BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.08.2025

PRONOUNCED ON : 20.11.2025

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN
AND
THE HONOURABLE MR. JUSTICE K. RAJASEKAR

W.A.(MD).Nos.1757 to 1760 of 2023 and 935 of 2023
and
C.M.P.(MD).Nos.7354, 13393, 13395, 13399, 13400 of 2023

W.A.(MD).No.1757 of 2023

Aringar Anna Sugar Mills Limited,
Kurunkulam,
Thanjavur Taluk,
Represented through the Chief Executive,
Pincode – 613 303. ... Appellant/ 2nd Respondent

Vs.

1. R. Vengatasamy ... 1st Respondent/ Writ Petitioner

2. Commissioner of Sugar Mills,
   State of Tamil Nadu,
   696, Anna Salai,
   Nandhanam, Chennai. ... 2nd Respondent/ 1st Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 09.05.2023 in W.P.(MD).No.15709 of 2017 on the file of this Court.

W.A.(MD).No.1758 of 2023

Aringar Anna Sugar Mills Limited,
Kurunkulam,
Thanjavur Taluk,
Represented through the Chief Executive,
Pincode – 613 303. ... Appellant/ 2nd Respondent

Vs.

1. R. Vengatasamy ... 1st Respondent/ Writ Petitioner

2. Commissioner of Sugar Mills,
   State of Tamil Nadu,
   696, Anna Salai,
   Nandhanam, Chennai. ... 2nd Respondent/ 1st Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 09.05.2023 in W.P.(MD).No.15710 of 2017 on the file of this Court.

W.A.(MD).No.1759 of 2023

Aringar Anna Sugar Mills Limited,
Kurungulam,
Thanjavur Taluk,
Represented through the Chief Executive,
Pincode – 613 303. ... Appellant/ 2nd Respondent

Vs.

1. R. Vengatasamy ... 1st Respondent/ Writ Petitioner

2. The State of Tamilnadu,
   Represented through the Principal Secretary,
   Ministry of Industries,
   Secretariat, St. George Fort,
   Chennai - 9 ... 2nd Respondent/ 1st Respondent

3. Commissioner of Sugar Mills,
   State of Tamil Nadu,
   696, Anna Salai,
   Nandhanam, Chennai. ... 3rd Respondent/ 2nd Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 09.05.2023 in W.P.(MD).No.22597 of 2017 on the file of this Court.

W.A.(MD).No.1760 of 2023

Aringar Anna Sugar Mills Limited,
Kurunkulam,
Thanjavur Taluk,
Represented through the Chief Executive,
Pincode – 613 303. ... Appellant/ Respondent

Vs.

1. R. Vengatasamy ... Respondent/ Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 09.05.2023 in W.P.(MD).No.8167 of 2018 on the file of this Court.

W.A.(MD).No.935 of 2023

Aringar Anna Sugar Mills Limited,
Kurungulam,
Thanjavur Taluk,
Represented through the Chief Executive,
Tanjore – 613 303. ... Appellant/ 2nd Respondent

Vs.

1. N. Gururaja ... 1st Respondent/ Writ Petitioner

2. The Director of Sugar,
Registrar of Sugar Mills,
No.69, Anna Salai,
EVR Periyar Buildings,
Nadanam, Chennai -35,
Chennai. ... 2nd Respondent/ 1st Respondent

3. National Co-operative Sugar Mill,
Represented by its Managing Director,
B. Mettupatti Village,
Alanganallur,
Madurai - 625 502. ... 3rd Respondent/ 3rd Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 16.12.2022 in W.P.(MD).No.22702 of 2017 on the file of this Court.

For Appellants in all cases : Mr. S. Shaji Bino
Special Government Pleader

For R1 in W.A.(MD).Nos.1757 to 1760 of 2023 : Mr. M.E. Ilango
for M/s. Ajmal Associates

For R1 in W.A.(MD).No.935 of 2023 : Mr. V. Karthikeyan

For R2 in all cases : Mr. A. Kannan
Additional Government Pleader

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COMMON JUDGMENT

(Judgment made by K.RAJASEKAR, J.)

The Chief Executive of Arignar Anna Sugar Mills Limited is the appellant in these appeals. One R.Vengatasamy, writ petitioner in W.P.(MD).Nos.15709, 15710, 22597 of 2017 and 8167 of 2018 and N.Gururaja, writ petitioner in W.P.(MD).No.22702 of 2017, have approached this Court challenging the disciplinary proceedings initiated against them. N.Gururaja, approached this Court challenging the final orders of dismissal from service dated 18.11.2017. R.Vengatasamy have approached this Court challenging the charge memo, suspension and seeking permission to engage Advocate for defending in departmental enquiry. According to them, they were in the 'B' Cadre under Common Cadre Service. The competent authority to initiate the disciplinary proceedings against them is the Common Cadre Authority, whereas, the disciplinary proceedings were initiated against them by the Chief Executive of Aringar Anna Sugar Mills Limited who had exercised the powers of the disciplinary authority. Further, they contend that the charges are vague, bereft of relevant information, hence same could not be valid, hence based on invalid charges, enquiry is ordered. Mr. Gururaja contend that, without any evidence against him, and by way of farce enquiry proceedings, he had been awarded with punishment, hence challenged the entire enquiry proceedings as well as the punishment imposed on him.

2. Mr. R.Vengatasamy, also raised very same points challenging the enquiry initiated against him and he approached this Court before proceedings were concluded. Since both writ petitioners raised common grounds challenging the departmental proceedings, all the writ petitions heard together and common order is passed herein.

3. According to the writ petitioners, by issuing G.O.(Ms).No.68, Industries (MIC.2) Department, dated 01.03.2011, the Government has created common cadre service for the 'A' and 'B' category officers of the Sugar Mills. As per this Government Order, a Cadre Authority has been empowered to decide recruitment, promotion, transfer of officers and disciplinary proceedings. Since the disciplinary proceedings were initiated by the Chief Executive of the Mill, who is not common cadre authority, the disciplinary proceedings are liable to be quashed and they are entitled for consequential reliefs.

4. The respondents Sugar Mill and Government submitted that the Government Order in G.O.(Ms)No.68 has not granted power to the Commissioner of Sugar, who is the Cadre Authority, empowering him to initiate disciplinary proceedings against the A & B cadres. Hence, the disciplinary authority under the Rules is only the Chief Executive of Sugar mill. They also relied on Rule 189 of Tamil Nadu Cooperative Societies Rules, 1988 in support of the same. It is further contended that, as per Section 75 of the Tamil Nadu Co-operative Societies Act, 1988 (TNCS Act hereinafter), till date the competent authority to deal with the disciplinary action has not been designated and the Commissioner of Sugar Mills has administrative control over the public sector sugar mills and the Managing Director of the Sugar Mill as chief executive of the Mill, is the competent authority to initiate disciplinary proceedings.

5. After considering the submissions of both sides and after constructing Section 75, rules and G.O.(Ms).No.68, the Writ Court has accepted the case of the writ petitioners and quashed the disciplinary proceedings initiated against the petitioners, after considering various points including the competency to initiate departmental proceedings, validity of

charges, misconduct alleged against both petitioners and also punishment imposed on Mr.Gururaja.

6. The core issue raised in these writ appeals is competency of the appellant i.e., Managing Director of Sugar Mill to initiate disciplinary proceedings. It is apposite to consider the same at first instance. Section 75 of the TNCS Act empowers Government to create common cadre authority for the purpose enumerated thereon. It reads as follows:

"75.Constitution of common cadre of service.

(1) Notwithstanding anything contained in this Act or the bye-laws made thereunder and subject to the Rules made by the Government in this behalf, the Government may, in the interest of the co-operative movement, constitute, from time to time, by order, in respect of-

(i)scheduled co-operative societies; or

(ii)primary societies affiliated to such scheduled co-operative societies; or

(iii)Co-operative sugar mills, co-operative spinning mills, co-operative tea factories and such other registered societies prescribed for the purposes of sub-section (4) of section 33; or

(iv)such other class or category of registered societies in which the Government have taken shares or given financial or other assistance as may be notified by the Government, one or more common cadre of service in respect of the posts of Secretaries, Assistant Secretaries, Executive Officers, Assistant Executive Officers, General Managers, Assistant General Managers, Managers, Assistant Managers, Purchase Managers, Purchase Officers, Assistant Purchase Officers, Development Officers, Chief Accountants, Chief Accounts Officers, Accounts Officers and such other class or classes of posts as may be notified by the

Government. The common cadre of service under this section may be constituted either separately in respect of the said posts in any group of registered societies mentioned in item (i) or item (ii) or item (iii) or item (iv), as the case may be, or jointly for the aforesaid posts in one or more of the groups of registered societies mentioned in the said items (1), (ii), (iii) and (iv) or of two or more of the registered societies in any one of the groups mentioned in the said items.

(2) When any such common cadre of service is constituted under sub-section (1) in respect of any post, all the employees holding such posts on the date of constitution of such common cadre of service, shall be deemed to have been absorbed in the common cadre of sendee with effect on and from the date of constitution of such common cadre of service:

Provided that the salary (including allowances) of any such employee shall not be varied to his disadvantage:

Provided further that any such employee may, within such period as may be prescribed, by notice in writing to the competent authority constituted under sub-section (3) intimate his option for not becoming a member of such common cadre of service, and in that event, his services in the registered society shall stand determined with effect on and from the date of such notice and he shall be entitled to either,-

(i)all the terminal benefits to which he would have been eligible under the bye-laws or contract or award, applicable to him immediately before the date of constitution of such common cadre of service as if such employee had retired from service; or

(ii)compensation which shall be equivalent to fifteen days' salary of such employee (including allowances) for every completed year of continuous service or any part thereof in excess of six months, whichever is higher.

Explanation. - For the purposes of this sub-section, "continuous service" shall mean an uninterrupted service including service which may be interrupted on account of sickness or authorised leave or an accident.

(3) The order under sub-section (1) shall provide for the constitution of the competent authority which shall be a committee consisting of both officers of the Government and non-officials and the total strength of such committee shall not exceed five, from among whom one of the officers of the Government not below the rank of Joint Registrar in the Co-operative Department or not below such rank in other departments of the Government as may be prescribed, shall be appointed by the Government as the Chairman, to exercise the powers of recruitment, appointment, transfer and disciplinary control (including censure, stoppage of increment, withholding of promotion, suspension by way of punishment, reduction to a lower rank in the seniority list or to a lower post or time scale whether in the same service or in another service or to a lower stage in a time scale, compulsory retirement, removal or dismissal) and such other powers as may be prescribed in respect of holders of posts in such common cadre of service. After the constitution of such competent authority, the registered society concerned shall not, in respect of holders of posts in such common cadre of service, exercise any of the powers which are conferred by or under this Act or the Rules made thereunder on the competent authority in respect of such common cadre of service. There shall be a separate competent authority in respect of each common cadre of service:

Provided that the Government may direct that, for such period not exceeding three years from the date of constitution of a common cadre of service, such committee in relation to that common cadre of service, shall consist of only a single officer of the Government not below the rank of Joint Registrar in the Cooperative Department or not below such rank in other departments of the Government as may be prescribed; and such officer shall be the "competent authority constituted under sub-section (3) of section 75" for the purposes of this Act and any reference to the competent authority in this Act shall, for the period mentioned in this proviso, be construed as a reference to the single officer aforesaid:

Provided further that the registered society under which an employee borne on a common cadre of service is for the time being employed shall also have the power to impose on such employee *the penalty or censure or stoppage of increment up to two years without cumulative effect.*

Explanation. - For the purposes of this sub-section,-

(i)"Officers of the Government" means Government servants subordinate to the Registrar for the State not below the rank of Deputy Registrar in the Cooperative Department or not below the rank of Assistant Director in other departments of the Government;

(ii)"non-officials" means President, Vice-President or any other member of the board of a registered society of the same class or category in respect of which common cadre of service is constituted.

(4) (a)The registered society under which an employee borne on a common cadre of service is employed, may request the competent authority to take disciplinary action on, or action on, or to transfer, such employee, and if the competent authority fails to take action within a period of thirty days from the date of such request, the registered society may report the matter to the Registrar for taking such action as he may deem necessary.

(b) If in the opinion of the Registrar, whether upon a request under clause (a) or otherwise, it is necessary or expedient in the interest of any registered society, to take disciplinary action on, or to transfer from any registered society, an employee borne on a common cadre of service, the Registrar may direct the competent authority to take disciplinary action on, or to transfer such employee; and where the competent authority fails so to do, the Registrar may himself take disciplinary action on, or order the transfer of, such employee from the registered society concerned.

(5) (a)Any employee of a common cadre of service aggrieved by any order of the competent authority relating to censure, stoppage of increment, withholding of promotion, suspension by way of punishment, reduction to a lower rank in the seniority list, or to a lower post or time scale whether in the same service or in another service or to a lower stage in a time scale, compulsory

retirement, removal or dismissal, may appeal to the Registrar against such order within sixty days from the date of such order and the Registrar shall follow such procedure as may be prescribed for the disposal of the appeal.

(b)Where the order appealed against is that of the Registrar for the State, the appeal under sub-clause (a) shall lie to the Government:

Provided that in disposing of an appeal under this sub-section, the Registrar or the Government, as the case may be, shall give a reasonable opportunity of being heard to the parties concerned:

Provided further that the Registrar or the Government, as the case may be, may pass such interlocutory order pending the decision on the appeal as he or they deem fit:

Provided also that the Registrar or the Government, as the case may be, may award costs in any proceedings under this sub-section to be paid either out of the funds of the competent authority or by such party to the appeal as the Registrar or the Government, as the case may be, may deem fit.

(6) (a)Any employee borne on a common cadre of service, aggrieved by an order relating to censure or stoppage of increment, passed by a registered society, may appeal to the competent authority.

(b)An appeal under this sub-section shall be made within sixty days from the date of the order appealed against and the competent authority shall follow such procedure as may be prescribed for the disposal of the appeal:

Provided that, in disposing of an appeal under this sub-section, the competent authority shall give a reasonable opportunity of being heard to the parties concerned:

Provided further that the competent authority may pass such interlocutory order pending the decision on the appeal as the competent authority may deem fit:

Provided also that the competent authority may award costs in any *proceedings under this sub-section to be paid either out of the funds of the registered society or by such party to the appeal, as the competent authority may deem fit.*

...."

7. Rule 189 of the Tamil Nadu Co-operative Societies Rules, 1988 deals with powers of Managing Director of Sugar Mill to exercise administration control over Sugar mills and also empowered him to impose punishments on its employees, which reads as follows:

"189. Powers and functions of the Managing Director.-

(1) The Managing Director shall be the Chief Executive of the sugar mill. He shall carry into effect the resolutions of the Board which are in accordance with the Act, these rules and the by-laws and which are not against the interests of the sugar mill. He shall refer all other resolutions with details as to how, in his opinion, they are not in accordance with the Act, these rules or the by-laws or against the interests of the sugar mill, to the Registrar.

(2) The Managing Director shall have an overall control of the day-to-day administration of the sugar mill and all correspondence shall be conducted by him.

(3) The Managing Director may institute or defend any suit or other legal proceedings on behalf of the sugar mill and keep the Board informed.

(4)(a) The Managing Director shall have power to operate the accounts of the sugar mill, to endorse and transfer promissory note, Government and other securities held by the sugar mill and to sign, endorse and negotiate cheques and other

negotiable instruments, bonds (except bonds for moneys borrowed), receipts and all accounts and other documents connected with the business of the sugar mill for and on behalf of the sugar mill.

(b) The Managing Director shall have power to make arrangements for the proper maintenance of accounts and the custody of cash and other properties of the sugar mill.

(5) It shall be the duty of the Managing Director to carry on the business of the sugar mill in accordance with the Act, these rules, the by-laws and the regulations, if any, framed by the Board and approved by the Registrar.

(6) (a) Subject to the provisions in Section 73 to 77 and these rules, the Managing Director shall be the authority competent-

(i) to make appointment of the members of the establishment in accordance with the strength of each category and scales of pay prescribed by the Registrar;

(ii) to transfer all the members of the establishment;

(iii) to grant leave of al kinds to all members of establishment;

(iv) to award any punishment on any member of the establishment as may be specified under rule 187;

(b) appeals against the orders under sub-clause (iv) of clause (a) above shall lie to such authority, as may be specified under rule 187.

(7) The Managing Director shall exercise such other powers as may be delegated to him by the Board.

(8) The Managing Director may, by order in writing, delegate any of his powers or functions to any officer or servant of the sugar mill. He may, at any time, withdraw the powers or function delegated by him. The exercise or discharge or any power or function as delegated shall be subject to such restriction, limitations and conditions as may be laid down by the Managing Director and shall also be subject to his control and

revision. All such delegation of powers or functions of Managing Director shall be placed before the Board for its information."

8. By invoking powers under Section 75(1) of TNCS Act, the Government has issued G.O.(Ms).No.68, issuing regulations for constituting common cadre service. Further in accordance with Sub Section 3 of Section 75, the Government prescribed the common cadre authority. As per clause 5 of the Government Order, Commissioner of Sugar is requested to take immediate action with reference to the orders issued in para 4 above and to ensure that the formalities are complied within 60 days and send a report to Government.

9. The Coordinate Division Bench of this Court in W.A.(MD).No. 1143 of 2018 dated 28.08.2018 has considered the very same issue of jurisdiction to initiate disciplinary proceedings and has held that this notification issued G.O(Ms).No.68 constituting Cadre Authority is only for the purpose of maintaining the inter se seniority and promotion. The creation of Common Cadre System stand on a different footing from the departmental proceedings initiated against the delinquent officers. The creation of Common Cadre System will not change the character of the appellant, which is a Corporation and a registered Co-operative Society coming within the purview

of the Tamil Nadu Co-operative Societies Act and Rules made thereunder. The relevant paragraph reads as under:

> *"3. The appellant initiated disciplinary proceedings against the first respondent/writ petitioners for the misconduct indulged by them. After due enquiry, orders of dismissal were passed. These orders were put into challenge before the learned Single Judge. One of the contentions raised by the first respondent/writ petitioners was with respect to the jurisdiction to initiate and conclude the departmental proceedings, resulting in the impugned orders. It was contended by the first respondent/writ petitioners that in view of the Government Order issued in G.O.(Ms).No.68, Industries (MIC.2) Department, dated 01.03.2011, by which common cadre system was introduced, the appellant does not have jurisdiction and therefore, the first respondent/writ petitioners are governed by Section 75 of the Tamil Nadu Co- operative Societies Act, 1983. The learned Single Judge concurred with the contentions of the first respondent/writ petitioners and thus, allowed the Writ Petitions. Aggrieved over the same, the present Writ Appeals are filed.*
>
> *4. Mr.Isaac Mohanlal, learned Senior Counsel, representing Mr.S.Sajibino, learned counsel on record, would submit that the Government Order issued in G.O.(Ms).No.68, Industries (MIC.2) Department, dated 01.03.2011, by which common cadre system was introduced is meant for the service conditions, inter se seniority and promotion. Thus, the said system, which has been implemented, admittedly, does not make the appellant as a society registered under the Tamil Nadu Co-operative Societies Act, 1983 and consequently, the first respondent/writ petitioners would not become the employees of the society. The net result would be Section 75 of the Tamil Nadu Co-operative Societies Act, 1983 cannot have any application.*
>
> *5. Per contra, the learned counsel appearing for the first respondent/writ petitioners would submit that as there is no dispute about the creation of the common cadre system, as per the Government Order issued in G.O.(Ms).No.68, Industries*

(MIC.2) Department, dated 01.03.2011, Section 75 of the Tamil Nadu Co-operative Societies Act, 1983 would apply and therefore, no interference is required.

6. We find force in the submission made by the learned Senior Counsel appearing for the appellant. The creation of the common cadre system stands in a different footing from the departmental proceedings initiated against the delinquent officer. By the aforesaid creation, an employee of the appellant would not become an employee of the registered Co-operative Society. For the aforesaid reason, the Government Order issued in G.O.(Ms).No.68, Industries (MIC.2) Department, dated 01.03.2011, cannot and will not change the character of the appellant, which is a Corporation, into a registered Co-operative Society, coming within the purview of the Tamil Nadu Co-operative Societies Act, 1983 and the Rules framed thereunder.

7. We are not dealing with a case of an employee going from one department to another department and become permanent thereunder. Rather, the common cadre system merely provides for a maximum to be applied, after its creation between the individuals, who form the cadre insofar as their inter se seniority and further promotions are concerned. To make the position clear, the departmental proceedings against such an individual, if comes out from a Co-operative Society, would be under the Tamil Nadu Co-operative Societies Act and if from the appellant would be under the Rules and Regulations governed under the Public Sector Undertaking. Therefore, the first respondent/writ petitioners are continued to be the employees of the appellant Corporation. The learned Single Judge, in our considered view, has not considered this aspect. Thus, we are constrained to set aside the order passed by the learned Single Judge."

10. The learned counsel for the first respondent/writ petitioners submitted that the Division Bench in the judgment cited supra has not

considered Clause 5 of G.O.(Ms).No.68 dated 01.03.2011, which declares that the service conditions specifically applicable to the 'A' and 'B' category officers is common cadre service and Sub Section 3 to 6 of the Section 75 of TNCS mandates several procedural aspects to be followed by the Common Cadre Authority for initiating disciplinary proceedings.

11. Section 75(1) of the Cooperative Societies Act, is very clear, unambiguously declares and starts with non obstante clause that "Notwithstanding anything contained in this Act, all the bye laws made there under and subject to the rules made by the Government in this behalf, the Government may in the interest of Co-operative movement create one or more common cadre of service. This Section comes into operation subject to rules framed by the Government in this regard. The intention of Legislation reveals that the legislature has delegated its power to the Government to create common cadre service as prescribed under Section 75(1) of TNCS, Act subject to the rules framed by the Government.

12. In Section 75 of the TNCS Act, the legislature has framed the policy and delegated the implementation of the policy to the Government. Further it does not mandates that the Government shall implement the policy.

This Section gives discretion to the Government either to formulate the common cadre authority or it can continue as per the original service rules. Similarly, the delegated authority i.e., the Government herein is not entitled to go beyond the delegated power.

13. The grievance raised by the petitioners is that the delegated authority has not fully exercised all the powers delegated under Section 75 of the TNCS Act and failed to exercise the entire policy prescribed under Section 75 of the Act, that though there is a failure on the part of the Government to issue guidelines regarding the disciplinary proceedings in G.O.(Ms).No.68, the procedures prescribed for disciplinary proceedings under Section 75 of TNCS Act shall be deemed to be applicable. We are unable to accept this line of argument, since it is well settled principle that, legislature is competent to delegate power of legislation to Government for implementation of its policy. Further declaring delegated legislation shall have overriding effect of the act is also permissible. This delegated legislation is valid by the will of the legislature not by will of delegates that overriding effect is given to the delegated legislation.

14. The above view was elaborately discussed by the Apex Court in ***Hari Shankar Bagla and Another vs. State of Madhya Pradesh [AIR 1954 SC 465]***. While considering the legality of delegated legislation, i.e., the control order issued under Section 3 of the Essential Commodities Act, 1955 by the delegated authority, to override the provisions of other laws which are inconsistent in the provisions of the control order and whether the legislature is empowered to delegate its legislative policy to the delegated authority, it is observed in paragraph Nos.12 and 15 as follows:

> *"12. The next contention of Mr. Umrigar that section 3 of the Essential Supplies (Temporary Powers) Act, 1946, amounts to delegation of Legislative power outside the permissible limits is again without any merit. It was settled by the majority judgment in the Delhi Laws Act case (1) that essential powers of legislation cannot be delegated. In other words, the legislature cannot delegate its function of laying down legislative policy in respect of a measure and its formulation as a rule of conduct. The Legislature must declare the policy of the law and the legal principles which are to control any given cases and must provide a standard to guide the officials or the body in power to execute the law. The essential legislative function consists in the determination or choice of the legislative policy and of formally enacting that policy into a binding rule of conduct. In the present case the legislature has laid down such a principle and that principle is the maintenance or increase in supply of essential commodities and of securing equitable distribution and availability at fair prices. The principle is clear and offers sufficient guidance to the Central Government in exercising its powers under section 3. Delegation of the kind mentioned in section 3 was upheld before the Constitution in a number of decisions of their Lordships of the Privy Council, vide Russell v. The Queen (2), Hodge v. The Queen (3), and Shannon v. Lower Mainland Dairy Products Board (4)and since the coming into force of the*

Constitution delegation of this character has been upheld in a number of decisions of this Court on principles enunciated by the majority in the Delhi Laws Act case (1). As already. pointed out, the preamble and the body of the sections sufficiently formulate the legislative policy and the ambit and character of I (1) [1951] S.C.R. 747, (2) 7 A.C. 829. (3) 9 A.C. II7, (4) [I938] A.C. 708. The Act is such that the details of that policy can only be worked out by delegating them to a subordinate authority within the framework of that policy.

....

15. The last contention of Mr. Umrigar that section 6 having been declared invalid, section 3 is inextricably mixed with it and should also have been declared invalid is also not valid, because apart from the grounds given by the High Court for holding that the two sections were not so interconnected that the invalidity of one would make the other invalid, the High Court was in error in holding that section 6 was unconstitutional. Section 6 of the Act cited above declare, that an order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act. In other words it declares that if there is any repugnancy in an order made under section 3 with the provisions of any other enactment, then notwithstanding that inconsistency the provisions of the Order will prevail in preference to the provisions of other laws which are thus inconsistent with the provisions of the Order. In the view of the High Court the power to do something which may have the effect of repealing, by implication, an existing law could not be delegated in view of the majority decision of this Court in In Re: Delhi Laws Act (1), where it was held that to repeal or abrogate an existing law is the exercise of an essential legislative power. The learned Judges of the High Court thought that the conferment of power of the widest amplitude to make an order inconsistent with the pre- existing laws is nothing short of a power to repeal. In our opinion the construction placed on section 6 by the High Court is not right. Section 6 does not either expressly or by implication repeal any of the provisions of pre-existing laws; neither does it abrogate them. Those laws remain untouched and *unaffected so far as the statute book is concerned. The repeal of a statute means as if the repealed statute was never on the statute book. It is wiped out from the statute book. The effect of section 6 certainly is not to repeal any one of those laws or abrogate then;. Its object is simply to by-pass them where they are inconsistent with the provisions of the Essential Supplies (Temporary Powers) (I) [1951) S.C.R, 747 Act, 1946, or the orders made thereunder. In other words, the orders made under section 3 would be operative in regard to the, essential commodity covered by the Textile Control Order wherever there is repugnancy in this Order with the existing laws and to that extent the existing laws with regard to those commodities will not operate. By-passing a certain law does not necessarily amount to repeal or abrogation of that law. That law remains unrepealed but during the continuance of the order made under section 3 it does not operate in that field for the time being. The ambit of its operation is thus limited without there being any repeal of any one of its provisions. Conceding, how- ever, for the sake of argument that to the extent of a repugnancy between an order made under section 3 and the provisions of an existing law, to the extent of the repugnancy, the existing law stands repealed by implication, it seems to us that the repeal is not by any Act of the delegate, but the repeal is by the legislative Act of the Parliament itself. By enacting section 6 Parliament itself has declared that an order made under section 3 shall; have effect notwithstanding any inconsistency in this order with any enactment other than this Act. This is not a declaration made by the delegate but the Legislature itself has declared its will that way in section 6. The abrogation or the implied repeal is by force of the legislative declaration contained in section 6 and is not by force of the order made by the delegate under section 3 The power of the delegate is only to make an order under section 3. Once the delegate has made that order its power is exhausted. Section 6 then steps in wherein the Parliament has declared that as soon as such an order comes into being that will have effect notwithstanding any inconsistency therewith contained in any enactment other than this Act. Parliament being supreme, it certainly could make a law abrogating or repealing by implication provisions of any pre-existing law and no exception could be taken on the ground of excessive delegation to the Act of the Parliament itself. There is no delegation involved in the provisions of section6 at all and that section could* *not be held to be unconstitutional on that ground, The result therefore is that in our opinion the provisions of sections 3, 4 and 6 of the Essential Supplies (Temporary Powers) Act, 1946, are constitutional and. the impugned order is also constitutional. Accordingly' this appeal is dismissed, and the trial Court is directed to proceed expeditiously with the case in accordance with law. Appeal dismissed."*

15. As discussed by the Apex Court in the above judgment, it is permissible that the act of legislature giving power to make delegated legislations to the Government, and declaring that the delegated legislation shall have overriding effect of the Act. Since in Section 75 of TNCS Act, states that creation of cadre authority is "subject to the rules framed by the Government in this regard, unless the Government Order violates any of the provisions of the Act, right of parties, the regulations framed is legally valid. If the Government decides not to vest the disciplinary power to the common cadre, it is legally permissible."

16. On perusal of the Government Order in G.O.(Ms).No.68, while constituting the common cadre service, it has framed the regulation for the Common cadre service on the following purposes.

"Co-operative and public sector sugar Mills – Common Cadre system abolished during year 1997 – Revival of common Cadre system for the officers of the co-operative and public sector sugar Mills – orders – Issued.

Order:

1. In the Government order first read above, orders were issued to for the creation of common cadre system for the officers working in the cooperative and public sector sugar mills and the Director of sugar was permitted to create a common cadre system for the second and third level officers working in the co-operative and public sector sugar Mills duly authorising him to frame necessary rules and regulations for appointment, transfer etc.,

....

4. Government, after careful examination, accept the proposal of Commissioner of Sugar and revive the Common Cadre System in the name of "Tamil Nadu Co-operative and Public Sector Sugar Mills Managerial common cadre system" in the Co-operative and Public Sector Mills.

5. The Commissioner of sugar is requested to take immediate action with reference to the orders issued in para 4 above and to ensure that the formalities are completed within 60 days and send a report to Government.

6. The staffing pattern, transfer, confidential report, Recruitment, Qualification, Re-designation of the posts etc. are shown in the Annexure to this order."

17. The Clause 5 of the annexure in the said Government Order is framed to deal with the cadre authority and it reads as follows:

"5. Cadre Authority:

The Commissioner of Sugar will be the cadre authority and the cadre authority will decide the recruitment, promotion and transfer of the officers. The confidential report on the officers in A *and B grade will be maintained in the office of the common cadre authority. While directly recruiting to the entry level officers posts, all the conditions prescribed by the Government with regard to age at the entry and retirement and age relaxation, communal rotation then and there ordered by the Government is applicable. In respect of promotion to the posts in Grade-B there will not be any limit for entry. For promotion as mentioned above a common seniority will be adopted by the cadre authority for all the above posts. If the date of joining of the two individuals are same, the date of acquiring the requisite qualifications will be taken into account for deciding the seniority in a particular feeder Category. Once the superintendents are promoted as Officer Manager and the Accountant are promoted as Accounts Officer they will be coming under the purview of the Tamil nadu Co-op. & public sector sugar Mills Managerial Common Cadre System. Service conditions stipulated in Special bylaw and standing Orders will be applicable to Grade -C and D. The rules and regulations stipulated to TNCS Act and Rules are applicable to Grade A and B officers."*

18. Above Government Order reveals that the Government has not issued any regulations empowering common cadre authority to initiate the disciplinary proceedings and the cadre authority will decide the recruitment, promotion and transfer of service. The Government has intentionally not included the power for "disciplinary proceedings". Though Section 75 empowers the Government to issue rules including 'disciplinary proceedings', while constituting certain categories of employees and creating common cadre service, but it has not come forward to empower cadre authority with this power.

19. The Clause 5 of the regulation is very clear and unambiguous, it state that recruitment, promotion including seniority and transfer shall be made in accordance with Tamil Nadu Co-operative Societies and Sugar Mills managerial common cadre system. Service conditions stipulated in Special Bye-law and standing orders will be applicable to C & D cadres. The rules and regulations stipulated in TNCS Act rules are applicable to Grade A and B others. There is no ambiguity to understand clause 5 of the regulations. Since common cadre authority is vested with the power to deal with recruitment, promotions and transfer of service, the regulation issued under G.O.(Ms.)No. 68 is applicable for Grade A and B officers and for other cadres i.e., C & D standing orders and bye laws are applicable to them in the matters of recruitment, promotion and transfer of service. Further to clarify, it has been declared for all other purposes (Except Recruitment, Promotion and Transfer of Service), TNCS Act and rules are applicable. Hence, the writ petitioners are not entitled to seek applicability of disciplinary proceedings prescribed vide Sub-section 3 to 5 of the Section 75 of TNCS Act to them by relying on Clause 5 of the annexure.

20. Though Sub-section 3 to 5 of Section 75 of the TNCS Act prescribes the procedure for disciplinary proceedings, these provisions are

applicable 'subject to rules framed' under Sub-section 1 of Section 75 of the Act. Further it is the discretion of the Government to constitute to common cadre and empowers common cadre authority to deal with matters of Recruitment, Promotion and Transfer and disciplinary proceedings. However, the Government has not empowered common cadre authority with the power of disciplinary proceedings. It is the will of legislature while framing Section 75 of TNCS Act that they delegated power to Government to decide the powers of common cadre authority and the Government has not vested the disciplinary power. As stated in earlier paragraph, the Government is exercising the discretionary power in this regard, and the Government Order is not under the challenge in this writ proceedings.

21. Now the petitioners claim that, the Government has committed an error of not following the policy declared by the Government under Section 75 of TNCS, Act and the Court shall declare that the disciplinary powers also shall be exercised by the common cadre authority. It is also well settled that the Court cannot provide which is not provided in the statute or rules and the same can be done only by the legislation. It will be useful to refer the judgment in ***Union of India vs. Priyankan Sharan and another [008 INSC 1022]*** with regard to power of the Court, while interpreting the provisions of the Act and

whether Courts have power to legislate or supply certain provisions when the legislature failed to rectify any error in legislation or regulation or rules etc., It is observed as follows:

> *"23. While interpreting a provision the Court only interprets the law and cannot legislate it. If a provision of law is misused and subjected to the abuse of process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary. (See Commissioner of Sales Tax, M.P. v. Popular Trading Company, Ujjain MANU/SC/0381/2000 : (2000)5SCC515 . The legislative casus omissus cannot be supplied by judicial interpretative process.*
>
> *24. Two principles of construction - one relating to casus omissus and the other in regard to reading the statute as a whole - appear to be well settled. Under the first principle a casus omissus cannot be supplied by the Court except in the case of clear necessity and when reason for it is found in the four corners of the statute itself but at the same time a casus omissus should not be readily inferred and for that purpose all the parts of a statute or section must be construed together and every clause of a section should be construed with reference to the context and other clauses there of so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. This would be more so if literal construction of a particular clause leads to manifestly absurd or anomalous results which could not have been intended by the Legislature. "An intention to produce an unreasonable result", said Danackwerts, L.J. in Artemiou v. Procopiou 1966 1 QB 878, "is not to be imputed to a statute if there is some other construction available". Where to apply words literally would "defeat the obvious intention of the legislature and produce a wholly unreasonable result" we must "do some violence to the words" and so achieve that obvious intention and produce a rational construction. (Per Lord Reid in Luke v.IRC 1966 AC 557 where at p. 577 he also observed: "this is not a new problem, though our standard of drafting is such that it rarely emerges".*

25. It is then true that, "when the words of a law extend not to an inconvenience rarely happening, but due to those which often happen, it is good reason not to strain the words further than they reach, by saying it is casus omissus, and that the law intended quae frequentius accidunt." "But," on the other hand, "it is no reason, when the words of a law do enough extend to an inconvenience seldom happening, that they should not extend to it as well as if it happened more frequently, because it happens but seldom" (See Fenton v. Hampton 11 Moore, P.C. 345). A casus omissus ought not to be created by interpretation, save in some case of strong necessity. Where, however, a casus omissus does really occur, either through the inadvertence of the legislature, or on the principle quod semel aut bis existit proetereunt legislators, the rule is that the particular case, thus left un provided for, must be disposed of according to the law as it existed before such statute - Casus omissus etoblivioni datus dispositioni communis juris relinquitur; "a casus omissus," observedBuller, J. in Jones v. Smart (1 T.R. 52), "can in no case be supplied by a court oflaw, for that would be to make laws."

26. The golden rule for construing wills, statutes, and, in fact, all written instruments has been thus stated: "The grammatical and ordinary sense of the words is to be adhered to unless that would lead to some absurdity or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified, so as to avoid that absurdity and inconsistency, but no further" (See Grey v. Pearson 6 H.L. Cas. 61). The latter part of this "golden rule" must, however, be applied with much caution. "if," remarked Jervis, C.J., "the precise words used are plain and unambiguous in our judgment, we are bound to construe them in their ordinary sense, even though it lead, in our view of the case, to an absurdity or manifest injustice. Words may be modified or varied where their import is doubtful or obscure. But we assume the functions of legislators when we depart from the ordinary meaning of the precise words used, merely because we see, or fancy we see, an absurdity or manifest ***injustice from an adherence to their literal meaning" (See Abley v. Dale 11, C.B. 378).****"*

22. As discussed in earlier paragraph, the claim made by the writ petitioners, that the service conditions referred in Clause 5 of the G.O.(Ms).No.68 also shall include disciplinary proceedings and same shall be declared by the Court is not permissible. Once regulation is framed without empowering the cadre authority to exercise disciplinary power and the Managing Director, who is the disciplinary authority under rules has not been divested with the power of taking disciplinary proceedings, corollary is the rules already in existence for disciplinary proceedings still holds good and same is applicable. Hence the order passed by the learned Single Judge holding that the Managing Director is not empowered to initiate Disciplinary Proceedings is not valid, hence the said finding is hereby set aside.

23. With regard to the merits of the disciplinary proceedings, we have carefully gone through the charges framed against the petitioners in both the cases. The charges are very cryptic and bereft of details, not understandable by the delinquent employee. Further, it has not specifically stated how they were involved in forgery, cheating, other falsification of records and to the extent of loss caused to the Sugar Mill. In the case of N.Gururaja in W.P.No.22702 of 2017, he has challenged the proceedings dated 18.11.2017 passed by the

Managing Director of the Sugar Mill, dismissing him from service based on the defective charges framed against him in the departmental enquiry. It is also stated that in the departmental enquiry, no witnesses were examined and only based on the statement recorded from the petitioner, it was held that the charges against him were proved. Consequently, dismissal order was also passed.

24. It is submitted by the learned counsel for the petitioner that, since no witnesses were examined to prove the charges and purely based on some of the documents produced before the enquiry officer, that too without marking through any witnesses and further without any acceptable evidence to prove the charges, the writ petitioner has been held guilty of charges. It is the specific case of the petitioner that he has not committed any offence and he has also disputed various allegations leveled against him, hence order passed by the learned Single Judge quashing the order of dismissal of service is valid, hence prays to confirm the same.

25. The learned Standing counsel on behalf of the appellant/ respondent Sugar Mill submitted that the writ petitioner had participated in the domestic enquiry and he has not sough for any supply of documents, only after

appointment of enquiry officer, the petitioner had sought for some documents in the year 2017 for the purpose of delaying tactics. He further submitted that, after affording opportunity to the petitioner, the enquiry was concluded holding that the petitioner is found guilty of charges. He has also not availed the opportunity to cross examine the witnesses. The principle of natural justice was followed and based on the evidence recorded before the disciplinary proceedings, the petitioner was found guilty. Thereafter, the Disciplinary Authority has issued second show cause notice seeking for the petitioner's reply with regard to the enquiry report and after receiving the second representation from the petitioner, final order of punishment of dismissal was imposed, hence prays to set aside the order passed by the learned Single Judge and restore the punishment imposed on the writ petitioner.

26. We have gone through the report of the enquiry officer to ascertain whether any witnesses were examined in this case and also to verify whether any fair play is adopted in domestic enquiry. The enquiry report revealed that, after collecting the written submission of the delinquent, management was asked to give further reply and based on the reply to the written submission placed before him by the management and without examining any witnesses and without marking any documents, enquiry was

concluded. In the concluding paragraph, the enquiry officer stated that he has gone through the entire evidence, the explanation offered by the delinquent, the statement given by the delinquent during the domestic enquiry and the charges leveled against him, he had come to a conclusion that the charges against the petitioner were proved.

27. Further, the enquiry officer deeply analysed the reasons arrived for each charges, for which he has referred the documents placed before him, the explanations offered and held that the explanation given by the delinquent is not acceptable. The enquiry officer also dealt with various documents, but no where it is stated that whether these documents were produced by the Management or by the delinquent.

28. The learned Single Judge has also considered the entire materials and also submissions made on the side of the Management/ Sugar Mill and more specifically the point that, the petitioner was not availed the opportunity to cross examine the witnesses and observed that this submission itself a feeble attempt to make the case of the respondent/ Management. Before us, it was submitted by the respondent/ Management that the writ petitioner has admitted the charges. We have also gone through the records and it reveals that the

delinquent has stated that he was not able to maintain the records as per time schedule and he has specifically denied the allegation of misappropriation, making bogus entries, offence of cheating and breach of trust. That being so, detailed consideration by the enquiry officer to find the truth of the charges, shall be done only by way of recording proper evidence.

29. It is admitted that no management witnesses were examined and only based on the documents produced before him and after enquiring the delinquent, the enquiry officer had arrived to a conclusion that the charges against the petitioner were proved simply by comparing documents and explanations given. We are of the view that squarely, by adopting impermissible way and by violating principles of natural justice, enquiry was concluded, hence the enquiry conducted by the enquiry officer is farse and order passed by the Writ Court quashing the entire disciplinary proceedings is valid.

30. We have also observed in earlier paragraph that charges framed against the delinquent N.Gururaj is also vague and defective, hence the matter requires, remand to the Disciplinary Authority. The Disciplinary Authority is directed to issue fresh charges and initiate further proceedings, if any, if he

intend to continue disciplinary proceedings against the writ petitioner, since already a decade has been passed.

31. As per the writ petitions filed by R.Vengatasamy is concerned, similar type of the charges were framed against him as that of N.Gururaja, the said charge memo has been challenged and he has also filed writ petitions seeking assistance of an advocate for participation in the enquiry and to represent him. It is well settled that unless there is a provision in the Departmental Rules, Service Rules or any other standing orders seeking for conducting the departmental proceedings through an advocate on behalf of the delinquent, same is not permissible. In this case, petitioner has not produced any rules or regulations or statutory order in support of the same, hence we are of the view that seeking prayer for representing his case through an advocate in the departmental proceedings is not permissible.

32. R.Vengatasamy has also filed writ petition seeking for certain documents, since this Court in the earlier paragraphs had held that the charges have not been properly framed and it is found to be defective and vague, we are of the view that the charge memo and other proceedings are liable to be quashed with liberty to the Disciplinary Authority to decide whether he further

intend to proceed with the departmental proceedings against this petitioner.

33. R.Vengatasamy has also filed another writ petition challenging his suspension. On perusal of the record, it is revealed that he is under suspension continuously for a longer period, since this Court has quashed the charge memo report and remand back the matter to Disciplinary Authority, necessity for the continuation of suspension of delinquent shall also be reconsidered by the Disciplinary Authority. It is brought to our knowledge that criminal proceedings are also pending against the R.Vengatasamy, hence the Disciplinary Authority is directed to reconsider the necessity for continuation of suspension within the period of two months from the date of receipt of copy of the order.

34. In the result, these writ appeals are disposed of on the following terms:

(i) The Managing Director of the Sugar Mill is a Competent Authority to initiate disciplinary proceedings against the common cadre employees of the Tamil Nadu Co-operative and Public Sector Sugar Mills Managerial common cadre system.

(ii) The charge memo and other proceedings against the writ petitioners are quashed and the matter is remanded back to the Disciplinary Authority to take a call on all these matters with liberty to decide and consider the request of the petitioners regarding reinstatement, cancellation of suspension.

(ii) Based on the decision taken by the Disciplinary Authority, further proceedings against the writ petitioners may be issued within a period of two months from the date of receipt of copy of this order.

35. Consequently, connected civil miscellaneous petitions are closed. No costs.

(G.R.S.,J.) (K.R.S.,J.)
20.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm/ stn

To

1. The Principal Secretary,
   Ministry of Industries,
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   Chennai - 9

2. The Commissioner of Sugar Mills,
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   696, Anna Salai,
   Nandhanam, Chennai.

G.R. SWAMINATHAN, J.
and
K. RAJASEKAR, J.

Lm/ stn

Judgment made in
W.A.(MD).Nos.1757 to 1760 of 2023 and
935 of 2023

20.11.2025