

(2010) 09 MAD CK 0005

In the Madras High Court

Case No : Writ Petition No. 42216 of 2006 (O.A. No. 3119 of 2000)

K. Sivakumar

APPELLANT

Vs

The Assistant Executive Engineer (Ag. Engg)

RESPONDENT

Date of Decision : 16-09-2010

Acts Referred:

Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 — Rule 17

Citation : (2010) 09 MAD CK 0005

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : P. Mohan Raj, for the Appellant; Lita Srinivasan, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

D. Hariparanthaman, J.—The Petitioner was working as Heavy Vehicle Driver in the office of the Respondent. It is stated that on

14.10.1995, a 20 Ton MAC Truck Tractor bearing Registration No. TN09-D-5300 attached to the Respondent office was returning from

Walajabad after unloading the Bulldozer at Avanoor. While proceeding to Sunguvar Chattram, nearby a village at Walajabad, a cyclist with a

pillion rider proceeding in the same direction, dashed the truck while passing through a narrow bridge. Due to the accident, the cyclist died and the

pillion rider sustained injuries. The Inspector of Police, Law and Order, Walajabad investigated the accident and sent the F.I.R. on 15.10.1995.

The legal heirs of the deceased filed a petition in M.C.O.P. No. 408 of 1995 and the pillion rider filed a petition in M.C.O.P. No. 409 of 1995

before the Motor Accident Claims Tribunal. It is stated that the Petitioner was not aware of the filing of the cases before the Motor Accident

Claims Tribunal. The Motor Accident Claims Tribunal awarded a sum of Rs. 4,07,962/-in both the cases as compensation. The Respondent also

complied with the order and deposited the said sum of Rs. 4,07,962/-before the Sub-Court, Kancheepuram on 07.01.2000.

2. In the meantime, a charge memo dated 09.12.1998 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules was

issued to the Petitioner by the Respondent stating that the Petitioner was responsible for the accident and he only drove the vehicle rashly and

negligently and sought his explanation on the charges. The Petitioner gave his explanation on 22.12.1998 denying the charges levelled against him.

3. While so, the impugned order dated 06.03.2000 was passed by the Respondent imposing the punishment of recovery of Rs. 4,07,962/-.

4. Hence the Petitioner filed Original Application in O.A. No. 3119 of 2000 before the Tamil Nadu Administrative Tribunal praying to quash the

aforesaid order dated 06.03.2000 of the Respondent.

5. The Respondent filed reply affidavit refuting the allegations made by the Petitioner.

6. On abolition of the Tamil Nadu Administrative Tribunal, the matter stood transferred to this Court and renumbered as W.P. No. 42216/2006.

7. The learned Counsel for the Petitioner submits that the Petitioner was not at all involved in the accident and also he was not aware of the

petitions that were filed before the Motor Accident Claims Tribunal, Kancheepuram. According to him, he was not involved in any accident and no criminal case was initiated against him.

8. On the other hand, the learned Government Advocate submits that there is no infirmity in the impugned order and in any event, the matter could

be remanded back to the Respondent for fresh consideration.

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

10. As rightly contented by the learned Counsel for the Petitioner, the impugned recovery order was passed in blatant violations of principles of

natural justice. It is well settled that before passing any order resulting in serious civil consequences, the concerned person should be heard before

passing such order, as held by the Honorable Apex Court in *Bhagvan Shukla v. Union of India* 1994 reported in 1994 (6) SCC 154.

11. Hence, the impugned order is set aside and the matter is remanded back to the Respondent to decide the matter afresh, after affording opportunity to the Petitioner.
12. The writ petition is allowed on the above terms. No costs.