recovery of a sum of Rs.25,000/- from each one of the writ petitioners. In view of the exoneration of the writ petitioners herein by the State Human Rights Commission as extracted above, the orders impugned in these writ petitions are not legally sustainable and they are set aside.

5. These writ petitions stand allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

21.11.2023



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

To

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- 2.The Superintendent of Police,
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R.VIJAYAKUMAR, J.

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