



W.P.No.15710 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2025

CORAM:

**THE HONOURABLE Ms. JUSTICE P.T.ASHA**

**W.P.No.15710 of 2021**  
**and**  
**W.M.P.No.16607 of 2021**

The Management,  
Perambalur District Consumer  
Co-operative Wholesale Stores Ltd.,  
Perambalur-621 212.

... Petitioner

Vs.

1.R.Manivannan

2.The Appellate Authority / Deputy Commissioner of Labour,  
(Appellate Authority under the Tamil Nadu Shops  
and Establishments Act, 1947),  
Tiruchirappalli-620 020.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the Impugned Order passed by the 2<sup>nd</sup> respondent in T.N.S.E.Appeal No.1/2014 dated 18.05.2020 and quash the same.

For Petitioner : Mr.R.Bala Ramesh



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For 1<sup>st</sup> Respondent : Mrs.V.Vijayalakshmi  
Legal Services Authority Counsel

For 2<sup>nd</sup> Respondent : Mr.M.Murali  
Government Advocate

### **ORDER**

The respondent-Management seeks to challenge the order passed by the 2<sup>nd</sup> respondent in T.N.S.E.Appeal No.1 of 2024 dated 18.05.2020.

2. The facts, which have given rise to the above Writ Petition as narrated in the affidavit filed in support of this writ petition, are herein below set out.

(i) The petitioner is a Cooperative-institution registered under the provisions of the Tamil Nadu Cooperative Societies Act, hereinafter called “the Act” and governed by the Act, Rules and By-laws of the Society. The 1<sup>st</sup> respondent was employed in the petitioner-Stores at Ariyalur as a Manager for the period from 04.01.2010 to 05.02.2011. During his tenure, he along with one



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Sakthivel/Salesman in the Ariyalur Government Cement Factory

Sales Depot which also comes under the control of the petitioner's Stores, had caused huge loss to the petitioner's Stores on account of his dereliction of duties and responsibilities attached to his post as Manager. The said Sakthivel had caused stock deficit to the tune of Rs.2,57,794.25 and had also misappropriated a sum of Rs.45,000/-. That apart, he had fabricated credit bills to the tune of Rs.84,169.35 pertaining to the cement factory depot and also given credit sales to the tune of Rs.2,96,940.37 to non-members, in contravention of the By-Laws of the petitioner-Stores. These misdeeds / acts of misconduct have been done during the tenure of the 1<sup>st</sup> respondent as Manager of the Ariyalur Branch. That apart, there was a huge outstanding of Rs.10,53,840.60 during the tenure of the 1<sup>st</sup> respondent. Further, when stock verification of the depot was conducted for the months of January 2010, March 2010 and May 2010, the 1<sup>st</sup> respondent failed to reconcile the purchase and sale accounts with the Liability Register. These acts of omission and commission had caused financial loss to the petitioner-Stores.



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Therefore, a Charge Memo dated 16.07.2013 was issued against the 1<sup>st</sup> respondent for grave charges. The 1<sup>st</sup> respondent had not submitted the written statement of defence for the above charge Memo. Thereafter, the petitioner had ordered a domestic enquiry. It is only thereafter that the 1<sup>st</sup> respondent has submitted his explanation on 07.10.2013. The domestic Enquiry Officer gave his report on the very next day i.e.18.10.2013 holding that all charges were proved against the petitioner. Thereafter, a Show Cause Notice dated 19.11.2013 enclosing the enquiry report was issued to the 1<sup>st</sup> respondent, who had submitted his explanation on 26.11.2013. After this, the petitioner-Stores had issued a second Show Cause Notice on 03.01.2024 with reference to the further action for which the 1<sup>st</sup> respondent had submitted his reply on 17.01.2014. After examining the charges, explanation offered, findings of the Enquiry Officer and further explanations, the petitioner had dismissed the 1<sup>st</sup> respondent from the services with effect from 06.02.2014. Against this dismissal order, the 1<sup>st</sup> respondent had preferred an appeal under Section 41(2) of the Tamil Nadu Shop and Establishment Act, 1947 (hereinafter



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referred to as the TNSE Act) in T.N.S.E.No.1 of 2014. The appeal was allowed.

(ii) The petitioner had raised a preliminary objection questioning the jurisdiction of the authority under the TNSE Act to entertain the appeal in the light of Section 4 of the Act. The petitioner would contend that the 1<sup>st</sup> respondent was holding the post of Manager and since he was in a Managerial / Supervisory capacity, the appeal under Section 41(1) of the TNSE Act is not maintainable. Despite this objection, the 2<sup>nd</sup> respondent had taken the appeal on file. The petitioner had contended that had the 1<sup>st</sup> respondent exercise the basic caution, the Society would not have suffered financial loss on account of the illegal activities of the Salesman/Sakthivel. That apart, the petitioner had stated that the authority has overlooked the collusion between the 1<sup>st</sup> respondent and the said Sakthivel. The petitioner had also contended that the quantum of punishment was commensurate and in proportion to the gravity of the crime committed by the 1<sup>st</sup> respondent and therefore, the order directing

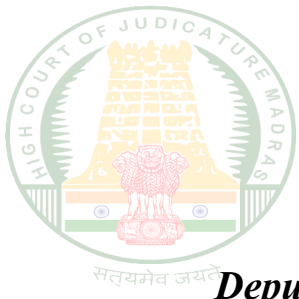


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reinstatement with back wages is totally misconceived. Therefore, the order ought not to have been set aside.

3. The learned counsel for the petitioner would submit that the 2<sup>nd</sup> respondent has not even considered the defence of the petitioner that an appeal under Section 41(1) of the TNSE Act was not available and the only remedy available was under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983. He would also submit that the finding of the appellate authority that the enquiry had not been conducted properly was totally misconceived, as the documents filed had been handed over to the petitioner and it is only on perusing the same that the enquiry had been proceeded with further. The learned counsel would further state that the 1<sup>st</sup> respondent has, himself in his claim statement, admitted that the enquiry had been conducted in a proper manner. The learned counsel for the petitioner would rely upon the judgment of this Court reported in **2000 3 CTC 738 [The Management of Madras Atomic Power Project Employees' Consumers Co-operative Stores Limited, Kalpakkam Vs The**



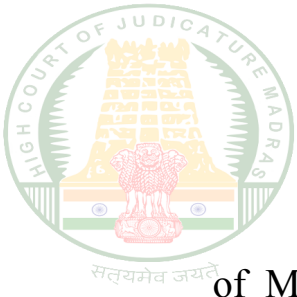
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***Deputy Commissioner of Labour (Appeal), Madras-6 and 2 others],***

regarding the jurisdiction of the Court in support of his contention that a person holding a managerial post would not come under the purview of the TNSE Act and the judgment reported in ***2024 1 WritLR 519 [D.R.L.(E) 11, Vallioor Co-opretive Primary Agricultural and Rural Development Bank Limited Vs. The Deputy Commissioner of Labour and Ors.]*** wherein the learned Judge had held that the exemption of Sections 31, 41, 43, 50 and 51 in the Government notification, whereby these sections were made applicable to Cooperative Societies only indicates that the Cooperative Societies Act, 1983 was therefore applicable. He would submit that the order passed by the appellate authority has to necessarily be set aside.

4. Per contra, Ms.V.Vijayalakshmi, learned counsel who has been nominated by the Legal Services Authority to appear on behalf of the 1<sup>st</sup> respondent would submit that the petitioner is a workman and it is only by nomenclature that he has been termed as a Manager. However, he was only a Junior Assistant holding the additional post



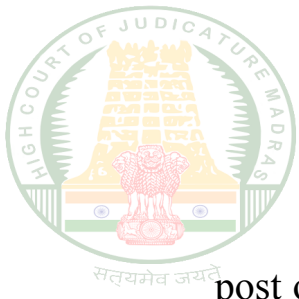
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of Manager and his duties are only that of Junior Assistant. She would further submit that the allegation of misappropriation or misconduct has not out been made against the petitioner and the allegations are only against the said Salesman/Sakthivel and the 1<sup>st</sup> respondent is sought to be roped in only on the ground that he had not taken the sales person to task and remained silent. He would further submit that the said Sakthivel has repaid the entire amount claimed in the surcharge proceedings. Therefore, he would submit that the well considered order of the 2<sup>nd</sup> respondent should not be interfered with.

5. Heard the learned counsels on either side and perused the materials available on record.

6.The only issue which is now sought to be canvassed is that the appeal before the 2<sup>nd</sup> respondent was not maintainable, inasmuch as the 1<sup>st</sup> respondent was not a workman but was in a managerial cadre. This argument cannot be sustained in the light of the fact that, though the 1<sup>st</sup> respondent was designated as a Manager, he held the



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post only by way of additional charge and his actual post was that of a Junior Assistant which squarely falls within the definition of an employee under the TNSE Act. Therefore, the invocation of the provisions of this Act was very much in order. Even the judgments which have been relied upon by the petitioner clearly state that the State Government is competent to include any establishment within the purview of the TNSE Act and by way of a notification in the Government Gazette dated 05.10.1966, the Government had notified that all the provisions of the TNSE Act would apply to the classes of persons mentioned in clause (a) of Section 4(1) of the Act and in the judgment reported in **2000 (3) CTC 738**, cited supra the learned Judge, while considering the Government Order in the aforesaid gazette, held that from a perusal of the Government Order, it is clear that persons holding posts in Management are also amenable to the TNSE Act and therefore, the maintainability of the appeal before the 2<sup>nd</sup> respondent cannot be called in question. Therefore, the order passed by the appellate authority cannot be found fault with it. The Writ Petition is dismissed. No costs. Consequently, connected



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miscellaneous petition is closed.

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**29.07.2025**

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To

The Appellate Authority / Deputy Commissioner of Labour,  
(Appellate Authority under the Tamil Nadu Shops,  
and Establishments Act, 1947),  
Tiruchirappalli-620 020.

**P.T.ASHA, J.,**

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