



W.P.Nos.34604, 34608 of 2019 & 5104, 5108 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.34604, 34608 of 2019 & 5104, 5108 of 2023

and

W.M.P.Nos.35356, 35362 of 2019 & 5114 of 2023

The Management,
K.2069, Primary Agricultural Co-op Credit Society,
Veerakeralam,
Coimbatore – 641 007. ... Petitioner in W.P.Nos.34604 & 34608 of
2019 & Respondent in W.P.Nos.5104 & 5108 of 2023

Vs.

1.S.Maheswari ... Respondent in W.P.No.34604 of 2019 &
Petitioner in W.P.No.5108 of 2023

2.S.Sasikala ... Respondent in W.P.No.34608 of 2019 &
Petitioner in W.P.No.5104 of 2023

Prayer in W.P.No.34604 of 2019 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for records of the learned Presiding Officer, Additional Labour Court, Coimbatore in I.D.No.116 of 2014 dated 25.09.2019 and quash the same.

Prayer in W.P.No.34608 of 2019 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari,

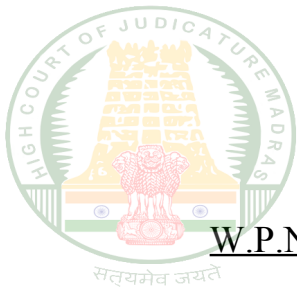


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calling for records of the learned Presiding Officer, Additional Labour Court, Coimbatore in I.D.No.117 of 2014 dated 25.09.2019 and quash the same.

Prayer in W.P.No.5104 of 2023 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records in pursuant to the impugned award in I.D.No.117 of 2014 dated 25.09.2019 by the Additional Labour Court, Coimbatore insofar as the portion relates to the denial of the monetary relief of remaining 50% of backwages to the petitioner herein and quash the same and consequently direct the respondent/management to disburse the remaining 50% of backwages to the petitioner herein.

Prayer in W.P.No.5108 of 2023 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records in pursuant to the impugned award in I.D.No.116 of 2014 dated 25.09.2019 by the Additional Labour Court, Coimbatore insofar as the portion relates to the denial of the monetary relief of remaining 50% of backwages to the petitioner herein and quash the same and consequently direct the respondent/management to disburse the remaining 50% of backwages to the petitioner herein.



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W.P.Nos.34604 & 34608 of 2019

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For Petitioner : Mr.P.Saravana Sowmiyan

For Respondent : Mr.V.Ajoy Khose
for M/s.Sathiya Murthi

W.P.Nos.5104 & 5108 of 2023

For Petitioner : Mr.V.Ajoy Khose
for M/s.Sathiya Murthi

For Respondent : Mr.Um.Ravichandran

COMMON ORDER

All these writ petitions impugn the award dated 25.09.2019 passed by the learned Presiding Officer, Additional Labour Court, Coimbatore in I.D.Nos.116 and 117 of 2014.

2. For the ease of convenience, the petitioner in W.P.Nos.34604 & 34608 of 2019 is hereinafter referred to as 'management' and the respective petitioner in W.P.Nos.5104 & 5108 of 2023 are referred to as 'workmen'.

3. Since the issue involved is one and the same, the parties are also the same, all the writ petitions are disposed of by way of this common order.



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4. The short facts necessary for disposal of these writ petitions are as follows :-

The workmen were employed under the management since 06.11.1992 and 05.01.1996 respectively permanently, with unblemished record of service. A new body was elected to the Board and since they belonged to political parties, they acted according to their whims and fancies, thereby helping their favourable employees and acted with enmity against the employees, who are working according to the rules of the management to save its interest. For the respective misconduct alleged to have been committed by the workmen, the workmen were suspended from service. Thereafter, they were orally dismissed from 15.04.2014. Aggrieved by the same, the workmen have raised disputes u/s 2(A)(2) of the Industrial Disputes Act, 1947 (in short 'the ID Act') before the Additional Labour Court, Coimbatore in I.D.Nos.116 & 117 of 2014. The Labour Court, vide impugned awards dated 25.09.2019, ordered for reinstatement with continuity of service and 50% of backwages and other attendant benefits in favour of the workmen. Aggrieved by the said award, both the parties are before this Court.



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5. Learned counsel appearing for the management submits that during the pendency of these writ petitions, the workmen were reinstated into service on 01.02.2020 and subsequently, the workman/Maheswari reached the age of superannuation on 30.09.2023 and the management has settled the entire terminal benefits to her. In respect of the workman/Sasikala, she is still in service under the management. Hence, he submitted that the only issue that arises for consideration is with regard to payment of 50% of backwage to the workmen. Further, he submitted that though the workmen were requested to join duty, however they refused to join duty and by suppressing the same, the workmen have maliciously raised disputes before the Labour Court. He further submitted that the petitioner/management is a Primary Agricultural Co-operative Society and the same is not running profitably. Without considering the above said aspects, the Labour Court ordered 50% backwages in favour of the workmen, which is not sustainable and same is liable to be set aside. Accordingly, he prays for allowing the writ petitions filed by the management and dismissal of the writ petitions filed by the workmen.



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6. Per contra, learned counsel appearing for the workmen submits that the workmen were placed under suspension on 17.06.2013 and subsistence allowance was not paid to them till raising the disputes. However, after raising the disputes, the management claims that there was an oral re-appointment order on 15.04.2014, but the same was not produced before the labour court. Further, the labour court specifically observed in the impugned awards that when the workmen reported for duty, the management has not passed any order for allowing the workmen to report for duty. On considering the materials placed before it, the labour court had arrived at a conclusion that there was a denial of employment and in that background, ordered for reinstatement, but granted only 50% backwages instead of full backwages and the same requires to be enhanced. Accordingly, he prays for dismissal of the writ petitions filed by the management and allowing the writ petitions filed by the workmen.

7. Heard the learned counsel appearing for the parties and also perused the materials available on record.



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8. It is the contention of the workmen that they were employed under the management and they were orally terminated by the management on 15.04.2014, against which, they have raised disputes before the labour court and the labour court has ordered reinstatement with continuity of service and 50% backwages and all other attendant benefits, assailing which, the present writ petitions are filed by the parties.

9. During the pendency of these writ petitions, as the workmen were reinstated into service by the management on 01.02.2020, this Court is not inclined to interfere with the impugned awards with regard to the reinstatement with continuity of service and other attendant benefits ordered in favour of the workmen and accordingly, the same is confirmed.

10. Now, the only issue that arises for consideration in these writ petitions is with regard to the award of 50% of backwages to the workmen. The main ground on which the award of 50% backwages were granted was on account of the fact that the workmen were not paid subsistence allowance during the period of suspension till raising of



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industrial disputes and, thereafter, there was no material to substantiate that the Management had allowed the workmen to report for duty. It is also to be noted at this juncture that it is the specific stand of the Management that they have reinstated the workmen, which is not disputed by the workmen. Further, the workmen have also not placed any materials to show that during the period of their dismissal from service, the workmen were not gainfully employed. The mere assertion of the workmen that there was no written order with regard to their reinstatement alone cannot suffice to grant 50% backwages, when it is the ratio laid down by the courts that the concept of 'No Work, No Pay' will come into play in case of dismissal of the workmen unless the workmen proves that they were not gainfully employed. Therefore, in the said scenario, grant of 50% backwages to the workmen cannot be sustained on the materials placed before the Labour Court.

11. Accordingly, the impugned awards dated 25.09.2019 passed by the Additional Labour Court, Coimbatore in I.D.Nos.116 and 117 of 2014 with regard to grant of 50% backwages in favour of the workmen are set aside.



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12. For the reasons stated above, the writ petitions filed by the management in W.P.Nos.34604 & 34608 of 2019 are allowed insofar as payment of 50% backwages is concerned and the writ petitions filed by the workmen in W.P.Nos.5104 & 5108 of 2023 claiming 100% backwages are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

08.04.2025

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

The Presiding Officer,
Additional Labour Court,
Coimbatore.



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M.DHANDAPANI, J.

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