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W.P. Nos.20066 of 2008, 24804 of 2012, 26640 and 33968 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 29.01.2025

ORDERS DELIVERED ON : 04.03.2025

Coram:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

**W.P. Nos.20066 of 2008, 24804 of 2012, 26640 and 33968 of 2013
and M.P.Nos.1 of 2013 & 1 of 2014**

W.P.No.20066 of 2008:

The Management of
Chidambaram Agricultural Producers
Co-Operative Sales Society Ltd.
Chidambaram, Cuddalore District – 608 001.

... Petitioner

Vs.

1.The Presiding Officer
Labour Court, Cuddalore.
2.G.Ramakrishnan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records on the file of the 1st respondent relating to the impugned award dated 05.07.2007 in I.D.No.35 of 1999 and quash the same and pass such further or other orders.

For the Petitioner : Mr.R.Arumugam
for Ms.P.Jebamary

For the Respondents : Mr.B.Singaravelu for R2
for R1 – Labour Court



W.P. Nos.20066 of 2008, 24804 of 2012, 26640 and 33968 of 2013

W.P.No.24804 of 2012:

WEB CRY The Special Officer / The Management of
Chidambaram Agricultural Producers
Co-Operative Sales Society Ltd.
Chidambaram, Cuddalore District – 608 001.

... Petitioner

Vs.

1.G.Ramakrishnan
2.The Presiding Officer
Labour Court, Cuddalore.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records on the file of the 2nd respondent relating to the impugned order dated 14.03.2011 in C.P.No.10 of 2008 and quash the same and pass such further or other orders.

For the Petitioner : Mr.R.Arumugam
for Ms.P.Jebamary
For the Respondents : Mr.B.Singaravelu for R1
for R2 – Labour Court

W.P.No.26640 of 2013:

G.Ramakrishnan

... Petitioner

Vs.

1.The Special Officer / The Management
Chidambaram Agricultural Producer
Co-Operative Sales Society Ltd.
Chidambaram, Chidambaram Taluk
Cuddalore District – 608 001.

2.The Presiding Officer

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W.P. Nos.20066 of 2008, 24804 of 2012, 26640 and 33968 of 2013

Labour Court, Cuddalore.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the order dated 14.03.2011 made in C.P.No.10 of 2008 on the file of the Labour Court, Cuddalore, the 2nd respondent herein and quash the same insofar as it is against the petitioner.

For the Petitioner : Mr.B.Singaravelu

For the Respondents : Mr.R.Arumugam
for Ms.P.Jebamary for R1
For R2 – Labour Court

W.P.No.33968 of 2013:

The Management of
Chidambaram Agricultural Producers
Co-Operative Sales Society Ltd.
Chidambaram, Cuddalore District – 608 001.

... Petitioner

Vs.

1.G.Ramakrishnan
2.The Presiding Officer
Labour Court, Cuddalore.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records on the file of the 2nd respondent relating to the impugned award dated 06.06.2013 in I.D.No.28 of 2011 and quash the same and pass such further or other orders.



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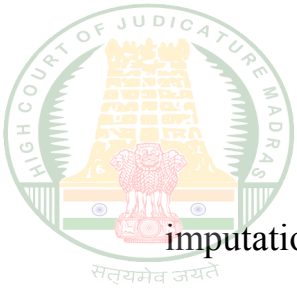
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For the Petitioner : Mr.R.Arumugam
for Ms.P.Jebamary
For the Respondents : Mr.B.Singaravelu for R1
for R2 – Labour Court

COMMON ORDER

These Writ Petitions are connected and are between the Management of Chidambaram Agricultural Producers Co-operative Sales Society Limited and the Workman viz., *G.Ramakrishnan*, as such are taken up and disposed of by way of this common order.

2. The petitioner was employed as a Packer in the Management. The Management's activity involves operating the fair price shops under the Public Distribution System. In 1997, while the petitioner was working as a Packer at fair price shop No. 7 in Chidambaram, certain allegations were made against him that included two charges. A charge memorandum dated 04.12.1997 was issued against him. The first charge against the Workman was that he was not fulfilling his duties and responsibilities. The public distribution system and the distribution of essential commodities were affected due to his actions. The statement of



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imputation of misconduct explained that even though he was working as a Packer at fair price shop No. 7, he would go to the shop, sign the attendance, and then would never actually perform his duties. Specifically, the period between 17.08.1997 and 02.09.1997 was highlighted. The salesman at the fair price shop provided a clear statement to this effect.

3. The second charge against the Workman is that on 03.09.1997, he went to fair price shop No. 13 and misbehaved with the salesman of that shop, *A.M.Ramalingam*, and attacked him, disrupting the distribution of essential commodities in the said shop under the public distribution system. On the same day, he went to the head office, where *A.M. Ramalingam* was present, and again assaulted him, misbehaved, threatened him, used offensive language, and also attacked the cashier. Furthermore, the Workman prevented them from performing their lawful duties. A police complaint was filed regarding these incidents. The statement of imputation of misconduct provides further details about the said charge.

4. The workman denied the charges. He alleges that there was a local law

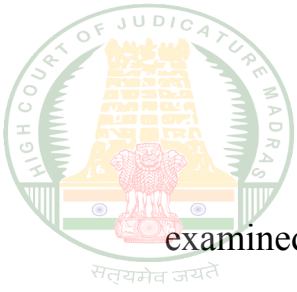


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and order problem involving rowdies. The petitioner, a resident of a specific location near Draupathi Amman Street, faced a grave threat to his life due to the involvement of two local gangs. Consequently, he sought a transfer to another shop. The management had orally permitted the petitioner to avoid the fair price shop No. 7 and instead directed him to work wherever needed. More specifically, the petitioner was asked to assist in other shops where kerosene was being distributed. Under these circumstances, anticipating a transfer, he did not attend duty at fair price shop No. 7.

5. As far as the second charge is concerned, he contends that he never attacked the salesman or misbehaved with the cashier. In the evening, in the head office, he only accosted them for not disbursing the lawful benefits due to a retired employee, and that too in respectful language. Enraged by this, a false charge was framed against him.

6. Thereafter, the Management appointed an enquiry officer. In the domestic enquiry, to prove the charges, the Management examined its witness and marked Exhibits M.1 to M.6 through him. Subsequently, no witnesses were



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examined on behalf of the delinquent. By an enquiry report dated 09.04.1998, the

domestic enquiry officer concluded that both charges had been proven.

Following this, a second show cause notice was issued, and the petitioner was provided with a personal hearing. Consequently, on 23.05.1998, the petitioner was dismissed from service. The petitioner raised a dispute, but conciliation failed. The claim filed by the petitioner under Section 2 (A)(2) of the Industrial Disputes Act was registered as I.D.No.35 of 1999.

7. The Workman contends that the domestic enquiry was neither fair nor proper. He was not allowed to engage a defense assistant during the enquiry. The domestic enquiry officer did not permit the Workman to record his witnesses. No adequate opportunity was provided to cross-examine the other witnesses. Copies of the statements were not given in advance. Therefore, the Workman requested that the punishment be revoked and that he be reinstated with all benefits.

8. The Management resisted the claim. The charges were reiterated in the counter statement. It is also stated that the Workman duly participated in the inquiry as per due procedure. The Workman did not raise any objections during



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the inquiry. Furthermore, it is specifically pleaded in paragraph No. 8 of the

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counter statement that if the Labour Court concludes that the domestic inquiry was not fair and proper, the Management should be given an opportunity to prove the charges before the Court. With the above pleadings, when the Labour Court took up the matter for inquiry, the Workman examined himself as W.W.1. No documents were submitted on his behalf. On behalf of the Management, *Anbarasan* was examined as M.W.1, *Rathina Sabapathy* was examined as M.W.2, and *Ramalingam* was examined as M.W.3. Exhibits M.1 to M.3 were also submitted. The Labour Court thereafter considered the case of the parties.

9. Regarding charge No. 2, the Labour Court found that the evidence of how the individuals were injured was not substantiated by hospital records. Additionally, the outcome of the criminal complaint alleged to have been filed was unclear. The Labour Court noted that the Management could have at least examined *Murugan*, *Chinnadurai*, and *Janardhanan*, who were present at the scene. Since none of this was pursued by the Management, particularly in light of the allegations against the other two employees, *Janardhanan* and *Elangovan*, who were also said to have participated in the attack, and given that no action



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was taken against them, the Court determined that the charge was not proven.

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Furthermore, the Labour Court ruled that there was no evidence against the Workman. Subsequently, the Labour Court found that the petitioner is entitled to reinstatement with back wages and all other benefits, and ordered the Claim Petition accordingly. The Management has filed Writ Petition No. 20066 of 2008, challenging the award dated 05.07.2007 made in I.D. No. 35 of 1999.

10. Pending the Writ Petition, and without prejudice to its contentions regarding *the* payment of 17 B wages, the Management allowed the Workman to resume duty. Consequently, on 06.11.2008, the Workman returned to work. However, on 27.01.2010, upon discovering that the Workman had again committed misconduct, a charge memorandum was issued containing two charges. The first charge against the Workman was that while he was assigned to movement duty, he failed to attend. The statement of imputation of misconduct explained that when the petitioner was put in charge of movement duty, he was supposed to accompany the lorry to various locations from the godown. However, after signing the respective documents, instead of going in the lorry, the Workman would leave after signing the invoices. A specific instance



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involving lorry No.TN TCG 6898 on 12.01.2010 was also cited.

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11. The second charge against the Workman was that he never heeded the advice and orders of his coworkers and misbehaved with them. The statement of imputation of misconduct mentions an incident on 12.01.2010, where he refused to obey the orders of the Special Officer and also verbally abused him in front of the other workmen. Again, on 16.08.2010, yet another charge memorandum was issued, leveling two charges against the Workman. The first charge was that, while he was on duty, he misused his position, furnished false information, and, by deceiving the Government, obtained an Antyodaya Anna Yojana (AAY) card, causing a loss to the Government. The details of the charge were also provided in the statement of imputation of misconduct.

12. The second charge against him was that he had threatened co-workers, claiming he would file false complaints against them and attempting to extort money from them. A common domestic inquiry was held, but the workman did not participate. However, he requested a change of the inquiry officer. Even after the officer was changed, the workman again requested a change of the newly



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appointed officer. Subsequently, the domestic inquiry proceeded, with the management examining its Assistant Manager and marking the relevant documents. The workman did not present any evidence and never participated in the inquiry. Following this, the domestic inquiry officer considered the oral and documentary evidence presented by the management. The management examined five witnesses. The inquiry officer took into account the evidence from S. *Tamilvanan*, R. *Balamurugan*, K. *Kabilar*, K. *Veerasamy*, and K. *Jayapandian*, the management witnesses, along with the statements related to nine other employees during the inquiry, and concluded that the charges were proven. When a second show cause notice was issued, the workman again requested time. Subsequently, on 10.06.2010, the workman submitted an explanation. The management did not accept the explanation and issued a dismissal order on 28.02.2011.

13. Meanwhile, based on the earlier award and claiming all arrears and other benefits, the Workman filed C.P. No. 10 of 2008, which was partly allowed in favor of the Workman. In response to the dismissal order dated 28.02.2011, the Workman raised a dispute once again. The conciliation failed. Subsequently,



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the claim petition filed by the Workman was taken on record as I.D. No. 28 of

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14. The Workman claims that no proper opportunity was provided during the domestic enquiry. He requested that a preliminary award be issued declaring that the domestic enquiry was neither fair nor proper, and subsequently ordered reinstatement with full back wages and all other benefits. The allegations in the claim statement were denied. The Management asserts that regarding the second charge memorandum, the Workman did not provide any explanation and did not participate in the enquiry. Furthermore, the Workman did not utilize the appeal remedy available to him through the department against the dismissal order.

15. With the pleadings mentioned above, the Labour Court proceeded for enquiry in the matter. No oral evidence was let in. Exhibits W.1 to W.34 were presented on behalf of the Workman, while exhibits M.1 to M.26 were marked on behalf of the Management.

16. The Labour Court considered the case of the parties and held that the



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Management's witnesses were not examined in the presence of the Workman, who was not granted an opportunity to cross-examine them. The domestic inquiry was neither fair nor proper, leading the Labour Court to issue a preliminary award to that effect. Subsequently, the parties presented evidence. The Workman testified as W.W.1, and exhibits W.1 to W.9 were marked. On behalf of the Management, nine witnesses were examined, and exhibits M.1 to M.9 were marked. The Labour Court determined that the first charge was not substantiated by any direct witnesses or documentary evidence. Regarding the charge related to the AAY ration card, the Labour Court found that the card was ultimately canceled. It concluded that when an employee violates Civil Law outside of employment, dismissal should not be imposed. Therefore, it directed the reinstatement of the Workman with back wages and all other benefits.

17. Aggrieved by the first award made in I.D. No. 35 of 1999, the management has filed W.P. No. 20066 of 2008. Aggrieved by the award in I.D.No.28 of 2011, the Management has filed W.P.No.33968 of 2013. In addition, regarding the portion of the order that partly allows the Claim Petition of the Workman in C.P.No.10 of 2008, the Management filed W.P.No.24804 of



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2012. Concerning the partial disallowance of the Workman's claim in the order

dated 14.03.2011 made in C.P.No.10 of 2008, the Workman has filed

W.P.No.26640 of 2013.

18. Heard, *Mr.R.Arumugam*, the learned counsel appearing on behalf of the Management; *Mr.B.Singaravelu*, the learned counsel appearing on behalf of the respondent – Workman.

19. *Mr. R. Arumugam*, the learned counsel, takes this Court through the charges and the evidence on record with reference to the first charge memorandum and the Labour Court's award. He submits on behalf of the management that, regarding charge no. 1, the Labour Court made no finding at all. Concerning charge no. 2, the Labour Court noted that five employees were present during the alleged assault and that the management could have examined at least one of them. However, the Labour Court failed to acknowledge that Rathinasababathy, one of the employees, was indeed examined, as noted by the Labour Court itself. Therefore, the Labour Court's award is perverse. Once the dismissal order is set aside, there is no need to consider the merits of the second



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award, and the order made in the Computation Petition is also liable to be set

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20. Even with reference to the second award, the learned counsel, by pointing out the charges and the evidence on record, would submit that the Labour Court's award is perverse. Firstly, the preliminary award was also erroneous since it was the workman who, on his own volition, chose not to participate in the enquiry. At some point, the workman stated that management could do whatever they wanted and that he was not even claiming employment. He submits that the workman has always been the president of a political party, engaged in political activities, and has never performed any work. The Labour Court repeatedly granted him reliefs that were uncalled for. Additionally, when the workman, who is a packer in the Public Distribution System, obtains a ration card by providing false information under the AAY scheme and receives free rice meant for unemployed poor people, the Labour Court erred in asserting that dismissal was uncalled for due to the violation of civil law.

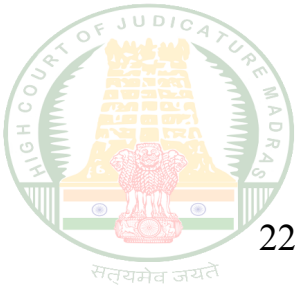
21. *Per contra*, the learned counsel representing the Workman submits that



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the petitioner's political activities were not substantiated. The Labour Court

properly assessed the evidence in the first award. The Management failed to substantiate the charges by presenting adequate witnesses. In any case, the Workman was reinstated to service, and the second disciplinary proceedings were initiated. Therefore, the only question is whether the initiation of the second disciplinary proceedings against the Workman was appropriate. The Labour Court found that the domestic inquiry was neither fair nor proper. Subsequently, it exercised its authority under Section 11A and, even taking into account the evidence presented by the management, concluded that the charges were not adequately proven. Furthermore, considering that the alleged ration card had also been canceled and was not directly related to his employment, the Labour Court passed the award. Consequently, the awards passed by the Labour Court in both industrial disputes are valid and should not be interfered with by this Court. Once the Labour Court's awards are deemed correct, the Labour Court should not have disallowed a portion of the claim in the Claim Petition, and the Workman is entitled to all the benefits specifically granted in the award. Therefore, the Workman's Writ Petition must be allowed.

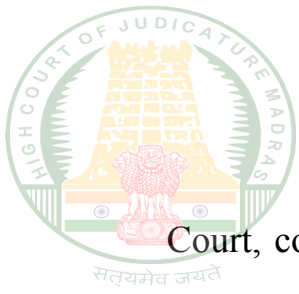


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22. I have considered the opposing submissions presented by both sides

and examined the relevant records of the case.

23. Firstly, regarding the first charge memorandum dated 04.12.1997, it is evident that two charges were leveled against the Workman. The Workman participated in the enquiry. The management examined its witnesses and marked nine documents. Based on this, the domestic enquiry officer issued his findings. The Workman contended that the domestic enquiry was neither fair nor proper, while the management argued that even if the court finds the domestic enquiry unfair, they are willing to present evidence. In such a scenario, the proper procedure for the Labour Court would have been to issue a preliminary finding regarding the fairness of the enquiry by passing a preliminary award. Only thereafter should the court have considered the other two questions: the proof of the charge and the proportionality of the punishment under Section 11A. This exercise was not conducted by the Labour Court, and the procedure adopted by the Labour Court in directly considering the entire issue together was incorrect; therefore, the award dated 05.07.2007 in I.D.No.35 of 1999 is liable to be set aside. However, at this stage, the matter need not be remitted back to the Labour



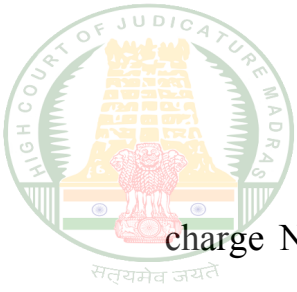
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Court, considering that the dismissal order of the Workman dates back to 1998

and we are now in the year 2025, this Court itself can address the questions.

24. The first question to be determined is whether the domestic enquiry is fair and proper? The Workman's claim is that he was not given an opportunity to engage a defense assistant, his evidence was not recorded by the domestic enquiry officer, and he was not provided with the relevant documents. It is evident that the Workman has offered an explanation denying the charges. Subsequently, the Management witnesses were examined, and the documents were marked. The Workman never submitted any petition requesting additional documents. Furthermore, it was not his position before the domestic enquiry officer that he wished to record his evidence and that this opportunity was denied to him. Therefore, the belated claims made in the Claim Petition are unsupported by any assertions made during the domestic inquiry. Consequently, I hold that the Workman was granted due opportunity and that the disciplinary inquiry was fair and proper.

25. Regarding the merits, the Labour Court entirely failed to consider



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charge No. 1. In fact, during the domestic inquiry, appropriate witnesses were

examined. *Mr. Anbazhagan*, the salesman at the specific fair price shop, stated that the workman never attended duty and would leave after signing the attendance register. Therefore, the Management fulfilled its burden.

26. The Workman's explanation states that Management only orally permitted him not to attend duty at the specified fair price shop and allowed him to report to another fair price shop. If this is the Workman's assertion, he did not present any evidence to prove the same. Before the Labour Court, the aforementioned *Anbarasan* was examined as M.W.1. The Workman chose not to summon anyone from Management who granted him the oral permission for examination. Therefore, Charge No. 1 against the Workman was properly proved, both in the domestic inquiry and before the Labour Court. Additionally, ample evidence regarding this charge existed before the Labour Court, including M.W.1's oral testimony coupled with the original statement provided by him in Ex.M.1.

27. Regarding the second charge, the Labour Court found that the hospital



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records were not produced. Additional details regarding the status of the criminal

case were not presented, and the third point was that one of the four present employees could have also been examined to substantiate the charge. Firstly, the assertion that one of the four employees—*Rathina Sababathy, Murugan, Chinnadurai, and Janardhanan*—could have been examined, and the fact that they were not examined was factually incorrect. *Rathina Sababathy* was examined as M.W.2 before the Labour Court. Additionally, in the domestic enquiry, the statement given by *Rathina Sababathy* was properly marked as exhibit M.4. Thus, the finding regarding this is perverse. Further, the standard of proof required in a disciplinary enquiry is preponderance of probability. Therefore, the Labour Court, without taking this into account, relied on the lack of hospital records pertaining to the injury and the non-production of criminal case records to conclude that the charge was unproven. This conclusion is legally incorrect as the standard is not proof beyond doubt.

28. The Labour Court should have considered that in a domestic enquiry, particularly when the charge is substantiated during the domestic enquiry, the Labour Court can intervene only in cases of no evidence or if the assessment by



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the domestic enquiry officer or disciplinary authority is fundamentally flawed. In

this instance, there was sufficient evidence on record concerning the Workman's misconduct.

29. Now, regarding the question of proportionality of punishment, it is evident that the Workman never performed his duties properly and was consistently preoccupied with his political activities. The fact that, even after reinstatement in *lieu* of 17B wages, he was again involved in similar misconduct—specifically, failing to perform his job and leaving the work site after signing the invoices/attendance register—suggests a concerning attitude. Following the second award passed, in *lieu* of 17B wages, the Workman was instructed to report for duty in 2013, yet he failed to do so. This conduct indicates that the Workman was hardly invested in his employment and was more focused on other pursuits. The gravity of the charge is apparent. In a fair price shop, the salesman is responsible solely for billing, while the packer must disburse the essential commodities. The public could face significant consequences if the packer leaves work after signing the attendance register. This charge by itself is serious. Additionally, the second charge pertains to violence: he physically assaulted a



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co-worker and the cashier. He initiated the aggression at the other co-worker's

fair price shop, then went to the head office, where he struck him and also attacked the cashier. Thus, the charges are extremely serious, and it cannot be concluded that the penalty of dismissal from service was excessive or unfair.

30. In light of this, the punishment of dismissal from service dated 25.02.1998 is upheld. The award of the Labour Court made in I.D.No.35 of 1999 is set aside. Consequently, the second award issued in I.D.No.28 of 2011 is automatically liable to be set aside. Moreover, even on merits regarding the second award, it was established that the domestic inquiry was neither fair nor proper. The Management examined nine witnesses, including the officials who issued the ration card to the Workman, and it was proven that the Workman unlawfully obtained an AAY card intended for the poorest of the poor. It is the responsibility of the fair price shop's salesman and the packer to report to the relevant authorities if they discover that any affluent individual has wrongfully acquired an AAY card. Under these circumstances, the finding of the Labour Court suggesting that he violated Civil Law, apart from his duty, is completely erroneous. Even if unrelated to one's duty, if any employee of a co-operative



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society incorrectly acquires such a ration card, the charge is serious and warrants dismissal from service, as it constitutes not only cheating the Government but also depriving another poor individual of essential food resources.

31. Therefore, the Labour Court's finding in the second I.D. No. 28 of 2011 cannot be sustained on its merits also. Once both awards are deemed liable to be set aside, it follows that the order made in C.P. No. 10 of 2008 is also subject to being set aside in its entirety; accordingly, C.P. No. 10 of 2008 shall stand dismissed. In light of this, all these Writ Petitions are disposed of on the following terms:

- (i) The award passed in I.D.No.35 of 1999 shall stand set aside.
- (ii) The dismissal order passed against the Workman dated 25.02.1998 stands upheld;
- (iii) In view of the earlier dismissal order dated 25.02.1998 being upheld, and the earlier award made in I.D.No.35 of 1999 being set aside, the award passed in I.D.No.28 of 2011 shall stand automatically set aside; The said award cannot stand and is also quashed on merits;
- (iv) In view of the award made in I.D.No.35 of 1999 being set aside, the



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consequent Order made in C.P.No.10 of 2008 dated 14.03.2011 also stands set

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(v) The Writ Petitions are disposed of accordingly. No costs.
Consequently, the connected miscellaneous petitions are closed.

04.03.2025

Neutral Citation:Yes

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To
The Presiding Officer
Labour Court, Cuddalore.



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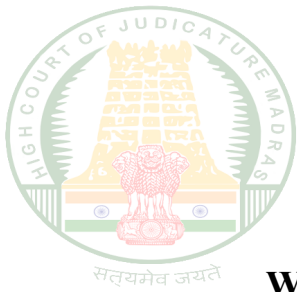
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D.BHARATHA CHAKRAVARTHY, J.,

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04.03.2025



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D.BHARATHA CHAKRAVARTHY.J.,

This matter is listed under the caption “for being mentioned”.

2. In the common order dated 04.03.2025 passed in W.P.No.20066 of 2008, 24804 of 2012, 26640 and 33968 of 2013, the name of the petitioner societiy in the cause title of W.P.No.20066 of 2008 alone shall be corrected and shall read as follows:

**“The Management,
Chidambaram Agricultural Producers
Co-Operative Marketting Society Limited,
rep. by its Special Officer,
Chidambaram, Cuddalore District”**

3.The Registry is directed to issue a fresh order copy within a week by carrying out the aforesaid correction.

11.06.2025

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D.BHARATHA CHAKRAVARTHY.J.,

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