



W.P.(MD)Nos.5393 & 2436 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.5393 & 2436 of 2021

and

W.M.P(MD)Nos.7751, 4305 & 2010 of 2021

W.P(MD)No.5393 of 2021:

Madurai Loomworld,
Represented by
Convener / Assistant Director of
Handlooms and Textiles,
1st Floor,
Madurai – 625 001.

... Petitioner

Vs

1.S.Balakrishnan

2.The Deputy Commissioner of Labour,
Appellate Authority under
Tamil Nadu Shops and Establishment Act,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned order passed by the second respondent in TNSE Appeal No.2 of 2019, dated 02.11.2020 and quash the same.



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For Petitioner : Mr.R.Suresh Kumar
Additional Government Pleader

For Respondents : Mr.S.Mohammed Suhail
for M/s.Ajmal Associates for R.1

Mr.J.K.Jayaseelan
Government Advocate for R.2

W.P(MD)No.2436 of 2021:

S.Balakrishnan

... Petitioner

Vs

- 1.The Deputy Commissioner of Labour,
(An Appellate Authority under the Tamil Nadu
Shops and Establishment Act, 1947),
Office of the Deputy Commissioner of Labour,
Madurai.
- 2.The Director,
Handlooms and Textiles Directorate,
2nd Floor, Kurazhagam,
Chennai – 108.
- 3.The Joint Director,
Office of the Joint Director,
2nd Floor, Kurazhagam,
Chennai – 108.
- 4.The Assistant Director of Handlooms and Textiles,
No.5, Ramaiah Cross Street,
Shenoy Nagar,
Madurai – 20.



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5. The Management of
Madurai Loom World,
135A, East Veli Street, I Floor,
Madurai,
Represented by
The Assistant Director of
Handlooms and Textiles / Convener

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the fourth respondent to reinstate the petitioner in service in conformity with the order, dated 02.11.2020 made in Case No.TNSE Appeal no.2/2019 passed by the first respondent and consequently to direct the respondents to disburse all his backwages and other monetary benefits including the arrears of salary along with accrued interest thereon within the period that may be stipulated by this Court.

For Petitioner : Mr.S.Mohammed Suhail
for M/s.Ajmal Associates

For Respondents : Mr.J.K.Jayaseelan
Government Advocate for R.1 to R.4

Mr.R.Suresh Kumar
Additional Government Pleader for R.5

COMMON ORDER

Heard the learned counsel on either side.

2. Thiru.S.BalaKrishnan, the petitioner in W.P(MD)No.2436 of 2021 was employed as salesman on daily wages basis in Sri Srinivasaperumal Weavers Co-operative Society Limited, Madurai. Since the said Society ran into loss, he



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was transferred to Ezhukadal Handloom Showroom, Madurai on 05.05.2000.

Madurai Loom World is another name for Ezhukadal Handloom Showroom.

Madurai Sri Srinivasaperumal Weaver's Co-operative Production and Sale Society Limited, A-2423, Madurai was ordered to be liquidated on 11.05.2012 by the Assistant Director of Handloom and Textiles Industries, Madurai. Since Madurai Loom World also ran into financial loss, the Assistant Director of Handloom and Textiles Industries, Madurai vide proceedings dated 28.02.2018, directed that Thiru.S.Balakrishnan shall be relieved and in his place, an employee can be appointed on daily wages basis. Challenging the same, Thiru.S.Bala Krishnan filed an appeal under Section 41(2) of the Tamilnadu Shops and Establishments Act, 1947 before the Assistant Director of Handlooms and Textiles / Convener, Madurai. By order dated 02.11.2020, T.N.S.E.Appeal No.2 of 2019 filed by Thiru.S.Bala Krishnan, was allowed. The order of termination dated 28.02.2018 was set aside and the Management was directed to reinstate him with backwages and continuity of service. Challenging the same, Management has filed W.P(MD)No.5393 of 2021. For enforcing the said order, Thiru.S.Bala Krishnan filed W.P(MD)No.2436 of 2021.

3. After hearing the learned counsel on either side, I am more than satisfied that the order passed by the appellate authority under Tamilnadu Shops



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and Establishments Act, 1947 cannot be interfered with. This is because Thiru.S.Bala Krishnan had been summarily thrown out and shown the door even without complying with the principles of natural justice. The appellate authority has given sound and convincing reasons for allowing the appeal filed by Thiru.Bala Krishnan. I, therefore, dismiss W.P(MD)No.5393 of 2021.

4. However, there are certain practical difficulties in allowing W.P(MD)No.2436 of 2021. The learned Additional Government Pleader appearing for the fifth respondent informs the Court that Madurai Loom World is no longer existing. He also informs this Court that it does not have any assets to claim as its own. When the entity itself is non-existent and it is not also having any assets, I would be passing a futile order by directing the enforcement of the order dated 02.11.2020 passed T.N.S.E.Appeal No.2 of 2019 by the Assistant Director of Handlooms and Textiles / Convener, Madurai.

5. The learned counsel appearing for the employee informs this Court that similarly placed employees were accommodated in other Societies coming under the control and supervision of the Director, Handloom and Textiles Kuralagam, Chennai. In fact, such an approach adopted by the Director, Handloom and Textiles, Chennai has been referred to the order passed by the appellate authority also. Instead of directing the enforcement of the order dated



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02.11.2020, I direct the second respondent to endeavor to accommodate the writ petitioner in any one of the Societies coming under his jurisdiction preferably at Madurai or in the neighbouring Districts. Such an order will be passed by the second respondent within a period of eight weeks from the date of receipt of a copy of this order. Since the Management under which Thiru.Bala Krishnan was serving is no longer in existence, the question of paying backwages does not arise. W.P(MD)No.2436 of 2021 is disposed of on these terms. Consequently, connected miscellaneous petitions are closed. No costs.

17.10.2022

Index : Yes / No
Internet : Yes/ No
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Note: Issue Order Copy on 20.10.2022.

To

- 1.The Deputy Commissioner of Labour,
(An Appellate Authority under the Tamil Nadu
Shops and Establishment Act, 1947),
Office of the Deputy Commissioner of Labour,
Madurai.
- 2.The Director,
Handlooms and Textiles Directorate,
2nd Floor, Kurazhagam,
Chennai – 108.



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3. The Joint Director,
Office of the Joint Director,
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4. The Assistant Director of Handlooms and Textiles,
No.5, Ramaiah Cross Street,
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5. The Assistant Director of
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Management of
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G.R.SWAMINATHAN, J.

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