

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.06.2017

Coram

The Hon'ble Mr. Justice T. Raja

W.P.No.28059 of 2013

and

W.P.No.14433 of 2017

P. Ravichandran

...Petitioner in both the WPs

Versus

1. Joint Registrar of Co-operative Societies,  
Villupuram Zone,  
Villupuram.
2. Management,  
C.L. Special 93 Rettanai Primary Agricultural,  
Co-Operative Society,  
Rettanai,  
Tindivanam Taluk,  
Villupuram District. ...Respondents in both the WPs

Prayer in W.P.No. 14433 of 2017:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the first respondent to implement the order passed by it in Na.Ka.No.3809/2013/SaPa dated 13.09.2013, by reinstating the petitioner in the services of the second respondent, and, further by directing to pay the wages from the date of the order, viz., 13.09.2013 till the date the petitioner being reinstated with all consequential attendant benefits.

Prayer in W.P.No. 28059 of 2013:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the concerned records from the first respondent, and to quash the order of the first respondent, dated 13.09.2013, bearing Na.Ka.No.3809/2013/SaPa in so far as declining the relief of back wages for the period of non-employment that is from 04.04.2013 till the date of reinstatement as illegal, arbitrary and contrary to law, and consequently, direct the second respondent to pay the back wages for the period from 04.04.2013 till the date of reinstatement.

For Petitioner in both WPs : Mr.S. Balan Haridas  
For Respondent No.1 in  
WP.28059/13

For Respondent-1 : Mr.L.P. Shanmugasundaram  
in WP.14433/17 Special Government Pleader

For Respondent-2 : Mrs. T.P. Savitha  
in WP.28059/13 Govt. Advocate

#### COMMON ORDER

Writ Petition, in W.P.No.28059 of 2013 has been filed by the petitioner, seeking to quash the order of the first respondent/Co-operative Society, dated 13.09.2013, insofar as it relates to the denial of back wages for the period when the petitioner was not in service is concerned, i.e., from 04.04.2013 till the date of reinstatement, and consequently, to direct the second respondent/Management to pay the back wages for the period from 04.04.2013 till the date of reinstatement in service.

2. Writ Petition No.14433 of 2017 has been filed, praying for issuance of a Writ of Mandamus, directing the first respondent/Co-operative Society to implement the order, dated 13.09.2013, whereby, the petitioner has been ordered to be reinstated in the service of the second respondent/Management, and, further, to direct the respondents to pay the wages from the date of the order, i.e., from 13.09.2013 till the date, the petitioner being reinstated in service with all consequential attendant benefits.

3. As the issue involved, relief sought for, and the parties in these Writ Petition are one and the same, these two Writ Petitions are taken up together and disposed of vide this common order.

4. Mr. Balan Haridas, the learned counsel appearing for the petitioner fairly submitted that, when the Joint Registrar of the Co-operative Societies, Villupuram Zone, first respondent herein has passed orders for reinstatement of the petitioner in service without back wages on 13.09.2013, the second respondent should have implemented the same, and, as the second respondent did not implement the said order so far, the second respondent is liable to pay the wages from the date of passing of the order and till its implementation, (i.e., from 13.09.2013 till the date of reinstatement of the petitioner in service). The learned counsel further submitted that, since the second respondent/Management is facing financial crunch, the petitioner is not pressing for disbursal of whole amount of the backwages for his non-employment period, however, prays that 50% of the backwages may be ordered. The learned counsel, finally submitted

that, since the petitioner has relinquished part of the backwages, appropriate direction may be issued to the second respondent to reinstate the petitioner in service forthwith, which may be on 14.06.2017.

5. In reply, the learned Government Advocate for the second respondent would submit that the question with regard to the payment of backwages for the period when the petitioner was not in service, does not arise, in view of the settled principle that 'No work, no pay'. The learned Special Government Pleader for the first respondent also buttressed the stand taken by the learned Government Advocate for the second respondent and submitted suitable orders may be passed.

6. Admittedly, the first respondent has already passed an order for reinstatement of the petitioner in service without backwages, on 13.09.2013. It is also an admitted fact that the said order has neither been put to challenge by the second respondent/Management nor has been implemented by them so far. If the second respondent/Management is aggrieved by the said order, he ought to have challenged the correctness of the same by this time. Therefore, as contended by the learned counsel for the petitioner, the second respondent is liable to pay the wages from the date of passing of the order of reinstatement and till the date of reinstatement of the petitioner in service, as, for the delay on the part of the second respondent/Management in implementing the order of the first respondent, the petitioner cannot be made to suffer loss. However, since the learned counsel for the petitioner submitted that the petitioner is not pressing the relief, as sought for in W.P.No.28059 of 2013, (viz., the prayer for quashing the order insofar as it relates to the denial of backwages for the period, when the petitioner was not in service) and though sought for direction towards disbursal of 50% of the backwages, this Court issues the following directions:-

i) The second respondent is directed to implement the order passed by the first respondent, by passing suitable orders in regard to the reinstatement of the petitioner in service forthwith, without delay or citing any other lame excuse, thereby, enabling the petitioner to join duty on 14.06.2017. From the date of resignation 04.04.2013 till 19.06.2017, the date of reinstatement, the petitioner need not be paid with wages.

ii) It is made clear that, the period, during which, the petitioner was not in service shall be taken into account for the purpose of computation of pensionary benefits.

7. In the result, the Writ Petition in W.P.No.14433 of 2017 is disposed of with the direction, as indicated above. In

view of the orders, passed in W.P.No.14433 of 2017, no further orders are required to be passed in W.P.No.28059 of 2013. Accordingly, W.P.No.28059 of 2013 stands closed.

-s/d-  
Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

To

1. Joint Registrar of Co-operative Societies,  
Villupuram Zone,  
Villupuram.
2. Management,  
C.L. Special 93 Rettanai Primary Agricultural,  
Co-Operative Society,  
Rettanai,  
Tindivanam Taluk,  
Villupuram District.

+1 cc to Government Pleader sr 42543  
+1 cc to M/s.T.P.Savitha Advocate sr 42444  
+1 cc to M/s.L.P.Shanmugasundaram Advocate sr 42504

W.P.No.28059 of 2013  
and  
W.P.No.14433 of 2017

aa16/06/2017

सत्यमेव जयते

WEB COPY