



W.P.(MD)No.27759 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 09.08.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.27759 of 2023

and

W.M.P(MD)Nos.23870 to 23872 of 2023 & 578 of 2024

N.Narendrapandian

... Petitioner

vs

1.The Director of Rural Development & Panchayat aj,
Rural Development and Panchayat Raj Department,
Panagalmaligai, Saidapet,
Chennai.

2.The District Collector,
Tenkasi District,
Tenkasi.

3.The Commissioner,
Shenkottai Panchayat Union,
Shenkottai,
Tenkasi District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned order of recovery passed by the 1st respondent in Na.Ka.No. 67137/2022/G1 dated 16.09.2023 and consequential order passed by the 2nd respondent in Na.Ka.No.COLRD/705/2022-N9 dated 26.09.2023 and the 3rd respondent in Na.Ka.No.BDOSCT/97/2023/A1 dated 25.10.2023 and quash the same and consequently direct the respondents to refund the amount recovered from the petitioner within a time frame fixed by this Court.



W.P.(MD)No.27759 of 2023

For Petitioner : Mr.N.Vignesh

For Respondents : Mr.S.Shaji Bino
Special Government Pleader

* * * * *

ORDER

The instant writ petition has been filed by a Jeep driver of the third respondent Panchayat Union, challenging an order of recovery from his salary and from his Death Cum Retirement Gratuity(DCRG) amount on the ground that due to negligence of the petitioner, the jeep was involved in an accident, resulting in payment of compensation by the Government.

2.When the writ petitioner was working as a driver under the third respondent office, the jeep met with an accident on 04.08.2015. The victim had filed M.C.O.P.No.38 of 2016 seeking compensation before the Motor Accidents Claims Tribunal/Sub Court, Tenkasi. By award dated 25.02.2020, a compensation of Rs.14,04,960/- was awarded. The transport corporation has challenged the said award in C.M.A.(MD)No.418 of 2020 before this Court and the same was dismissed on 28.03.2023.

3.The first respondent herein by proceedings dated 16.09.2023 had directed the second respondent to collect the entire compensation amount from



W.P.(MD)No.27759 of 2023

the writ petitioner. The second respondent has passed an order on 26.09.2023 directing the third respondent to recover the said amount from the salary as well as the gratuity of the writ petitioner. The third respondent has passed a consequential order on 25.10.2023, directing recovery of Rs.8,40,000/- from the salary of the writ petitioner in 56 installments and the balance amount should be recovered from the gratuity of the writ petitioner. Challenging these three orders, the present writ petition has been filed.

4.According to the learned Counsel appearing for the writ petitioner, the Management had defended the driver before the Motor Accident claims proceedings and therefore, after the passing of the award, they are not entitled to mulct the liability upon the writ petitioner. He had further relied upon the Hon'ble Division Bench Judgment of our High Court of ***Tamil Nadu State Transport Corporation(Kumbakonam Dn-II) Ltd. Vs. P.Karuppusamy*** reported in ***2008 (3) Law Weekly 90*** and would content that the transport corporation cannot take a different stand after losing the award proceedings.

5.Per contra, the learned Counsel appearing for the respondents has relied upon the Full Bench Judgment of our High Court of ***V.Syril Sundararaj Vs. The Presiding officer, Labour Court, Thirunelveli & Ors. reported in 2024 (2)***



W.P.(MD)No.27759 of 2023

CTC 465 would content that merely because the driver was defended by the State before the Motor Accident Claims Tribunal, that will not preclude the State from initiating disciplinary proceedings as against the driver. He had further relied upon the G.O.Ms.No.393, Home, (PR-4) dated 01.03.1988 and would content that the recovery is permissible under law as per the said Government letter.

6.I have carefully considered the submissions made on either side and perused the materials available on record.

7.In view of the Full Bench Judgment of our High Court of ***V.Syril Sundararaj Vs. The Presiding officer, Labour Court, Thirunelveli & Ors. reported in 2024 (2) CTC 465***, it is clear that the Management is not precluded from initiating disciplinary proceedings as against the driver. However, before the order of recovery from his salary or from the gratuity amount is passed, unless the petitioner is put on notice, the said order cannot be held to be legally valid.

8.In view of the above said facts, the impugned order in the writ petition is hereby set aside and the respondents are at liberty to initiate the proceedings



W.P.(MD)No.27759 of 2023

after issuing proper notice to the writ petitioner. The enquiry shall be completed within a period of three months from the date of receipt of a copy of this order.

Till completion of enquiry, the further deduction from the monthly salary shall be kept in abeyance.

9. With the above said observations, this writ petition stands allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are closed.

09.08.2024

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



W.P.(MD)No.27759 of 2023

WEB COPY

To

- 1.The Director of Rural Development & Panchayat aj,
Rural Development and Panchayat Raj Department,
Panagalmaligai, Saidapet,
Chennai.
- 2.The District Collector,
Tenkasi District,
Tenkasi.
- 3.The Commissioner,
Shenkottai Panchayat Union,
Shenkottai,
Tenkasi District.



WEB COPY



W.P.(MD)No.27759 of 2023

R.VIJAYAKUMAR, J.

RJR

W.P.(MD)No.27759 of 2023
and
W.M.P(MD)Nos.23870 to 23872
of 2023 & 578 of 2024

09.08.2024