IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-03-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE K. SURENDER

WA No. 707 of 2026
and
CMP No. 7065 of 2026

The Tamil Nadu Industrial Co operative Bank Ltd
Represented by its The Joint Director and
Managing Director,
No.36, South Canal Bank Road,
Raja Annamalaipuram, Mandavelipakkam,
Chennai-600028.

..Appellant(s)

Vs

1. The Joint Commissioner of Labour/ Appellate
Authority
Salem.

2. M. Indria Gandhi
W/o.L.Mahendran,
Asst.(dismissed),
No.1042/01 Maravan Kuttai,
Sembakuttai Thottam,
Panchampalayam Post,
Anthiyur Tk.,
Erode Dist 638 314.
Present Address at No.534/113 Narayana
Pillai Street,
40 feet Road,
Near Variety Medical,
Salem.

..Respondent(s)

WA No. 707 of 2026

To set aside the common Order dated 03.02.2026 made in W.P. No0.22999 of 2024 and allow the Writ Appeal and thus render justice.

WA No. 707 of 2026

For Appellant(s): Mr.Haja Nazirudeen,
Additional Advocate General
assisted by P.Hari Babu

For Respondent(s): Mr.R.Kumaravel,
Addl.Govt.Pleader for R1
Mr.P.Chandrasekar for R2

Judgment

(Judgment of the Court was delivered by S.M.Subramaniam J.)

Under assail is the common order dated 03.02.2026 passed in W.P.No.22999 of 2024 etc. batch.

2. The Tamil Nadu Industrial Cooperative Bank Limited is the appellant in the intra-court appeal. The 2nd respondent Smt.M.Indira Gandhi was holding the post of Assistant in the appellant's Cooperative Bank. Departmental disciplinary proceedings were initiated on the allegations of pledging spurious jewels for sanctioning of loan and the 2nd respondent was dismissed from service, on the basis of the enquiry report of the Enquiry Officer, holding that the charges are held proved.

3. The 2nd respondent filed an application before the competent authority /Joint Commissioner of Labour, under the Tamil Nadu Shops and Establishments Act, 1947. The said appeal was filed under Section 41(2) of the Tamil Nadu Shops and Establishments Act. The Joint Commissioner of

Labour/competent authority, allowed the appeal by setting aside the order of dismissal. Challenging the said order, the appellant preferred a writ petition. The writ court granted the additional relief of reinstatement, continuity of service along with the monetary benefits, by confirming the order passed by the competent authority under the Tamil Nadu Shops and Establishments Act. Having aggrieved, the Industrial Co-operative Bank preferred the present appeal.

4. Mr.Haja Nasiruddin, the learned Additional Advocate General appearing on behalf of the appellant would mainly contend that the appeal under Section 41 of the Tamilnadu Shops and Establishment Act, 1947, before the Joint Commissioner of Labour, is not maintainable. Therefore, the said preliminary issue has to be decided in the present appeal. To substantiate the issue regarding maintainability, the learned Additional Advocate General would contend that the appellant Cooperative Bank is registered under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. Under the scheme of the Tamil Nadu Cooperative Society Act, the service conditions, as approved by the Registrar of Cooperative Societies, would apply to the employees of the Co-operative Bank and under the bye law, the Managing Director of the Co-operative Bank is the disciplinary authority. The Registrar is the revisional authority. In the present case, the Managing Director/Disciplinary Authority imposed penalty of dismissal from service. Therefore, the appeal would lie under the bye-laws before the

Industrial Commissioner/Registrar of Cooperative Societies under Section 153 of the Tamil Nadu Cooperative Societies Act. Thereafter, a review is contemplated under Section 154 of the Tamil Nadu Cooperative Societies Act and any person aggrieved thereafter from and out of those orders may prefer a writ petition under Article 226 of the Constitution of India. This being the scheme under the Act, the special enactment will prevail over the general law. When Tamil Nadu Co-operative Societies Act being a special enactment, application filed before the competent authority under the Tamil Nadu Shops and Establishment Act, is not maintainable.

5. In support of the above contentions, the learned Additional Advocate General would rely on the judgment of the Hon'ble Supreme Court in the case of ***C.V.Raman vs. Management of Bank of India and another*** reported in ***(1998)3 SCC 105***[1] wherein the issue relating to the Tamil Nadu Shops and Establishments Act has been considered by the Hon'ble Supreme Court and paragraph Nos.16, 17 & 18 of the said judgment are extracted as follows:

> *16. As regards the first reason referred to above we have already pointed out that even if the decisions dealing with Article 12 of the Constitution are not made the foundation for deciding the point in issue, the principles enumerated therein referred to above particularly with regard to deep and pervasive control are relevant for deciding the point in issue. As regards the second reason referred to above suffice it to point out that for holding that the State Bank of India and the nationalised banks are establishments under the Central Government which have a corporate structure and have freedom in the matter of*

[1] *(1998)3 SCC 105*

day to day administration it is not necessary that these banks should be owned by the Central Government or be under its absolute control in the sense of a department of the Government. With regard to the last reason namely the circumstance that even though Reserve Bank of India is mentioned specifically in the relevant clause containing exemption neither State Bank of India nor the nationalised banks are so mentioned, it may be pointed out that the Reserve Bank of India was established as Shareholders' Bank under Act 2 of 1934. As seen above, the Kerala Shops Act and the Andhra Pradesh Shops Act which are of the years 1960 and 1966 respectively were modelled almost on the pattern of the Tamil Nadu Shops Act which is of the year 1947. When Section 4(1)(c) of this Act referred to the Reserve bank of India in 1947 it obviously referred to it as Shareholders' Bank. The Reserve Bank Transfer of Public Ownership Act (Act 82 of 1948) came into force on 1st January, 1949 and it was thereafter that the shares in the capital of the Reserve Bank came to belong to the Central Government. In this background no undue emphasis can be placed on the circumstance that the State Bank of India or the nationalised banks did not find mention in the provision containing exemption even though Reserve Bank of India was specifically mentioned therein. For the reasons stated above the aforesaid decisions of the Kerala High Court and the Andhra Pradesh High Court deserve to be set aside.

17. On the view which we have taken namely that the State Bank of India and the nationalised banks are establishments under the Central Government we do not find it necessary to consider the question as to whether these banks are establishments which not being factories within the meaning of the Factories Act, 1948 are, in respect of matters dealt with in the Tamil Nadu Shops Act governed by a separate law far the time being in force in the State so as to be entitled to claim exemption under clause (f) of sub-section (1) of Section 4 of the said Act or of the corresponding provisions in the Kerala Shops Act and the Andhra Pradesh Shops Act.

18. In the result, Civil Appeal Nos. 4291-4292 of 1984, 4329 of 1984 and 4735 of 1984 are dismissed. Civil Appeal No. 1120 of 1976 is allowed and the judgment of the Division Bench of the High Court dated 3rd February, 1976 in Writ Appeal No. 268 of 1975 as also the judgment of the learned Single Judge dated 14th November, 1974 in Writ Petition No. 5973 of 1973 as well as the orders of the Labour Officer in the appeal filed by Respondent No. 3 and of the Second Appellate Authority in the second appeal filed by the appellant-bank under the provisions of the Andhra Pradesh Shops Act are set aside. Civil Appeal No. 1042 of 1979 is also allowed and the judgment of the Andhra Pradesh High Court dated 24th January, 1979 in Writ Petition No. 86 of 1979 as also orders passed by the first and second appellate authorities in the appeals preferred by Respondent No. 3 and the bank respectively under the Andhra Pradesh Shops Act are set aside. Civil Appeal No. 837 of 1984 is also allowed and the judgment of Kerala High Court in Writ Petition No. 1419 of 1978 is set aside. The preliminary objection raised on behalf of the bank before the Appellate Authority in the appeal filed by Respondent No. 1 under Section 18 of the Kerala Shops Act to the effect that the said appeal was not maintainable is upheld. With the result that if the said appeal is still pending it shall be disposed of as not maintainable and in case it has been decided the said decision shall be treated as without jurisdiction. The various employees whose appeals preferred under the Kerala Shops Act or the Andhra Pradesh Shops Act referred to above have been hold to be not maintainable and the orders passed therein have been set aside shall be at liberty to take recourse to such other remedies as may be available to them in law. In the circumstances of the case, however, there shall be no order as to costs in any of these appeals.

6. In the view of the above legal position, the order passed by the

competent authority under the Tamil Nadu Shops and Establishments Act as well as the writ order impugned, are to be set aside.

7. Mr.P.Chandrasekar, learned counsel appearing on behalf of the 2nd respondent would strenuously oppose by stating that Section 75 of the Tamil Nadu Cooperative Societies Act provides that Tamil Nadu Shops and Establishments Act would not have any applicability in respect of the common cadre service employee and in the present case, the 2nd respondent, not being in common cadre service, the said Act would apply. That apart, the Hon'ble Supreme Court in the case of ***K.A.Annamma vs Secretary, Cochin Cooperative Hospital Society Limited*** reported in ***(2018) 2 SCC 729***[2] held that it is the choice of the employee concerned to choose anyone of the two forums available under two Acts. The said view has been followed by the Division of this Court in the case of ***P.Eawaramoorthy and Ors. vs. R.J.B. Leoraj and Ors.*** Reported in ***(2008) 5 MLJ 238***[3]. Relying on the above decisions, the learned counsel for the 2nd respondent would contend that the appeal under Section 41 before the competent authority under the Tamil Nadu Shops and Establishments Act is maintainable and the writ Court has considered the same elaborately and granted the relief. Therefore, the present appeal is to be rejected.

8. This Court heard the arguments advanced between the parties to the

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[2] *(2018) 2 SCC 729*
[3] *(2008) 5 MLJ 238*

lis on hand.

9. Section 4 of the Tamil Nadu Shops and Establishments Act, 1947, provides exemption and accordingly, Section 4(1) (c) and 4(1)(f) which reads as under:

> *(c) establishments under the central and State Governments, local authorities, the Reserve Bank of India, a railway administration operating any railway as defined in clause (20) of article 366 of the Constitution and cantonment authorities;*
>
> *(f) establishments which, not being factories within the meaning of the Factories act, 1948, are in respect of matters dealt with in this Act, governed by a separate law for the time being in force in the State.*

10. Section 5 provides Power of Government to apply Act to exempted persons or establishments, which reads as under.

> *5. **Power of Government to apply Act to exempted persons or establishments**-- Notwithstanding anything contained in section 4, the State Government may, by notification apply all or any of the provisions of this Act to any class of persons or establishments mentioned in that section, other than those mentioned in clauses (c) and (f) of sub-section 91), and modify or cancel any such notification.*

11. Section 35 of the said Act denotes fines to be imposed.

12. In view of Section 4(1)(f), if any establishment is governed by a separate law for the time being in force in the State, the Tamil Nadu Shops and Establishments Act would not apply. In the present case, admittedly, the appellant Co-operative Bank is registered under the provisions of the Tamil Nadu Co-operative Societies Act and the Tamil Nadu Cooperative Societies Act is a comprehensive Act, which provides provisions regulating the service conditions of the employees of the Co-operative Societies/ Co-operative Banks. Under the provisions of the Tamil Nadu Cooperative Societies Act, the special bylaw of each Co-operative Bank has been approved by Registrar/ competent authority under the Act. Thus, the Tamil Nadu Cooperative Societies Act as well as the Special bye laws as approved by the competent authority alone would apply in respect of the employees serving in the Co-operative Bank. Once such instance under the Co-operative Societies Act is that, the application of Gratuity Act and Provident Fund Act are excluded, specifically under Sections 78 and 79 of the Act if such schemes are provided under the bye-laws of the Society. Similarly, the procedures for departmental disciplinary proceedings are approved in the Special bye law and the said special bye law alone would apply in respect of the disciplinary proceedings initiated against the employees of the Co-operative Bank registered under the Cooperative Societies Act.

13. With reference to the arguments as advanced by the learned counsel for the 2nd respondent Bank that the special bye law itself indicates

about the application of the Tamil Nadu Shops and Establishments Act, this Court has gone through the scope of Clauses 27 and 28 of the special bye-laws applicable to the appellant Bank. Clause 28(iii) reads as under:

> *(iii) Every penalty of fine imposed under this special bylaw shall be in accordance with the provisions of section 35 of the Tamil Nadu Shops and Establishments Act, 1947 (Tamilnadu Act XXXVI of 1947) and the rules relating thereto, and for the said purpose the reference to the prescribed authority occurring in the said section 35 shall be construed as a reference to the registrar. However, no penalty by way of fine shall be imposed on any employee above the clerical or equivalent cadre of staff.*

14. A reference regarding section 35 of the Tamil Nadu Shops and Establishments Act was made only for the purpose of imposing fine by the Registrar and it does not speak about the applicability of the Tamil Nadu Shops and Establishments Act. Thus, the arguments as advanced on behalf of the 2nd respondent deserves no merits consideration and stands rejected.

15. Since a preliminary issue regarding maintainability has been raised in the present intra Court appeal, this Court is not inclined to consider the facts and the 2nd respondent may approach appropriate forum for adjudication of those facts.

16. Since in the present case, the Tamil Nadu Cooperative Societies Act being the special enactment as far as the Cooperative Bank/ Cooperative Societies are concerned and the Act, rules as well as the special bye laws

approved by the competent authority regulating the service condition or disciplinary proceedings are in force in respect of the appellant Bank and the Industrial Commissioner being the functional Registrar notified by the Government under the provisions of the Tamil Nadu Cooperative Societies Act, the employees working in the Industrial Cooperative Bank are bound to exhaust their remedies as contemplated under the Cooperative Societies Act, rules framed thereunder as well as the Special bye laws approved by the Registrar.

17. In view of the above legal position regarding maintainability of the application before the competent authority/Joint Commissioner of Labour under Section 41 of the Tamil Nadu Shops and Establishment Act, the impugned order as well as the order passed by the Joint Commissioner of Labour are to be set aside and accordingly, stand set aside.

18. Having regard to the facts of the case, about adjudication of the merits involved, the 2nd respondent is at liberty to approach the competent authority under the special bye laws as approved under the Act and thereafter, exhaust the remedy in the manner known to law.

19. Accordingly, the order passed by the competent authority under order dated 02.08.2023 in order Ka.Ni.Sa.No.01/2022 and the writ order impugned, passed in W.P.No.22999 of 2024 dated 03.02.2026 are set aside.

The Writ Appeal stands allowed. In the event of the 2nd respondent approaching the competent authority under the Special bye-law or under the Tamil Nadu Co-operative Societies Act, the revision or appeal or review filed by the 2nd respondent is directed to be entertained and to be decided on merits uninfluenced by any observations made in any of the orders and without reference to limitation. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (K.S.,J.)
18-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
VSI

To

The Joint Commissioner of Labour/ Appellate Authority
Salem.

S.M.SUBRAMANIAM J.
AND
K.SURENDER J.

VSI

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