



W.P.No.11494 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 03.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.11494 of 2011

K.Boopathy

....Petitioner

Vs

1. The Government of Tamil Nadu,
Rep. By the Secretary to the Government
Public (Law & Order-A) Department,
Fort St. George, Chennai – 600 009.

2. The Director General of Police and Inspector,
General of Prisons, Egmore,
Chennai – 600 008.

3. The Superintendent,
Central Prison, Coimbatore- 641 018.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for all the records relating to the impugned order of the first respondent in G.O.Ms.No.992, Public (Law & Order -A) Department dated 21.10.2010 and consequential order of the third respondent in proceedings No.20493/Po-4/2010 dated 18-03-2011 and quash the said orders in so far the petitioner.



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For Petitioners : Mr.P.Rajendran
For Respondents : Mr.S.Ravichandran
Additional Government Pleader

ORDER

The Writ Petition has been filed to call for the records relating to the impugned order of the first respondent in G.O.Ms.No.992, Public (Law & Order -A) Department dated 21.10.2010 and consequential order of the third respondent in proceedings No.20493/Po-4/2010 dated 18-03-2011 and quash the said orders in so far the petitioner is concerned.

2. It is the case of the petitioner that, petitioner was working as Grade -II Warder (No.218) at the Central Prison, Coimbatore. On 19.01.2008, a remand prisoner by name Varadharajan (No.675) tried to hang himself. On seeing this, he called the Grade -II Warder Rangasamy. They took Varadharajan to Prison Hospital and there he was given first aid treatment and then sent to Government General Hospital and on the way to hospital, the remand prisoner died. Thus, for the said incident, disciplinary proceeding was initiated against the petitioner. The legal heirs of the deceased Varadharajan approached Tamil Nadu State Human Rights



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Commission in respect of the said incident. The Human Rights Commission recommended the Government of Tamil Nadu to pay a compensation of Rs.1,00,000/- to the legal heir. The Government of Tamil Nadu issued orders in G.O.M.S.No.992, Public (Law & Order -A) Department dated 21.10.2010 directing that the legal heir of the remand prisoner to be paid the compensation as recommended by the Human Rights Commission and that the said amount can be recovered from the warders who were on duty during the said incident. Show Cause Notice was issued to the petitioner by the 3rd respondent on 02.11.2010 directing the petitioner to show cause why a sum of Rs.50,000/- should not be recovered from him. Petitioner submitted a detailed explanation on 16.12.2010. Without considering that representation, 3rd respondent issued proceedings in 20493/Po-4/2010 dated 18.03.2011 directing recovery of Rs.50,000/- from his pay in 200 installments at the rate of Rs.250/- per month commencing from March 2011. This is contrary to law, illegal, unjust and liable to be set aside. In the said circumstances, present Writ Petition is filed.

3. It is the submission of the learned counsel for the petitioner that, at



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the time of incident, 70 warder posts remained vacant and work load of the warders on duty was heavy. Due to work load, it is not possible to keep vigil on a single prisoner at all time. Having failed to take such administrative measures, Government cannot simply pass liability on the petitioner to pay compensation and it is the responsibility of the Government to pay compensation to the legal heirs of the deceased.

4. In reply to his submission, learned Additional Government Pleader submitted that Government Order directing payment of compensation was passed as per the direction issued by the Human Rights Commission. In similar Writ Petitions in W.P.Nos.11766 & 12001 of 2011, this Court dismissed the petitions stating that the order of National Human Rights Commission had not been put to test by the petitioners and the same had attained finality and the impugned order is only a consequential order passed by the respondents and it cannot be challenged.

5. This Court is also in agreement with the reasoning given in orders



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in W.P.No.11766 & 12001 & 2011. Admittedly, G.O.Ms.No.992, Public (Law & Order -A) Department directing payment of compensation as recommended by Human Rights Commission was passed in pursuance to the order passed by the Human Rights Commission and that order was not challenged by the petitioner and therefore it has become final. The impugned order is only a consequential order passed pursuant to the direction issued by the Human Rights Commission. In the said circumstances, this Court finds no merits in the petition to challenge the order directing the recovery of compensation from the petitioner.

6. In this view of the matter, this Writ Petition is dismissed. No costs.

03.01.2024

Index :Yes/No
Internet:Yes/No
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G.CHANDRASEKHARAN, J



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