

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 19-02-2026

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.20688 of 2023, W.P.No.20691 OF 2023

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W.M.P.No.20045 of 2023, W.M.P.No.20048 OF 2023

W.P.No.20688 of 2023

The Managing Director And Chief Executive Officer,
Karur Vysya Bank Limited,
Central Office, Karur.

... Petitioner

Vs.

1. The Joint Commissioner Of Labour
Appellate Authority Under The Tamil Nadu Shops And Establishments Act,
Erode.

2.P.Kalamaegam
S/o.Pugazhendi D2 Spapthagiri Towers
Yercaud Main Road Chinna Kollappatti
Salem- 636 008.

... Respondents

Prayer: Writ Petition has been filed under Article 226 of Constitution of India,
to issue a Writ of Certiorari, Calling for the records of the 1st Respondent in
TNSE No.1 of 2023 and quash the orders dated 09.05.2023 and pass.

W.P.No.20691 of 2023

The Managing Director And Chief Executive Officer,
Karur Vysya Bank Limited, Central Office,
Karur.

... Petitioner

Vs.

1. The Joint Commissioner Of Labour,
Appellate Authority Under The Tamil Nadu Shops And Establishments Act,
Salem.



2.The Joint Commissioner Of Labour,
Appellate Authority Under The Tamil Nadu Shops And Establishments Act,
Erode.

3.P.Kalamaegam
S/o.Pugazhendi, D2 Spapthagiri Towers
Yercaud Main Road Chinna
Kollappatti, Salem- 636. 008. ... Respondents

Prayer: Writ Petition has been filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records of the 1st Respondent in Na.Ka.No.A4/6984/2021 and quash the orders dated 13.03.2023 transferring the case to the 2nd respondent.

For Petitioners: in both W.P's	Mr.P.Raghunatha, for T.S.Gopalan And Co,
For Respondents: in both W.P's	Mr.A.M.Ayyadurai, Government Advocate, for R1 Mr.C. Seethapathy, for M/s.Raman & Associates, for R2

COMMON ORDER

These writ petitions are filed challenging the impugned award passed by the first respondent under Section 41 of the Tamil Nadu Shops and Establishments Act (XXXVI of 1947), whereby the appeal filed by the Workman against non-employment was allowed and reinstatement with back wages was ordered.



2. The brief facts leading to the filing of the writ petitions are that the petitioner-Management, namely, Karur Vysya Bank Limited, is a banking company with its Central Office at Karur and has several branches throughout the State of Tamil Nadu and across India. The employee, namely, Mr P. Kalamaegam, was working as Chief Manager in the Tirupur Main Branch between 16.04.2010 and 08.05.2013, and at the Tiruchengode Branch between 10.05.2013 and 01.12.2013. It is the case of the Management that during inspections of the two branches, sometime during the month of August 2013, certain shortcomings were noted, and it was found that 21 loan accounts, which had been sanctioned by the employee under his discretionary powers, had become Non-Performing Assets. There were also 19 similar instances in which certain lapses were recorded. In the meantime, the employee was transferred to Hyderabad and was working there. A charge-memorandum dated 27.01.2014 was issued to him. He submitted his explanation. A disciplinary enquiry was conducted. By an order dated 31.03.2016, he was dismissed from service.

3. Aggrieved thereby, the Workman originally filed an appeal under Section 41 of the Act before the Joint Commissioner of Labour, who is the Appellate Authority under the Tamil Nadu Shops and Establishments Act, Salem. When the matter was pending, he also attained the age of superannuation with effect from 31.01.2021. It is seen that the appeal was finally argued at



Salem after the detailed enquiry and marking of documents. At that stage, a memo seems to have been filed on behalf of the employee, requesting the transfer of the case to the Joint Commissioner at Erode on the ground that the charges related to his action as Manager at Tirupur and Tiruchengode, and the Joint Commissioner at Erode, more particularly, had the territorial jurisdiction. It is seen from the original records, as submitted on behalf of the Appellate Authority, that on consideration of the memorandum, the Joint Commissioner himself, on 13.03.2023, transferred the matter to Erode. Thereafter, a notice of hearing was served on both parties to appear for the hearing on 11.04.2023. It is seen that the very same individual who was posted as Joint Commissioner at Salem was, in the meanwhile, transferred to Erode. Under the said circumstances, on 11.04.2023, both sides' Counsel appeared in the enquiry and argued the matter, and from the records it is only written that the petitioner is present and the respondent is present, Orders reserved. Both Counsel for the Management and the employee have also signed. Thereafter, the impugned award was pronounced on 09.05.2023. Aggrieved by the same, the present writ petition is filed.

4. The Learned Counsel for the petitioner-Management assails the impugned award on the following grounds:



(i) When the notice of hearing was served by mentioning the date as 11.04.2023, in the impugned award, it is mentioned as if the hearing was concluded on 04.04.2013 which is was also a holiday on account of *Mahavir Jayanti* and, therefore, it can be seen that after the transfer, no opportunity whatsoever has been granted to the Management and therefore the impugned order is liable to be set aside for violating the principles of natural justice.

(ii) As per the rules framed by the State of Tamil Nadu under the Tamil Nadu Shops and Establishment Act, if any question as to the territorial jurisdiction arises, the Joint Commissioner has to refer the matter to the Commissioner. It is only the Commissioner who is empowered to transfer the file from one Joint Commissioner to the other. The Joint Commissioner, Salem, himself could not have exercised the said power of transfer. Therefore, the entire action of transferring the file from Salem to Erode is illegal, and consequently, the award also cannot stand.

(iii) It is evident that the petitioner has branches throughout the country. The charge-memorandum itself was served only when he was working in Hyderabad. Thereafter, the enquiry was conducted and the dismissal order was passed when he was employed at the establishment in Hyderabad. Therefore, when he was dismissed from service at the establishment in Hyderabad, it is



only the Telangana State Shops and Establishment Authority which has jurisdiction under the relevant statute. The Tamil Nadu Shops and Establishment Act will apply only if the person is employed in any establishment within the State of Tamil Nadu. Therefore, the entire exercise of power is without jurisdiction. This question was not raised during the trial. It was not raised by oversight, but being a question of law, it is raised before this Court.

5. In support of this proposition, the Learned Counsel for the petitioners would rely upon the judgment of the Division Bench of this Court in ***Punjab National Bank (by Chairman and Managing Director) vs. S.C.Gupta and others (1989) 1 LLN 504***. The judgement in ***S.Ravirajan vs. Deputy Commissioner of Labour, (Appeal), D.M.S Compound, Teynampet, Madras 1998 (III) CTC 561*** was also relied upon. Specific reference was made to paragraphs 8 and 12 of the Division Bench judgment of this Court in ***2008 SCC OnLine Mad 32*** (The Management of M.R.F Ltd., vs. S.N.D Sampath and others). Reliance was also placed on the judgment in ***R.M.Kannapan (Deceased) and others vs. The Deputy Commissioner of Labour and another (2010 SCC online Madras 3000)***.

6. The Learned Counsel would also rely on the judgment in ***Tirchinopoly City Co-operative Bank Ltd vs. Additional Commissioner for Workmen's***



Compensation another (1957) SC Online Mad 366 and Kalidas Dhanjibhai vs. State of Bombay (1954) 2 SCC 591.

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7. The next submission made by the Learned Counsel for the petitioner Management is that even though the award runs to 121 pages, up to page 120, it only records the proceedings and the arguments of both sides. Only in one paragraph is the reasoning provided. There is absolutely no application of mind to the arguments raised on behalf of the Management. The Appellate Authority must first determine whether the procedure was fair and proper and, even if it was not, to consider the merits of the charges as well. In appropriate cases, it must grant an opportunity for the Management to present evidence on the merits of the charges when deciding whether the non-employment was without reasonable cause or not.

8. Per contra, the Learned Counsel appearing on behalf of the employee submits that after the transfer, the hearing took place only on the notified date, which was 11.04.2023. He argued the matter, and the Learned Counsel for the Management was also present and argued the case, after which the orders were reserved. Therefore, due opportunity was granted. Regarding the transfer of the case, it was made only after noting that the cause of action arose within the jurisdiction of the Joint Commissioner at Erode. In fact, no objection was raised



during the final hearing of the petition on 11.04.2023, and therefore, the belated objection cannot be raised now.

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9. Regarding the jurisdiction under the Act, it is evident that this entire case pertains to the employment of the petitioner within Tamil Nadu, specifically at the Tirupur and Tiruchengode Branches. All charges relate to the petitioner's employment activities in Tamil Nadu. The management's Head Office is also located at Karur, Tamil Nadu. The consideration was made, and the order of dismissal was issued from the Head Office in Tamil Nadu. Therefore, even according to established case law, if the cause of action arises within Tamil Nadu, the authorities have jurisdiction to hear this case under the Tamil Nadu Shops and Establishments Act.

10. As far as the merits are concerned, the Learned Counsel first takes this Court through the numerous charges and submissions made by the employee in that regard. The Learned Counsel submits that the charges are merely an attempt to harass the Manager. The Manager exercised discretion in accordance with the Rules. Merely because the Bank had several unsecured loans, and during the sale of these unsecured loans through the securitisation company, the present loans—which were granted with proper security—were also bundled and sold to the securitisation company for a lesser amount. This was a commercial decision



taken by the petitioner Bank, and no liability can be attributed to the Manager.

In fact, in all loans, the value of the security exceeded the loan amount.

Therefore, the core issue was only the same, which was duly considered by the Appellate Authority. It is not necessary for the Appellate Authority to detail every paragraph; it is sufficient if it has thoroughly considered the main issue. This is not a case of non-application of mind. If the order is detailed, with all contentions of both parties clearly reflected, reading it as a whole shows that the order was passed after careful consideration of all submissions on the merits of the charges, demonstrating adequate application of mind. The petitioner also attained superannuation in 2021. The entire effort of the Management appears to be to harass him further and to make him run from pillar to post. Therefore, this Court has no reason to interfere with the impugned order passed by the first respondent.

11. I have considered the rival submissions made on either side and perused the material records for the case.

12. The following questions arise for consideration:

“(i) Whether the impugned award was passed without giving the petitioner Management a proper opportunity?”



(ii) Whether the award is liable to be set aside due to the suo motu transfer of the case from Salem to Erode in violation of the Rules?

(iii) Whether the appeal petition filed by the petitioner can be entertained under the Tamil Nadu Shops and Establishment Act, 1947, considering that the petitioner was employed in Hyderabad at the time of his dismissal from service?

(iv) Whether the award is sustainable based on the merits of the case?”

Question No.(i):

13. This Court summoned the original records of the Appellate Authority. Upon perusing the same, the final date of hearing is clearly stated as 11.04.2023. On that date, it is recorded that both the petitioner and the respondents were present. It is also noted that Orders were reserved, and the Presiding Officer signed the record. Both sides' Counsel also signed on that date, duly noting 11.04.2023. In this context, the error in the impugned order, where 11.04.2023 was typed as 04.04.2023, appears to be a typographical mistake and does not violate principles of natural justice. Notice was served on the petitioner Management for the hearing on 11.04.2023, and they appeared on



that date, after which the orders were reserved. Thus, it cannot be argued that they failed to appear or that orders were not reserved. The learned counsel further submits that the orders were indeed reserved on the same day. It is evident that a particular Officer conducted the enquiry thoroughly, and arguments were presented before that officer at the Salem location, with the matter at the stage of reserving orders. At this point, the matter was transferred from Salem to Erode. Fortunately, the same officer was subsequently posted in Erode as well. Therefore, it is natural for both sides' Counsel to conclude the case in the first hearing since the officer had conducted the enquiry in detail and heard the arguments; thus, reserving the orders on the very first day. There is nothing unlawful or incorrect about this procedure. Accordingly, I hold that the petitioner was given due opportunity.

Question No. (ii):

14. With reference to the contention regarding territorial jurisdiction, firstly the objection as to the territorial jurisdiction itself does not go to the root of the matter but it is only a technical objection and it should be taken at the earliest point in time. When the matter was posted for enquiry on 11.04.2023, the learned counsel for the management did not object to the territorial jurisdiction. On the other hand, they argued the matter, and the orders were also



reserved; therefore, such technical objection cannot be taken belatedly, especially when there is no inherent lack of jurisdiction on the authority. Both the judgments cited by the learned counsel for the petitioner in the case of ***Tirchinopoly City Co-operative Bank Ltd*** and ***Kalidas Bhanjibhai*** (*cited supra*) deal with matters where the authority lacks substantive jurisdiction, and merely because it was not raised earlier, the acquiescence or actions of the parties cannot vest jurisdiction. The same is not the case here. The authority has substantive jurisdiction. It is only a procedural objection, based on a technical plea that only the Commissioner is empowered to transfer the case from Salem to Erode. When the matter concerns employment at Tiruchengode and Tirupur, and no counter-arguments suggest it does not fall within the jurisdiction of the Joint Commissioner at Erode. Although the procedure normally requires the Joint Commissioner to refer the matter to the Commissioner, who should then pass the transfer order, we are considering whether non-compliance with this procedure vitiates the award. In my opinion, it does not, as it is only a matter related to the place of suing. Therefore, when substantive jurisdiction exists, the award is not invalidated by the procedural lapse. Accordingly, the second question is answered against the petitioner-management.



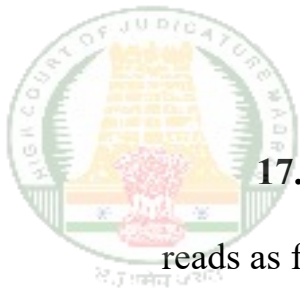
Question No. (iii):

15. We are examining the Authorities' jurisdiction under the Act. Jurisdiction, as per the Civil Procedure Code, the Industrial Disputes Act, or any other Act, cannot be extrapolated. It must be determined whether the statutory authority has jurisdiction according to the relevant statute. In this regard, the term 'Commercial Establishment' is defined under Section 2(3) of the Act, and the same is extracted hereunder:

“(3) ‘commercial establishment’ means an establishment which is not a shop but which carries on the business of advertising, commission, forwarding or commercial agency, or which is a clerical department of a factory or industrial undertaking or which is an insurance company, joint stock company, bank, broker’s office or exchange and includes such other establishments as the State Government may by notification declare to be a commercial establishment for the purposes of this Act.”

16. The term 'Employer' is defined under Section 2(5) of the Act and the same is reads as follows:

(5) ‘employer’ means a person owning or having charge of, the business of an establishment and includes the manager, agent or other persons acting in the general management or control of an establishment;



17. The term 'Establishment' is defined in Section 2(6) and the same reads as follows:

“(6) ‘establishment’ means a shop. commercial establishment, restaurant, eating-house, residential hotel, theatre or any place of public amusement or entertainment and includes such establishment as the [State] Government may by notification declare to be an establishment for the purposes of this Act;”

18. The expression 'person employed' is defined in Section 2(12) of the Act and the same reads as follows:

“(12) ‘person employed’ means—

(i) In the case of a shop, a person wholly or principally employed therein in connection with the business of the shop;

(ii) In the case of a factory or an industrial undertaking, a member of the clerical staff employed in such a factory or undertaking:

(iii) In the case of a commercial establishment other than a clerical department of a factory or an industrial undertaking, a person wholly or principally employed in connection with the business of the establishment, and includes a peon;

(iv) In the case of a restaurant or eating house, a person wholly or principally employed in the preparation or the serving food or drink or in attendance on customers or in cleaning utensils used in the premises or as a clerk or cashier;

(v) In the case of a theatre, a person employed as an operator, clerk, door-keeper, usher or in such capacity as may be specified by the [State] Government by general or special order;



(vi) *In the case of an establishment not falling under paragraphs (i) to (v) above, a person wholly or principally employed in connection with the business of the establishment and includes a peon;*

(vii) *In the case of all establishments, a person wholly or principally employed in cleaning any part of the premises; but does not include the husband, wife, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent on such employer;”*

19. It is essential to extract Section 41 of the Act, which reads as follows:

“41. Notice of dismissal—(1) No employer shall dispense with the services of a person employed continuously for a period of not less than six months, except for a reasonable cause and without giving such person at least one months notice or wages in lieu of such notice, provided however, that such notice shall not be necessary where the services of such person are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an enquiry held for the purpose.

(2) The person employed shall have a right to appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct as held by the employer.

2. [(2-A) The appellate authority may, if it considers that any document or the testimony of any person is relevant or necessary for the discharge of its duties under this Act as appellate authority, call for and inspect such document or summon and examine such person. For the aforesaid purposes,



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it shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908), in respect of the following matters, namely:-

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) compelling the production of documents;

(iii) issuing commissions for the examination of witnesses

(2-B) The appellate authority, may, after giving notice in the prescribed manner to the employer and the person employed, dismiss the appeal or direct the reinstatement of the person employed, with or without wages for the period he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as it deems fit in the circumstances of the case.]

3) The decision of the appellate authority shall be final and binding on both the employer and the person employed.”

20. Thus, in reading the provisions, it can be seen that the Act applies to the Establishments within the State of Tamil Nadu, and the provision deals with persons employed continuously for a period of not less than six months. Only persons employed within the Establishment in Tamil Nadu shall have the right to approach the Appellate Authority. In this regard, the matter was originally considered by the Division Bench in ***Punjab National Bank***, cited *supra*. In that case, the employee was terminated while serving in Kanpur. The Workman contended that only by considering certain events from when he was working in



Tamil Nadu, the termination order was passed. However, the Division Bench made the following findings and rejected the employee's case, and the relevant portion is extracted hereunder.

“We are of the view that there is absolutely no nexus between the prior proceedings and the order of termination of the services of the first respondent and we cannot, therefore, accept the argument of the learned counsel for the first respondent that the prior proceedings in Tamil Nadu resulted in the order of termination being passed at Kanpur and, therefore, atleast some part of the cause of action arose in Tamil Nadu enabling the first respondent to maintain his appeal under S.41(2) of the Act before the second respondent at Madras.”

(Emphasis supplied)

21. Considering the judgment in *S.Ravirajan, cited supra*, which is a case, it was held that when the Workman approaches the jurisdiction of the authority in the State of Tamil Nadu, due regard was given to the fact that the employer-employee relationship should be subsisting with respect to the establishment in Tamil Nadu. This also followed the dictum made in *Punjab National Bank, cited supra*. However, the matter was examined in detail by the Division Bench of this Court in the *Management of M.R.F Limited, cited supra*. That case involved an order of termination issued from the head office of the management in Chennai. The petitioner had previously worked in Tamil Nadu but was later



transferred to Karnataka, and at the relevant time, was working in Goa. The issue was whether he tendered his resignation while in Goa. The Workman's case was that he was pressured by the authorities to resign in Goa. In this context, the Division Bench considered the issue and also examined the earlier ***Punjab National Bank*** case. In paragraph 12, the view from the ***Punjab National Bank*** case was reaffirmed. It is essential to quote paragraph 12 as follows:

“12. We are in respectful agreement with the view taken by the Division Bench in Punjab National Bank's case that the relationship of employer and employee with reference to a commercial establishment in Tamil Nadu is a pre-requisite for preferring an Appeal under Section 41(2) of the Tamil Nadu Shops and Establishments Act. The Tamil Nadu Shops and Establishments Act is expected to apply to establishments in the State of Tamil Nadu alone and to employees employed to work in such establishments. In the case at hand, there is no dispute that the first respondent was employed in the Goa establishment of the Company, an establishment governed by the Goa Shops and Establishments Act. It is also not in dispute that while working at Goa, the first respondent submitted his resignation letter dated 18.01.2007. The first respondent in his resignation letter has given his temporary address as residing at Goa, while his permanent address is at Kolar Gold Fields, which is in the State of Karnataka. On receiving the said resignation letter, the Senior General Manager-Human Resources and Services, Chennai relieved him vide his letter dated 21.1.2003 and the acceptance of resignation was despatched on 24.1.2003. The acceptance letter was sent to the



first respondent to his Goa address as well as to his permanent address at Karnataka. The acceptance letter was received by him at both the addresses on 31.1.2003, as evident from the postal acknowledgments produced by the management. When there is no employer-employee relationship subsisting with regard to an establishment situate in the State of Tamil Nadu, the mere fact that the resignation letter was accepted at Chennai would not be enough or sufficient to clothe the Appellate Authority under Section 41(2) of the Act to entertain the Appeal filed by the first respondent. We are unable to agree with the view taken by the learned Single Judge that both the authorities namely, the authority under the Goa Shops and Establishments Act and the authority under the Tamil Nadu Shops and Establishments Act had concurrent jurisdiction to deal with the case of the first respondent.”

22. Again in paragraph 14, it was finally concluded as follows:

“When a person is employed to work in an establishment in Goa, it must be held that he was employed wholly in connection with the business of Goa establishment. Merely because, the Corporate Office was in Chennai or because the resignation letter has been accepted in Chennai would not confer jurisdiction on the Appellate Authority under Section 41(2) of the Act.”

23. It is the said Division Bench judgment which is also followed in the other cases cited by the petitioner.



24. Thus, a careful reading of the said two Division Bench judgments of this Court shows that the Court must focus only on the language of Section 41 and the scheme of the Tamil Nadu Shops and Establishment Act, 1941. The ‘part cause of action’ theory cannot be applied here. What needs to be determined is whether the person approaching is a ‘person employed’ with reference to the establishment situated in Tamil Nadu. Unlike the cases of the petitioners in ***Punjab National Bank*** or in ***the Management of M.R.F. Ltd*** cited above, the dismissal from service in respect of this petitioner is solely related to his employment in Tamil Nadu and has no relation to his employment in Hyderabad. In such a situation, when the words ‘person employed’ used in Section 41 should further be restricted only to the ‘person employed’ as on date of the termination, that is *in presenti* or the plain meaning as such can be taken is the question. The statute is a beneficial statute aimed at providing redress to affected employees, and if the plain reading of Section 41 does not exclude the employee, there is no need to adopt a restrictive interpretation to exclude him. A reading of the same, the person employed should mean the employment immediately prior to the termination and the employment that to which the termination is wholly relatable.

25. A careful reading of the Division Bench judgments in the ***Management of M.R.F Ltd*** and the ***Punjab National Bank*** would only



strengthen the above view, as both Division Benches have in detail considered that the non-employment in those cases had nothing to do with employment in the Establishment within the State of Tamil Nadu. Accordingly, the third question is answered: the authorities under the Tamil Nadu Shops and Establishments Act will have jurisdiction in the facts and circumstances of the present case.

Question (iv):

26. To answer this, it is essential to refer to the charge-memorandum issued to the petitioner. The articles of charge are as follows:

“01. You have failed to take all necessary steps to ensure and protect the interest of the Bank, failed to discharge your duties with devotion and diligence and thereby acted in a manner unbecoming of a Bank officer in violation of Regulation 3(1) of Karur Vysya Bank Officer Employees’ (Conduct) Regulations.

02. You have failed to act In your best judgement in the performance of your official duties in violation of Regulation 3(3) of Karur Vysya Bank Officer Employees’ (Conduct) Regulations.”



27. However, the statement of allegations contains details of allegations spanning up to nine pages. The first charge involves releasing a loan for the real estate sector, and it is alleged that the branch in question lacked the authority to approve loans in that sector. The second allegation relates to the sanctioning of a loan, particularly when the same had been previously considered and rejected by the Head Office due to a specific limit. The third allegation concerns a particular loan account where the limit was exceeded. Similar accusations are made regarding each allegation, including claims of violations of bank norms and rules. It is also alleged that the employee exposed the bank to loss, as a loss was incurred. While the employee submitted detailed responses and I also presented comprehensive arguments—both of which are recorded in the impugned order—it is understood that, as correctly argued by the learned counsel for the management from page 1 to page 120, the order primarily records the proceedings and the subsequent arguments from both sides. The operative portion of the order is as follows:



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மேற்படி இருதரப்பு வாதுனாகளை பரிசீலனை செய்ததில் மேல்முறையீட்டாளர் எதிர்மனுதாரர் வங்கிக்கு நிதியிழப்பு ஏற்படுத்தினார் என்று தெரிவித்திருந்தாலும் எதிர்மனுதாரரின் பதிலுரையில் பாரா 61ல் உள்ள அட்டவணைபின்படி எதிர்மனுதாரரின் வங்கியில் கடன் பெற்றவர்களின் கடன் கணக்கு முடிக்கப்பட்டுள்ளதாகவும் அவ்வாறு கடன் கணக்கு முடிக்கப்படும் தங்கள் வங்கிக்கு நஷ்டம் ஏற்பட்டுள்ளதாகவும் குறிப்பிடப்பட்டுள்ளது ஆனால் கடன் கொடுக்கும் ஒவ்வொரு நபரிடமிருந்தும் கடன் தொகையை விட அதிக மதிப்புள்ள சொத்துக்களின் ஆவணங்களை வங்கிகள் தங்களின் பெயருக்கு மாற்றம் செய்த பின்னரே கடன் வழங்கப்படும் என்பது ரிசர்வ் வங்கியின் கொள்கையாகும். மேலும் கடன்தாரர் கடனை திருப்பி செலுத்தாதபட்சத்தில் கடன் தொகைக்கான சொத்தினை வங்கிகள் விற்பதற்கு எவ்வித தடையும் கிடையாது. எனவே மேற்கண்டவாறு கடன் தொகையைவிட அதிக மதிப்புள்ள சொத்துக்களை வங்கிகள் ஏலத்திற்கு விற்று வங்கிகளுக்கு வரவேண்டிய கடன்தொகை மற்றும் வட்டியை எடுத்துக்கொள்ளலாம். ஆனால் மேற்கண்ட வழிமுறைகளை கையாளாமல் ASREC என்ற நிறுவனத்திற்கு குறைந்த விலைக்கு விற்ப்பும் செட்டில்மென்ட் வாயிவாக குறைந்த தொகைக்கும் பேசி கடன் கணக்கை முடித்துள்ளனர் இந்த செயல் மேற்படி வங்கி தன்னிச்சையாக பொது விதிகளை கடைபிடிக்காமல் எடுத்த முடிவாகவே இந்தநிதிமன்றம் கருதுகிறது.

எனவே மேற்படி வங்கி தன்னிச்சையாக விதிகளை கடைபிடிக்காமல் ஏற்படுத்திக்கொண்ட நஷ்டங்களுக்கு மேல்முறையீட்டாளர்தான் காரணம் என்ற வாதம் ஏற்கத்தக்கதாக இவ்வை என்று முடிவெடுத்து மேல்முறையீட்டாளர் மீதான 31.03.2016ஆம் தேதிய எதிர்மனுதாரர் பிறப்பித்த பணி நீக்க உத்தராவைடுத்து செய்து இதன் மூலம் உத்தரவிடப்படுகிறது.

செலவந்தொகை இவ்வை.

28. Thus, it is evident that the operative part is contained in only one paragraph, which is a single long sentence. This sentence contains only one reasoning: if the Management had chosen to sell the assets to an Asset Recovery Company at a lower rate, despite the securities being available, the petitioner cannot be held liable for the loss. No exception can be taken to this finding with reference to the loss. As stated earlier regarding, in this case, the charge was not solely for causing loss but included other allegations as well. Both sides' Learned Counsel also argued on merits concerning the other charges. Although



this Court usually considers these allegations, given the numerous instances mentioned and the detailed arguments made, it is just and necessary for the Appellate Authority to exercise its appellate power to assess the correctness of these allegations and to issue recent findings accordingly.

29. I agree with the Learned Counsel for the Workman that the delay will impact the Workman. However, I cannot undertake the exercise myself in this case due to the complexity of the charges, which involve many factual aspects, and the 103 documents marked on behalf of the respondent Management by consent that must be considered. Therefore, I cannot uphold the award of the first respondent authority since he did not provide detailed findings on each charge, which are necessary to determine whether the non-employment was for a sufficient cause or not. The Authority must exercise its jurisdiction in accordance with law. Accordingly, the fourth question is answered.

The Result:

30. In view of the aforesaid findings, this Writ Petitions are disposed of on the following terms:



(i) The award of the 1st Respondent in TNSE No.1 of 2023 dated 09.05.2023 shall stand set aside.

(ii) The matter is remitted to the file of the first respondent for reconsideration of the issues. The authority can proceed from the stage of arguments; thus, it would also be open for both sides to request a reopening of the case and to lead any further evidence they choose to do so.

(iii) The entire exercise shall be completed as expeditiously as possible and, in any case, no later than five months from the date of receipt of the copy of this order.

There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

19-02-2026

Neutral Citation: Yes

bsm

Note: After taking photocopy of the note sheets copies alone, the Registry can return the balance of the records.

To,

1.The Joint Commissioner Of Labour
Appellate Authority Under The Tamil Nadu Shops And Establishments Act,
Salem.

2.The Joint Commissioner Of Labour
Appellate Authority Under The Tamil Nadu Shops And Establishments Act,
Erode.



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W.P.No.20688 of 2023 & W.P.No.20691 of 2



D.BHARATHA CHAKRAVARTHY, J.
bsm

W.P.Nos.20688 & 20691 of 2023
& WMP Nos. 20045 & 20048 of 2023

19-02-2026