



W.P(MD)No.5247 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.5247 of 2023

and

WMP (MD) No.4937 of 2023

The Management
D.D164 Southern Railway Employees
Consumer Cooperative Stores Ltd.
Natham Road, Dindigul.

... Petitioner

VS.

1. The Appellate Authority
Under Section 41 of Tamil Nadu Shops and
Establishments Act,
(Joint Commissioner of Labour),
Collectorate Campus,
Dindigul 624 004.

2.M.Baskaran

... Respondent(s)

PRAYER : Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorari to calling for the records of the 1st respondent relating to TNSE Appeal no. 01/2021 culminating in the order dated 13.12.2022 passed therein quash the same.



W.P(MD)No.5247 of 2023

WEB COPY

For Petitioner : Mr.M.Ganesan
For R1 : Mr.R.Ramasamy, Counsel for State
For R2 : Mr.S.Kumar

ORDER

It is appropriate to commence this order by referring to the Preamble of the Tamil Nadu Shops and Establishments Act, 1947, which reads thus:

“An Act to provide for the regulation of conditions of work in shops, commercial establishments, restaurants, theatres and other establishments, and for certain other purposes.”

2.The Preamble indicates the legislative intent behind the enactment.

The Act is a welfare legislation intended to regulate the conditions of work of employees in shops and commercial establishments where such conditions are not otherwise governed by a special statutory regime. The object of the enactment is not to create a parallel disciplinary code overriding every other special statute, but to regulate employment in establishments falling within its ambit.



W.P(MD)No.5247 of 2023

WEB COPY

3. The brief facts leading to the filing of the writ petition are as follows:

3.1. The petitioner Society is a Co-operative Society governed by the provisions of the Tamil Nadu Co-operative Societies Act, the Rules framed thereunder and its Special Bye-laws, which regulate the service conditions of its employees.

3.2. The second respondent, while working as Secretary-in-charge, committed several acts of financial irregularities and misappropriation and hence, an enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act was ordered by the Deputy Registrar of Cooperative Societies.

3.3. The Section 81 Enquiry Officer, after conducting a detailed enquiry in which the second respondent participated, found the charges to be substantiated and recommended disciplinary, surcharge and criminal proceedings. Based on the enquiry report, the respondent was placed under suspension and a charge memo was issued. Since the explanation submitted by the second respondent was found unsatisfactory, a domestic enquiry was conducted by



W.P(MD)No.5247 of 2023

WEB COPY following the principles of natural justice.

3.4. The Enquiry Officer held the major charges proved. After furnishing the enquiry report, issuing show cause notices, affording personal hearing and considering the respondent's explanation, the disciplinary authority independently accepted the findings and dismissed the second respondent from service on 09.10.2019.

3.5. Aggrieved by the order of dismissal, the second respondent preferred an appeal before the first respondent under the Tamil Nadu Shops and Establishments Act. The appellate authority allowed the appeal and directed reinstatement with continuity of service and back wages.

3.6. Assailing the said order as being contrary to the provisions of the Tamil Nadu Cooperative Societies Act and the Special Bylaws governing the Society, the present writ petitions have been filed.

4. According to the learned counsel for the petitioner, once the service conditions of the employees are governed by the provisions of the Co-



W.P(MD)No.5247 of 2023

WEB COPY

operative Societies Act, the Rules and the Special Bye-laws, an appeal under Section 41 of the Shops and Establishments Act is not maintainable. The petitioner further contended that the Society is exempted under Section 4(1)(f) of the Tamil Nadu Shops and Establishments Act. The issue is no longer *res integra* and stands concluded by the judgment of the Division Bench of this Court in W.A.No.707 of 2026 dated 18.03.2026. The relevant portions of the judgment read as follows:

“12. In view of Section 4(1)(f), if any establishment is governed by a separate law for the time being in force in the State, the Tamil Nadu Shops and Establishments Act would not apply. In the present case, admittedly, the appellant Co-operative Bank is registered under the provisions of the Tamil Nadu Co-operative Societies Act and the Tamil Nadu Cooperative Societies Act is a comprehensive Act, which provides provisions regulating the service conditions of the employees of the Co-operative Societies/ Co-operative Banks. Under the provisions of the Tamil Nadu Cooperative Societies Act, the special bylaw of each Co-operative Bank has been approved by Registrar/ competent authority under the Act. Thus, the Tamil Nadu Cooperative Societies Act as well as the Special bye laws as approved by the competent authority alone would



W.P(MD)No.5247 of 2023

WEB COPY

apply in respect of the employees serving in the Cooperative Bank. Once such instance under the Co-operative Societies Act is that, the application of Gratuity Act and Provident Fund Act are excluded, specifically under Sections 78 and 79 of the Act if such schemes are provided under the bye-laws of the Society. Similarly, the procedures for departmental disciplinary proceedings are approved in the Special bye law and the said special bye law alone would apply in respect of the disciplinary proceedings initiated against the employees of the Co-operative Bank registered under the Cooperative Societies Act.”

5. In the aforesaid judgment, this Court has categorically held that, in view of the exemption under Section 4(1)(f), the provisions of the Tamil Nadu Shops and Establishments Act would not apply to Co-operative Societies whose service conditions are regulated under the Tamil Nadu Co-operative Societies Act and the Special Bye-laws framed thereunder. Accordingly, the petitioner prayed for allowing the writ petition.

6. Per contra, learned counsel appearing for the second respondent submitted that, notwithstanding the existence of service regulations under the Co-



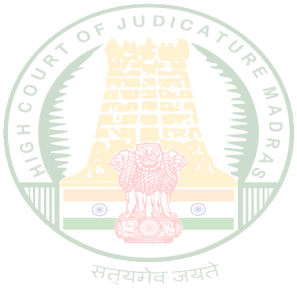
W.P(MD)No.5247 of 2023

WEB COPY

operative Societies Act, the Appellate Authority under the Shops and Establishments Act has jurisdiction to entertain the appeal. Reliance was placed upon the judgment of the Hon'ble Supreme Court in ***K.A.Annamma v. Secretary, Cochin Cooperative Hospital Society Limited*** reported in (2018) 2 SCC 729, to contend that the Appellate Authority was competent to entertain the appeal.

7. In reply, learned counsel for the petitioner submitted that the decision in ***K.A.Annamma's*** case is distinguishable and applies only in the context of industrial disputes. The very same judgment was considered by the Division Bench of this Court, which, after an elaborate discussion, held that the Appellate Authority under the Tamil Nadu Shops and Establishments Act has no jurisdiction in matters concerning employees of Co-operative Societies whose service conditions are governed by the Tamil Nadu Co-operative Societies Act, the Rules and the Special Bye-laws.

8. This Court has carefully considered the rival submissions and perused the materials available on record.



W.P(MD)No.5247 of 2023

WEB COPY

9. The short question that arises for consideration is whether an employee of a Co-operative Society, whose service conditions are admittedly governed by the Tamil Nadu Co-operative Societies Act, the Rules framed thereunder and the approved Special Bye-laws, can invoke the appellate remedy under Section 41 of the Tamil Nadu Shops and Establishments Act.

10. This Court is of the considered view that the impugned order cannot be sustained. The Preamble to the Tamil Nadu Shops and Establishments Act makes it clear that the enactment is a general welfare legislation intended to regulate the conditions of work in shops and commercial establishments. Simultaneously, the Legislature, by incorporating Section 4, has consciously excluded certain establishments from the purview of the Act. In particular, Section 4(1)(f) exempts establishments whose service conditions are governed by a separate law in force. The Division Bench of this Court in W.A. No.707 of 2026 has categorically held that the Tamil Nadu Co-operative Societies Act, the Rules framed thereunder and the approved Special Bye-laws constitute a complete code governing the service conditions of employees of Co-operative Societies and therefore, the provisions of the Tamil Nadu Shops and Establishments Act,



W.P(MD)No.5247 of 2023

including the appellate remedy under Section 41, are inapplicable. Admittedly, the petitioner Society is governed by the said statutory framework. Hence, the Appellate Authority lacked jurisdiction to entertain the appeals. The reliance placed on ***K.A.Annamma*** is misconceived, as the said decision arose in a different statutory context and does not dilute the exemption contained in Section 4(1)(f). Accordingly, the impugned orders are liable to be set aside.

11. In view of the above, the impugned order dated 13.12.2022 passed by the first respondent is hereby set aside and the writ petition is allowed. However, liberty is granted to the second respondent to work out the remedy before the appropriate authority under Section 153 of the Tamil Nadu Co-operative Societies Act. The period during which the proceedings remained pending before this Court shall stand excluded for the purpose of computing limitation. No costs. Consequently, the connected miscellaneous petition is closed.

15.07.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes
PKN

9/11



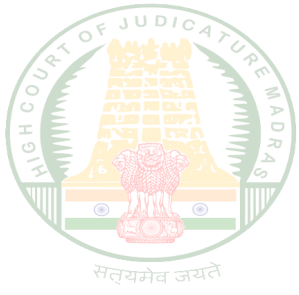
W.P(MD)No.5247 of 2023

WEB COPY

To

The Appellate Authority
Under Section 41 of Tamil Nadu Shops and
Establishments Act,
(Joint Commissioner of Labour),
Collectorate Campus,
Dindigul 624 004.

10/11



WEB COPY



W.P(MD)No.5247 of 2023

M.DHANDAPANI,J.

PKN

**ORDER MADE IN
W.P(MD)No.5247 of 2023**

DATED : 15.07.2026

11/11