



W.P.(MD)No.13947 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2024

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.13947 of 2017

and

W.M.P.(MD)Nos.10900 to 10901 of 2017

Velkani

: Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

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

3.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the records relating



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to the impugned proceedings of the second respondent in Na.Ka.No.C1/4849/2017 dated 25.05.2017 and quash the same as illegal.

For Petitioner : Mr.P.Mohamad Suhail
for M/s.Ajmal Associates
For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned recovery order dated 25.05.2017 passed by the second respondent.

2.The petitioner has challenged the impugned order on the ground of violation of principles of natural justice as according to her without issuing any notice and without holding any proper enquiry, the petitioner has been directed to pay a compensation of Rs.50,000/- for the alleged custodial violence committed by the petitioner who was an Inspector of Police at the time of the incident.

3.Learned Counsel for the petitioner reiterated that without issuing any notice and without holding any proper enquiry, the respondents have passed the impugned order calling upon the petitioner to pay a compensation of Rs.50,000/- on the ground that the petitioner who is an Inspector of Police, while doing her duty had



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committed custodial violence on the accused. Learned Counsel for the petitioner also drew the attention of this Court to the counter affidavit filed by the second respondent and in particular, he referred to paragraph No.6 of the said counter affidavit wherein, the second respondent has stated that neither the petitioner nor the other police officials namely one Muthuraman are responsible for the death of the accused Pending John and therefore, relying upon the same, learned Counsel for the petitioner would submit that the impugned order has to be quashed.

4.However, learned Special Government Pleader appearing for the respondents, on instructions, would submit that subsequent to the passing of the impugned order, the entire amount of Rs.50,000/- has been recovered from the petitioner from and out of her salary as per the impugned order. She would also submit that only pursuant to an investigation and pursuant to a Government Order namely G.O.Ms.No.5 dated 05.01.2017, the impugned order came to be passed and as per the Government Order, it has been found that the petitioner who was working as an Inspector has committed custodial violence against the accused Pending John. Only under those circumstances, she would submit that the impugned order came to be passed, calling upon the petitioner to pay a compensation of Rs.50,000/-.



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5.Admittedly, subsequent to the passing of the impugned order, a sum of Rs.50,000/- has already been recovered from the petitioner through installments as disclosed in the impugned order. The aforesaid Government Order has also been placed on record by the learned Special Government Pleader for the respondents, which reveals that an enquiry was held and only thereafter, the petitioner was found to have committed custodial violence of the accused Pending John on 27.06.2014 and only due to the said fact, the petitioner was directed to pay a compensation of Rs.50,000/- under the impugned order.

6.The petitioner has not sought for a consequential prayer seeking for refund of the said amount of Rs.50,000/-, which has already been recovered and the same is also not stated in the affidavit filed in support of this writ petition, as the same was recovered subsequent to the filing of the writ petition. If the petitioner was really interested in challenging the recoveries made by the respondents pursuant to the passing of the impugned order, he ought to have amended the pleadings in the affidavit filed in support of this writ petition and should have amended the prayer itself. The writ petition is of the year 2017, we are now in the year 2024. Till date, no such amendment application has been filed by the



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petitioner. Only pursuant to an enquiry as seen from the Government Order, the petitioner has been found to have committed custodial violence, while she was an Inspector of Police. Even though learned Counsel for the petitioner relies upon paragraph No.6 of the counter affidavit filed by the second respondent before this Court, the said paragraph does not reveal true facts. Learned Special Government Pleader appearing for the official respondents also submits that paragraph No.6 of the counter affidavit is incorrect and she would reiterate that only pursuant to an investigation, the petitioner was found guilty of committing custodial violence on the accused Pending John, who died subsequently.

7.For the foregoing reasons, this Court is not inclined to entertain this writ petition at this stage. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.08.2024

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



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ABDUL QUDDHOSE, J.

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