

**IN THE COURT OF APPEAL OF THE**  
**DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

In the matter of an Appeal to Court of  
Appeal under Article 154 P (6) read with  
Article 138 of the Constitution against a  
judgment of Provincial High Court  
exercising its writ jurisdiction.

C A (PHC) / 24 / 2002

Provincial High Court of

Central Province

(Kandy)

Case No. Manda 13 / 99

J M Thilakarathne,  
Watawelkale,  
Nildandahinna.

**PETITIONER - APPELLANT**

-Vs-

M G Ariyaratne,  
Liquidator,  
Co-operative Development Department,  
P O Box 02,  
No. 109,  
Yatinuwara Street,  
Kandy.

**RESPONDENT - RESPONDENT**

**Before: P. Padman Surasena J (P/CA)**

**K K Wickremasinghe J**

Counsel; W Dayaratne PC for the Petitioner - Appellant.

Zuhri Zain SSC for the Respondent - Respondent.

Argued on : 2017 - 10 - 09

Decided on : 2018 - 01 - 29

JUDGMENT

**P Padman Surasena J (P/CA)**

The Petitioner- Appellant (hereinafter sometimes referred to as the Appellant) had filed an application in the Provincial High Court of the Central Province holden in Kandy praying for a writ of Mandamus to compel the Respondent - Respondent (hereinafter sometimes referred to as the Respondent) to pay him Rs. 550,000/= as back wages and other allowances.

Perusal of the material shows that the Appellant remains suspended from his service from the time of his interdiction on 1981-06-14. He has not appealed or taken any action to have that status changed. Therefore the question arises whether indeed the Respondent is obliged to pay him back wages as claimed by the Appellant.

Perusal of the judgment dated 2001-11-07 pronounced by the learned Provincial High Court Judge shows that he has refused the application of the Appellant on the ground that there is no legal duty on the part of the Respondent to pay back wages to the Appellant.

The written submission filed in this Court on behalf of the Appellant also asserts the position that the Respondent had not so far acceded to his request for re-instatement in service.

Thus, this Court too takes the view that the Appellant has failed to satisfy that the Respondent is under a legal duty to pay him back wages in these circumstances.

Therefore the question of paying back wages simply would not arise. Resultant position would be for this Court to conclude that this appeal is an appeal which has been filed without any justifiable reason.

On the other hand, this Court is satisfied after perusal of the judgment of the learned Provincial High Court Judge that the conclusions arrived at, and the reasons given thereto by him are in order and thus requires no intervention by this Court.

In these circumstances, this Court affirms the judgment of the learned Provincial High Court Judge dated 2001-11-07 and proceed to dismiss this appeal with costs.

**PRESIDENT OF THE COURT OF APPEAL**

**K K Wickremasinghe J**

I agree,

**JUDGE OF THE COURT OF APPEAL**