



W.P.(MD) No.2646 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2646 of 2020

and

W.M.P.(MD) Nos.2274 of 2020 & 2053 of 2022

P.Vadivel

... Petitioner

-vs-

1.The Deputy Inspector General of Prisons
Trichy Range, Trichy-620 023

2.The Superintendent of Prison
Trichy Central Prison
Trichy-620 020

3.The Superintendent of Sub-Jail
Karur Sub Jail
Karur-639 001
Karur District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records relating to the order No. 1357/Po.3/2019, dated 08.01.2020, passed by the 2nd respondent and quash the same.

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WEB COPY For Petitioner : Mr.B.Karunanithi

For Respondents : Mr.D.S.Nedunchezian
Government Advocate

ORDER

The order of recovery of penal rent, dated 08.01.2020, passed by the second respondent, is under challenge in this writ petition.

2. The petitioner was appointed as Grade-II Warder on 17.01.2013 and posted at the Central Prison, Trichy. He was working till 03.07.2018 in the Central Prison, Trichy and thereafter, he was transferred to the Sub Jail, Karur, wherein he joined on 04.07.2018.

3. The learned counsel for the petitioner made a submission that pursuant to the oral permission granted by the second respondent, the petitioner was continued for three months in the official quarters. It is further contended that the petitioner was performing the duties of driver for the second respondent and therefore, he has acted as per the instructions given by the second respondent. Thus, the petitioner has not committed any irregularity in the matter of continuing in the official quarters. Further, he



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was asked to work in the Central Prison, Trichy, on other duty. However, the petitioner's head quarters is Karur and he was transferred from Trichy to Karur on 04.07.2018.

4. The learned Government Advocate appearing for the respondents objected the contentions of the learned counsel for the petitioner by stating that admittedly, the petitioner was transferred from the Central Prison, Trichy to the Sub Jail, Karur and he was relieved from the Central Prison, Trichy, on 03.07.2018 and joined in Sub Jail, Karur, on 04.07.2018. Therefore, certain temporary duties given in the Central Prison, Trichy, cannot be a ground for the petitioner to retain the official quarters allotted to him in Trichy. On transfer, the petitioner ought to vacate the official quarters within a period of one month and admittedly, the petitioner has not vacated the quarters and vacated the same only in the year 2019. Thus, penal rent as per the Rules in force has been imposed on the petitioner and hence, there is no infirmity in the impugned order.

5. This Court is of the considered opinion that the petitioner was admittedly transferred from the Central Prison, Trichy to the Sub Jail, Karur. The other instructions given by the second respondent cannot be a ground to



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retain the official quarters, which was allotted to him in Trichy. The official quarters are provided only for the purpose of effective performance of public duty in a particular station. Therefore, any employee, who is transferred, is not eligible to retain the official quarters allotted to him beyond the period stipulated. In the present case, one month period is contemplated for vacating the quarters, however, the petitioner has not vacated and handed over the quarters within the stipulated period. The other duties or temporary duties assigned by the second respondent are of no avail for exonerating the petitioner from the payment of penal rent as per the Rules in force.

6. The superior officials are also expected to exercise restraint in such matters. Once an employee is transferred from one place to the other place, they are not supposed to utilize the service of those employees for their personal convenience or on extraneous grounds. There are large scale allegations in the Prison Department as well as in the Police Department that the Constables and Head Constables are abused by the higher officials even for their residential works and personal works. Such a conduct of the higher officials can at no circumstances be appreciated, but to be deprecated. Even the Grade-II Warders and Grade-II Police Constables are performing public duties. The public servants are to be utilized for the performance of public



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service. No doubt, the facilities provided to the higher officials can be utilized only in the manner provided under the Rules and excess usage of Government employees for the personal works can never be approved, but it is an actionable irregularity committed by the higher officials of the Police Department or the Prison Department.

7. The Government has to initiate all appropriate actions to ensure that such irregularities and illegalities are minimized to the extent possible. The Inspector General of Prisons, in this regard, has to initiate all appropriate steps to ensure that the prison officials, namely, Superintendent of Prisons or the other higher officials are not utilizing the service of the public servants for their personal usage. When there are wider allegations of utilizing the uniformed service personnel for their personal usage, the same is to be stopped forthwith and these higher officials are eligible to utilize their service only as per their eligibility and in accordance with the Rules in force.

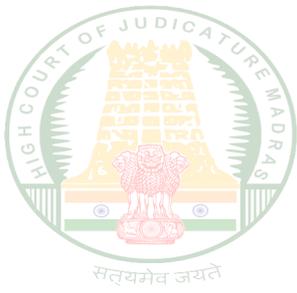
8. By virtue of the higher position, the subordinate officials are unable to refuse such services to the higher officials. Therefore, deterioration of the departmental discipline on account of such irregularities are being committed by the higher officials. Once the higher officials exercise their



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power diligently and in accordance with the Rules, then only they will be in a position to control the subordinates. When the higher officials themselves are misusing the service of the public servants, then they cannot expect work discipline or good conduct from the subordinate officials. They too try to take undue advantage of the weaknesses of the higher officials or they make an attempt to please these officials. This attitude or conduct is also a misconduct under the Rules and therefore, the higher officials are expected to bear in mind that excess usage of public servants for their personal usage is impermissible and that will lead to indiscipline in the uniformed services. In this regard, the Principal Secretary to the Government, Home Department, is directed to initiate all appropriate steps to issue necessary instructions by way of Circular to prevent the higher officials from using the public servants for their personal work in their residence or outside. The facilities admissible and eligible for the higher officials alone must be utilized and any excessiveness in this regard is actionable and the Principal Secretary to Government, in the event of receiving any such complaint or information, is bound to initiate all further actions against all those higher officials in order to maintain discipline and decorum amongst the uniformed service personnel.



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9. With these observations and directions, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Internet : Yes / No

Note to Office:

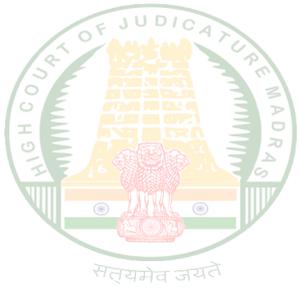
Mark a copy of this order to

- (i) The Principal Secretary to Government, Home Department, Fort St.George, Chennai-600 009.
- (ii) The Inspector General of Prisons, Whannels Road, Egmore, Chennai-600 008.

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To:

- 1.The Deputy Inspector General of Prisons, Trichy Range, Trichy-620 023.
- 2.The Superintendent of Prison, Trichy Central Prison, Trichy-620 020.
- 3.The Superintendent of Sub-Jail, Karur Sub Jail, Karur-639 001, Karur District.



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