



W.P.Nos.22994, 22999, 23358 and 23363 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on : 23.01.2026

Orders pronounced on : **03.02.2026**

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.22994, 22999, 23358 and 23363 of 2024
and W.M.P.Nos.25516, 38381, 38438, 38442, 25519, 38435, 38388,
25072, 38440, 38443, 38441 and 25079 of 2024

In W.P.No.22994 of 2024:-

The Tamil Nadu Industrial Co-operative Bank Ltd.,
Rep. By its Joint Director/Managing Director,
No.36, South Canal Bank Road,
Raja Annamalaipuram,
Mandavelipakkam, Chennai – 600 028. .. Petitioner

Versus

1. The Joint Commissioner of Labour/
Appellate Authority,
Salem.
2. K.Kemeena .. Respondents

In W.P.No.22999 of 2024:-

The Tamil Nadu Industrial Co-operative Bank Ltd.,
Rep. by its Joint Director/Managing Director,
No.36, South Canal Bank Road,
Raja Annamalaipuram,
Mandavelipakkam, Chennai – 600 028. .. Petitioner

Versus



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

2. M.Indira Gandhi

.. Respondents

In W.P.No.23358 of 2024:-

The Tamil Nadu Industrial Co-operative Bank Ltd.,
Rep. by its Joint Director/Managing Director,
No.36, South Canal Bank Road,
Raja Annamalaipuram,
Mandavelipakkam, Chennai – 600 028.

.. Petitioner

Versus

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

2. T.Muthuraja

.. Respondents

In W.P.No.23363 of 2024:-

The Tamil Nadu Industrial Co-operative Bank Ltd.,
Rep. by its Joint Director/Managing Director,
No.36, South Canal Bank Road,
Raja Annamalaipuram,
Mandavelipakkam, Chennai – 600 028.

.. Petitioner

Versus

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

2. K.Mahalakshmi

.. Respondents



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Prayer in W.P.No.22994 of 2024 : Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, calling for the records of the first respondent, dated 02.08.2023 made in order Ka.Ni.Sa No.03/2022 and quash the same as without jurisdiction and contrary to law in view of Section 4(f) of the Tamil Nadu Shops and Establishments Act, 1947 since the petitioner Bank being a Co-operative Society falling under Sec.2(14) of the Tamil Nadu Co-operative Societies Act, 1983, a special enactment.

Prayer in W.P.No.22999 of 2024 : Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, calling for the records of the first respondent, dated 02.08.2023 made in order Ka.Ni.Sa No.01/2022 and quash the same as without jurisdiction and contrary to law in view of Section 4(f) of the Tamil Nadu Shops and Establishments Act, 1947 since the petitioner Bank being a Co-operative Society falling under Sec.2(14) of the Tamil Nadu Co-operative Societies Act, 1983, a special enactment.

Prayer in W.P.No.23358 of 2024 : Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, calling for the records of the first respondent, dated 02.08.2023 made in order Ka.Ni.Sa No.02/2022 and quash the same as without jurisdiction and contrary to law in view of Section 4(f) of the Tamil Nadu Shops and Establishments Act, 1947 since the petitioner Bank being a Co-operative Society falling under Sec.2(14) of the Tamil Nadu Co-operative Societies Act, 1983, a special



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enactment.

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Prayer in W.P.No.23363 of 2024 : Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, calling for the records of the first respondent, dated 02.08.2023 made in order Ka.Ni.Sa No.04/2022 and quash the same as without jurisdiction and contrary to law in view of Section 4(f) of the Tamil Nadu Shops and Establishments Act, 1947 since the petitioner Bank being a Co-operative Society falling under Sec.2(14) of the Tamil Nadu Co-operative Societies Act, 1983, a special enactment.

For Petitioner : Mr.Haja Nazirudeen,
(in all cases) Additional Advocate General,
Asstd. By Mr.P.Haribabu,
Government Advocate

For Respondents : Mr.A.M.Ayyadurai,
(in all cases) Government Advocate for R1

: Mr.P.Chandrasekar, for R2

COMMON ORDER

All these Writ Petitions are connected to each other and as such, are taken up and disposed of together by this common order.

2. The petitioner is the Tamil Nadu Industrial Co-operative Bank Limited. While so, it was found that one *Sakthivel*, who was appointed as a Jewel Appraiser, had played fraud on the bank by keeping fake jewels in



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89 packets with reference to the jewel loan issued to the customers and thus, caused loss to the bank. As a matter of fact, a criminal complaint was lodged in respect of the entire episode and only the Jewel Appraiser, *R.Sakthivel*, is being prosecuted in the criminal case. Similarly, surcharge proceedings under Section 87 of the Tamil Nadu Co-Operative Societies Act, 1983, was also initiated, in which also, surcharge order is passed only against the said order Jewel Appraiser and the concerned individuals, who obtained loan.

3. While so, the four workmen, involved in this case, *K.Kameena*, who is an Assistant in the particular branch, *T.Muthuraja*, the Bank Inspector, *K.Mahalakshmi*, Sub-Accountant, *M.Indira Gandhi*, Assistant, who are all working in the branch and sanctioned/disbursed some of the loans and processed those loans in which the fake jewels were involved, were issued with the charge memorandum containing 13 charges. All the charges relate to the fact that the workmen, being the employees of the Co-operative Society, ought to have independently verified the quality of the jewels which they have not done and the further charge is that they colluded with the Jewel Appraiser and caused loss to the society and they failed to verify the genuineness of the loan applicants.



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All these employees submitted that except for performing their part of the role in sanctioning and processing the loan, they did not know of the fraud being played by the said *Sakthivel*. They denied that they were in collusion or being beneficiary of such fraud being played. Domestic Enquiries were conducted on the charges and all the charges were held to be proved in the Enquiry Report, based on which, all the four workmen were dismissed from the service. Aggrieved thereby, they filed an appeal under Section 41 of the Tamil Nadu Shops and Establishments Act, 1947 and by the impugned awards, the dismissal was set aside. They were ordered to be reinstated into service. Aggrieved thereby, these four Writ Petitions are filed in respect of the four cases by the management.

4. Heard *Mr.Haja Nazirudeen*, learned Additional Advocate General for the petitioner and *Mr.A.M.Ayyadurai*, learned Government Advocate for the first respondent, *Mr.P.Chandrasekar*, learned Counsel for the second respondent, in all the cases.

5. The learned Additional Advocate General for the petitioner would submit that the impugned orders are to be set aside for want of jurisdiction. He would rely upon Section 4(f) of the Tamil Nadu Shops



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and Establishments Act, 1947. When the employees are governed by the Tamil Nadu Co-operative Societies Act, 1983 which is self-contained code which has provisions in respect of all the conditions of service, including special provisions for revision under Section 153 in respect of the punishments imposed and the by-laws also containing appeal provisions, there is no jurisdiction for the appellate authority under the Tamil Nadu Shops and Establishments Act, 1947 to entertain an appeal under Section 41 of the Act. The learned Additional Advocate General would rely upon the judgment of the Hon'ble Supreme Court of India in ***C.V.Raman Vs. Management of Bank of India and Anr.***¹, more specifically, relying upon paragraph Nos.17 and 18 of the said judgment. The said paragraphs are extracted hereunder for ready reference:-

“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 for 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 Appeals 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

1 (1988) 3 SCC 105



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dated February 3, 1976 in Writ Appeal No. 268 of 1975 as also the judgment of the learned Single Judge dated November 14, 1974 in Writ Petition No. 5973 of 1973 as well as the orders of the Labour Officer in the appeal filed by Respondent 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 January 24, 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 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 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 held 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 orders as to costs in any of these appeals.”

The learned Additional Advocate General would also rely upon the judgment of this Court in *The Management of the Lakshmi Vilas Bank Ltd., Vs. Deputy Commissioner of Labour*² .

6. The learned Additional Advocate General would also argue on

² 2004-1-L.W. 261



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the merits of the case. He would rely upon the circular, dated 31.07.2001 which states that the middle level officials are also jointly responsible for the procedural lapses, if any, found at the later date, with reference to the disbursement of the loan. He would also rely upon the circular, dated 08.07.2002 which says that the loan application should be scrutinised upto the Assistant Level upto Sub-Accountants and Inspectors before sanctioning by the Branch Managers. He would rely upon the circular, dated 16.10.2023 to contend that not only the Jewel Appraisers, but, the officials, who are connected with the episode will also be liable for the loss, if, during the inspection, any deficiency in stock is found. He would rely upon the circular, dated 06.11.2003 to contend that the ultimate and final responsibility of the recovery of such loans falls on the persons who sanctioned the loan and if no action is being pursued, then, recovery will be effected from the officials concerned.

7. The learned Additional Advocate General would rely upon the circular, dated 26.05.2010 by pointing out Clause-IV and Clause-V to contend that the concerned official ought to have verified whether the jewels, belonging to the particular customer or not and the jewel loan should not be granted to the strangers. The learned Additional Advocate



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General would rely upon the circular, dated 30.04.2014 notifying the new duties and responsibilities, in which, the duty with reference to jewel loan day book etc., are fixed on these employees. The circular, dated 26.05.2016 is relied upon to contend that all the employees were also given awareness programme in appraising of gold jewels and scrutiny of loan applications. Reliance is also placed on the precautions and procedures for sanctioning of loans framed by the society. It states that the jewels should be tested and weighed in the presence of the borrower. The learned Additional Advocate General finally relied upon the relevant by-laws prescribing the punishment and also the procedure for conduct of enquiry. He would submit that when the enquiry has been duly conducted in the teeth of the huge loss to the society and grave misconduct committed by these employees, they were rightly dismissed from the service. The learned Additional Advocate General would also rely upon the judgment of this Court in *K.Kulandaivelu Vs. Appellate Authority under Tamil Nadu Shops and Establishments Act, 1947 and Anr.*³ to contend about the proportionality of the punishment.

8. Per *contra*, Mr.P.Chandrasekar, learned Counsel for the

³ 2002 (1) L.I.N 355



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second respondent/workmen in all the cases, would submit that the question of jurisdiction is no longer *res integra* and has already been decided by the order of the Madurai Bench of this Court, dated 26.03.2024 in ***Vallioor Co-operative Primary Agricultural and Rural Development Bank Limited, represented by its Special Officer, Tirunelveli Vs. the Deputy Commissioner of Labour and Ors.***⁴ in ***W.P.(MD).Nos.192 and 193 of 2014*** and it has been held that the appellate authority under the Tamil Nadu Shops and Establishments Act, 1947 will have jurisdiction. The learned Counsel would also rely upon the judgment of this Court, dated 12.10.2022 in ***P.Rajamanickam Vs. the Deputy Commissioner of Labour and Anr.***⁵ in ***W.P.No.4117 of 2014***. On merits, the learned Counsel would rely upon the various documents that were marked during the enquiry including the deposition of the appraiser in the Section 81 Enquiry Report. The Criminal Case was also launched only against the said *R.Sakthivel* and the surcharge proceedings were also not initiated against these workmen. The learned Counsel would submit that there is absolutely no iota of evidence that there was any lack of supervision or there was any active collusion of these employees. The finding of the Domestic Enquiry Officer are nothing but perverse. The appellate

⁴ MANU/TN/2623/2024

⁵ 2021 (4) L.L.J. 424 (Mad)



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authority has rightly considered the issue and has passed the impugned orders.

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

10. The following questions arise for consideration in the instant cases:-

(i) Whether or not the appellate authority under the Tamil Nadu Shops and Establishments Act, 1947 has jurisdiction to entertain an appeal from the workmen being employees of the Co-operative Societies governed by the provisions of the Tamil Nadu Co-operative Societies Act, 1983 and the rules and by-laws framed thereunder?

(ii) If so, whether the order passed by the first respondent appellate authority is sustainable in law?

(iii) To what relief, the parties are entitled to?

Question No.i:-

11. There is no quarrel over the proposition that the workmen are the employees of the Co-operative Societies. If disciplinary action is taken



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and they are dismissed from the service, they have a remedy to file an appeal to the appellate authority within the same organisation under the relevant by-law, to file a revision before the Registrar of Co-operative Societies under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983. If the employee comes within the definition of the workman, he also has the avenue of raising a dispute under the Industrial Relations Code before the Labour Court (in the erstwhile Industrial Disputes Act, 1947). The law in this regard has since been settled by the Hon'ble Supreme Court of India holding that when more than one remedies are available, unless the Co-operative Societies Act expressly prohibits the other remedies, the employee concerned will be free to choose any one of the legal remedies by applying Doctrine of Election. Useful reference in this regard can be made to the judgment in *K.A.Annamma Vs. Secretary, Cochin Co-operative Hospital Society Limited*⁶. The said legal position has also been laid down by the order of the Division Bench of this Court, dated 10.06.2008 in *W.P.No.17802 of 1994 etc., (batch cases)* in *P.Eswaramoorthy and Ors. Vs. R.J.B.Leoraj and Ors.*⁷. It is essential to extract paragraph No.24 of the said judgment which reads as follows:-

⁶ (2018) 2 SCC 729

⁷ MANU/TN/0667/2008



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“24. In the light of the above legal journey through various decisions of this Court as well as of the Supreme Court, the following propositions will emerge:

(a) Section 90 of the 1983 Act providing for settlement of disputes will not include a dispute between a servant of a Co-operative Society and its Management. Therefore, no dispute can be referred to the Registrar or his nominee under Section 90 and consequently, no appeal will lie to the Tribunal under Section 152.

(b) Section 153 of 1983 Act is a departure from Section 97 of the 1961 Act and it is wider in nature. Power has been specifically conferred on the revisional authority under Section 153 to call for and examine the record of any proceeding under the Act or the Rules or the bye-laws of any officer subordinate to the Registrar or of the Board of Director or any officer of a registered society or of the competent authority constituted under Section 75(3) of the 1983 Act. Therefore, the employees of a Co-operative Society can approach the Registrar or any competent authority under Section 153 to revise any order passed by the Co-operative Society relating to disciplinary action taken against him or denial of promotion or wrong fixation of seniority, etc.

(c) There is no implied ouster of the jurisdiction of the power of the Labour Court / Industrial Tribunal to deal with similar matters if disputes are raised before them by workmen or employees covered by those provisions. Both remedies are available.

(d) The decision in **Somasundaram v. Liyakat Ali** MANU/TN/0498/1996 : 1997 (1) CTC 4 may not be a good law. The employees therein filed a Civil Suit regarding promotion issue. As remedy for the aggrieved parties in that case are available either under Section 153 or by an industrial dispute under Section 2(k) of the Industrial Disputes Act, 1947, they could not have gone before the Civil Court. Therefore, the bar under Section 156 of the Co-operative Societies Act as well as the implied ouster of jurisdiction of the Civil Court by the provisions of the I.D. Act will directly apply and the suit is barred.

(e) The decision of **P. Sathasivam, J. (as he then was) in K. Radhakrishnan v. Additional Registrar** MANU/TN/0101/2000 : (2000)IIMLJ7 upholding the right of revision under Section 153 has laid the correct position of law. Likewise, the judgment of P.



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Sathasivam, J. (as he then was) in *The Management of Madras Atomic Power Project Employees' Consumers (Co-operative Stores Limited, Kalpakkam rep. by its Special Officer v. The Deputy Commissioner of Labour (Appeal) Madras - 6 and 2 Ors. MANU/TN/0253/2000 : (2000)IILLJ1451Mad* holding that Section 90 of the 1983 Act is not available for employees of Co- operative Societies against the orders of termination has been correctly decided.”

12. There is no bar under the Tamil Nadu Co-operative Societies Act, 1983 for the employees to approach the Tamil Nadu Shops and Establishments Act, 1947. On the other hand, what is pleaded before this Court is the bar that is contained in Section 4 of the Tamil Nadu Shops and Establishments Act, 1947, admittedly, the petitioner society, being in banking business, would be an ‘establishment’ within the meaning of Section 2(6). In this regard, Section 4 of the Act is extracted hereunder for ready reference:-

“4. Exemption: (1) Nothing contained in this Act shall apply to—

(a) persons employed in any establishment in a position of management;

(b) persons whose work involves travelling: and persons employed as canvassers and caretakers;

(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;

(d) establishments in mines and oil fields;

(e) establishments in bazaars in places where fairs or festivals are held temporarily for a period not exceeding fifteen days at a time;



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(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.

(2) Nothing contained in section 7 or section 13, as the case may be, shall apply to—

(a) hospitals and other institutions for the treatment or care of the sick, the infirm, the destitute or the mentally unfit;

(b) such chemists' or druggists' shops as the State Government may, by general or special order, specify;

(c) clubs and residential hotels, hostels attached to schools or colleges, and establishments maintained in boarding schools in connection with the boarding and lodging of pupils and residents masters;

(d) stalls and refreshment rooms at railway stations, docks, wharves or ports.”

Thus, under Section 4(1)(f), the establishment, which is not being a factory (admittedly, the petitioner society is not a factory), if governed in respect of the matters dealt with under the Act by a separate law for the time being in force in the State, the Tamil Nadu Shops and Establishments Act, 1947 will not apply. Section 6 of the Act is also referred to.

13. Section 6 of the Act is with reference to power of exemption and there is no such notification that is existing, exempting the application of the Act to the Co-operative Societies. As far as the applicability of Section 4(1)(f) of the Act is concerned, the matter is no longer *res integra*.



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The issue was first considered in *the Management, Javvadhupatty Primary Agricultural Cooperative Society Vs. the Deputy Commissioner of Labour and Anr. (W.P.(MD).No.23944 of 2017, by the order, dated 26.03.2024)*. This Court, speaking through the Hon'ble Mrs. Justice S.Srimathy, had also considered the earlier Division Bench judgment in W.A.No.138 of 1960 – *Madras State Electricity Board Vs. Commissioner of Labour and Ors.*⁸, whereby, the Division Bench considered the exclusion that was pleaded in respect of the employees of the Tamil Nadu Electricity Board by pressing into service the Electricity Act and the rules and by-laws framed thereunder and the Division Bench held that in order to claim the exemption, the separate law must in substance and effect cover the same field as the Shops Act and merely addressing a few aspects and providing different remedies is insufficient. As such, the learned Single Judge applied the said test and held that the applicability of the Act is not displaced. The said position was once again reiterated in the judgment of the Madurai Bench of this Court, dated 26.03.2024 in *the Management, 0831 - Thoothukudi Agricultural Producers Cooperative Marketing Society Vs. Mariammal* in W.P.(MD).No.4425 of 2017, *the Management, Javvadhupatty Primary Agricultural Cooperative Society*

8 CDJ 1960 MHC 086



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(stated *supra*) and ***Vallioor Co-operative Primary Agricultural and Rural Development Bank Limited***'s case (stated *supra*). Therefore, the question has already been dealt with by the Madurai Bench of this Court and is no longer *res integra* and therefore, the exclusion under Section 4(1)(f) will not apply merely because they are the employees governed under the Tamil Nadu Co-operative Societies Act, 1983. Even with reference to the argument under Section 6, the same was also dealt with by the Madurai Bench of this Court in the judgment, dated 26.03.2024 in ***the Management, R.K.10, Virudhunagar District Central Cooperative Bank Vs. the Deputy Commissioner of Labour and Anr. (W.P.(MD).No.2857 of 2013***), whereby, it can be seen that the notification issued under Section 6 does not exclude the applicability to cooperative societies.

14. Further, from the view taken by the Hon'ble Supreme Court of India in ***C.V.Raman***'s (cited *supra*) relied upon by the learned Additional Advocate General, would only support the proposition that unless a category is expressly exempt from the provisions, the Act would be applicable. For all the above said reasons, I answer the question that the first respondent has jurisdiction to entertain an appeal under Section 41 and the impugned orders does not suffer from lack of any jurisdiction.



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Question No.ii:-

15. The charges in this case are identical and the charge memo, containing 13 charges, in respect of one of the employees namely,

Muthuraja, is extracted hereunder for ready reference:-

- “1. That he has sanctioned 4 number of Jewel Loans to the tune of Rs.6,32,400/- (Rupees Six Lakhs thirty two thousand and four hundred only) by accepting and pledging of fake Jewels instead of Gold Jewels and misappropriated the Bank funds.
2. That he has failed to ensure the quality / purity and genuineness of the jewels pledged before sanctioning of huge amount as jewel loan and packed the fake Jewels instead of Gold Jewels in the jewel bags.
3. That he has also forwarded the Jewel Loan Application to the Manager for the sanction of Jewel Loan to the by pledging fake jewels instead of Gold Jewels while was working as Sub-Accountant in the above period.
4. That he has failed to deduct the prescribed ignored weight while sanctioning of the Jewel Loan to the Customers as per the instructions in the circulars.
5. That he has colluded with the Jewel Appraiser of the Bank and the customer of the Bank and fraudulently took pledge of the fake Jewels and misappropriated the Bank funds.
6. That he has failed to discharge his duties consciously even though he is the custodian of public funds.
7. That he has failed to monitor the functioning of the Jewel Appraiser, as a custodian of the Branch.
8. That he has failed to verify the identity and genuineness of the customer of the Bank.
9. That he has failed to adhere to the provisions of Bylaw and guidelines issued by the Head Office then and there while sanctioning of Jewel Loans to the customers.
10. That he has failed to discharge his official duties with honesty and devotion to duty and thus caused heavy loss to the Bank by misappropriating the Bank funds.
11. That he has caused breach of trust to the bank.



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12. That he has caused irreparable damage to the image and reputation of the Bank among the public.
13. That his conduct amounts to serious criminal nature and having committed an act which leads to unbecoming of a responsible Bank Officer.”

Except for the number of jewel loans and the amount, the charges are identical in respect of the others also.

16. In this regard, the common explanation of all the four workmen is that except for performing their work, there was absolutely no collusion whatsoever with the Jewel Appraiser who perpetrated the fraud. In this regard, I have gone through the Section 81 Enquiry Report, dated 21.10.2020 which do not point out any specific overtact or collusion whatsoever of the other employees. As a matter of fact, the episode has been thoroughly investigated by the investigating agency and only the said *R.Sakthivel* alone is an accused in the criminal case. Further, this is not a case of any loan being granted to a fictitious person, in which case, the allegation of not verifying the veracity of the customer can be made against these employees.

17. A careful reading of the Domestic Enquiry Report, which runs to many pages, one can come to the irresistible conclusion that



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without pointing out to any specific act or evidence that is on record, only on the basis that the other employees are also responsible to verify the veracity of the jewels and by parroting the very same reason, all the 13 charges, including the charge relating to collusion with the Jewel Appraiser and causing loss to the society is held to be proved. Rightly, the appellate authority had considered that in none of the cases, there is any evidence that they have violated any rule while granting the loan or that they were in collusion with the Jewel Appraisers and they knowingly disbursed the loan, was made out. No doubt, each of these employees are also created awareness as to the appraisal of the jewel, but none of the circulars mandate that they should also independently appraise the jewel or carryout a second verification.

18. A careful perusal of the circulars only makes them responsible if they do not take any recovery action and that they should be present during the inspection etc. No duty is pointed out from the alleged duties and responsibilities or from the circulars that these employees should have also independently appraised the jewel. The common working in these Co-operative Banks while granting loans is that these employees verify the loan applications and the credentials of the person



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who is obtaining the loan and send them to the appraiser who appraises the quality of jewels and packs it along with his certificate and the customer again leaves the packet at the Counter. Vigil has to be maintained by all the employees that the packing made by the Jewel appraiser is not being tampered with and goes to the locker as such. If the Jewel Appraiser clandestinely puts inside the packet a fake jewel with or without the knowledge of the customer and causes loss to the society, then, I am not in a position to comprehend as to how automatically any collusion or responsibility can be fastened on these employees.

19. In spite of repeated questioning by the Court, except to bring the general rule position, no particular fact was placed on record by the learned Additional Advocate General as to any conduct that creates suspicion, leave alone proof. The argument seems to be that these employees could have been better vigilant or more intelligent to unearth the fraud that is played by the appraiser. The same is not the charge. In any event, the appellate authority, after thoroughly appreciating the evidence, has returned the finding that the findings in the Domestic Enquiry are perverse in nature and not supported by any evidence. This is not a case where the reinstatement is ordered on any procedural infirmity



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in the enquiry, but, the appellate authority has weighed the evidence and had considered that there is no evidence at all. There is no other procedural infirmity that has caused miscarriage of justice to the petitioner Society. Even before this Court, the society is not able to pin-point any particular conduct which would point any needle of suspicion of collusion or being beneficiary of the fraud. Ultimately, only reinstatement alone was ordered and no back-wages were also granted.

20. Considering the above facts, finding no merits, these Writ Petitions stand dismissed. The employees shall be reinstated into service with continuity of service and all other service benefits. However, they will be entitled for back-wages from the date of reinstatement which shall be done within a period of two weeks from the date of receipt of a web-copy of this order, failing which, the employees will be entitled for back-wages from the date of this order. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

03.02.2026

Neutral Citation : yes
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To

The Joint Commissioner of Labour/
Appellate Authority, Salem.



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D.BHARATHA CHAKRAVARTHY, J.

grs

W.P.Nos.22994, 22999, 23358 and 23363 of 2024

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