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W.P.No.34966 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.34966 of 2024

and

W.M.P.No.37921 of 2024

S.Abuthahir

...Petitioner

-Vs-

1.The Government of Tamil Nadu

Rep. by the Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.

2.The Additional Director General of Police
(Headquarter), Dr.Radhakrishnan Salai,
Chennai – 600 004.

3.The Superintendent of Police,
Mayiladuthurai, Pin Code – 609 001.

4.The Superintendent of Police,
Nilgiris District, Ooty,
Pin Code- 643 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorari, to call for the records relating to the impugned order of the third respondent in Na.Ka.No.C1/1643/2024, District Order No.556/2024 dated 15.10.2024 and quash the same.



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For Petitioner : Mr.P.Rajendran
For Respondents : Mr.Stalin Abimanyu
Additional Government Pleader

ORDER

Mr.Stalin Abimanyu, learned Additional Government Pleader takes notice on behalf of the respondents. With the consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed to quash the impugned order of the third respondent in Na.Ka.No.C1/1643/2024, District Order No.556/2024 dated 15.10.2024.

3. The case of the petitioner is that the Petitioner is working as Police Constable Grade-II (PC 1943) at Naduvattam Police Station, Gudalur Sub Division, The Nilgiris District. He was appointed as Constable Grade-II on 26-02-2016. Prior to his posting in the Nilgiris Division, he was working in Nagapattinam District Armed Reserve and while he was driving the Police Vehicle TN 51 G 0393 from Trichy Central Prison to Mayiladuthurai Court



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on 17-08-2016, the said vehicle was involved in a motor accident and one

Mr.Jahabar Ali died in the said accident. The legal heirs of the said Mr.

Jahabar Ali filed MCOP No.261/2019 on the file of the Motor Accidents

Claims Tribunal (Principal Sub Court), Kumbakonam claiming a

compensation of Rs.20,00,000/- for the death of the said Mr.Jabahar Ali.

Even though a criminal case was registered against him in Crime

No.190/2018 on the file of the Thiruvudaimarudur Police Station for offences

under Section 279 and 304 (A), IPC no progress has been made and the trial

has not even commenced. In the said MCOP.No.261/2019 the Tribunal

passed an Award on 24-08-2023 awarding a sum of Rs.5,01,500/- as

compensation to the legal heirs of the deceased Mr.Jabahar Ali and directed

to pay the said compensation amount with interest at 7.5% per annum from

the date of the Petition, namely, 12-06-2019. Even though the Award was

passed on 24-08-2023, the amount was deposited by the Government

authorities only on 30-09-2024. No appeal was preferred by the respondents

in the MCOP, namely, the Superintendent of Police, Nagapattinam and the

District Collector, Nagapattinam. While so, the Superintendent of Police,

Mayiladuthurai has issued an order dated 15-10-2024 directing recovery of

the said sum of Rs.7,06,442/- from his salary in 141 installments, the first



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installment being Rs.6442/- and the remaining 140 installments at the rate of Rs.5000/- per month. Challenging the impugned order, the present writ petition is filed.

4. Learned counsel for the petitioner submitted that as per order of MCOP No.261/2019 compensation amount of Rs.7,06,442/- has been paid by the Superintendent of Police, Nagapattinam (now District Superintendent of Police, Mayiladuthurai) and the District Collector of Nagapattinam. While so, the Superintendent of Police, Mayiladuthurai, has issued an order in Na.Ka.No.C1/1643/2014 dated 15.10.2024 directing recovery of the said sum of Rs.7,06,442/- from the petitioner's salary in 141 installments.

5. Learned counsel further submitted that this matter is squarely covered by the Division Bench of this Court in the case of **Sevugaperumal Vs. Superintendent of Police (2009 (2) MLJ 849)**, which has been followed by the learned Single Judge of this Court in **W.P(MD)No.5090 of 2018 dated 03.12.2021**.



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6. Learned Additional Government Pleader appearing for the respondents fairly submitted that the impugned order has been issued without giving any notice or opportunity to the petitioner, which is a violation of principles of natural justice and the matter may be remitted back to the third respondent for fresh consideration.

7. Heard both sides and perused the materials available on record.

8. In view of the above factual matrix of the case, the impugned order of the third respondent in Na.Ka.No.C1/1643/2024, District Order No.556/2024 dated 15.10.2024 is hereby quashed and the matter is remitted back to the third respondent for fresh consideration after giving notice, opportunity of personal hearing to the petitioner and pass appropriate orders on merits, in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

In the result, the writ petition stands disposed of with the above observation and direction. No costs.

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cda

Index : Yes / No



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Speaking / Non-Speaking order

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J.SATHYA NARAYANA PRASAD, J.

cda

To

- 1.The Additional Chief Secretary to the Government,
The Government of Tamil Nadu,
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(Headquarter), Dr.Radhakrishnan Salai,
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