



W.P(MD)No.11008 & 13396 of 2011 and 26770 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**W.P(MD)Nos.11008 & 13396 of 2011 and 26770 of 2019
and**

M.P.(MD)Nos.1, 1 of 2011 & 1 of 2012

The Madurai General Worker's Union,
Represented by the General Secretary,
No.1906, 19 Bharathiyar Road,
Melaponnagaram,
Madurai-16.

...Petitioner in W.P.(MD)No.11008
and 13396 of 2011

1.The Managing Director,
Tamil Nadu Handicrafts Development
Corporation Limited,
No.759, Anna Salai,
Chennai-600 002.

2.The Manager,
Poombukar Brass and Art ware Production Centre,
A Unit of Tamil Nadu Handicrafts
Development Corporation,
Industrial Estate,
Madurai-625 007.

..Petitioners in W.P.(MD)No.26770
of 2019

Vs.

1.The Tamil Nadu Handi Crafts
Development Corporation Limited,
Represented by the Chair Person &
Managing Director,
No.759, Anna Salai,
Chennai-600 002.

2.N.Selvam

<https://www.mhc.tn.gov.in/judis>



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3.B.Rajendran
4.A.Ramamoorthy
5.S.Veerabadrar
6.K.Chinnappa
7.R.Kamaraj
8.R.Selvam

... Respondents in W.P.(MD)No.11008 of
2011

The Tamil Nadu Handi Crafts
Development Corporation Limited,
Represented by the Chair Person &
Managing Director,
No.759, Anna Salai,
Chennai-600 002.

...Respondent in W.P.(MD)No.
13396 of 2011

1.Gnanaraj Selvakumar
2.Selvaraj
3.Sethukkarasu
4.Balasubramanian
5.Parthasarathy
6.Babu
7.Chelladurai
8.Yesudoss Manickam
9.Raja
10.Pandurengan
11.Sakthivel
12.Kandavel
13.Jeganathan

...Petitioners in W.P.(MD)No.26770 of
2019

PRAYER in W.P.(MD)No.11008 of 2011: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in R.C.No.3082/Per/II dated 04.08.2011 issued by the first respondent, received by the petitioner through order dated 05.09.2011 and quash the same and consequentially direct the respondents to appoint the members of the petitioner, annexed to the writ petition to the said post with all consequential benefits.



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PRAYER in W.P.(MD)No.13396 of 2011: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondent to pay the wages to the members of the petitioner's Union on par with the wages paid to the employees employed as Artisan Grade II in the time scale of Rs.5,200-Rs.20,2000.

PRAYER in W.P.(MD)No.26770 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records on the file of the Labour Court, Madurai and quash the impugned common order dated 21.08.2019 made in C.P.Nos.34, 36, 37, 38, 39, 40, 41, 42, 44, 46, 48, 49 and 51 of 1998.

For Petitioner : Ms.D.Geetha
(in W.P.(MD)Nos.11008 & 13396
of 2011)
For R1 : Mr.M.Vijayan
for M/s.King and Partridge
(in W.P.(MD)Nos.11008 & 13396
of 2011)
For R2 to R8 : Mr.S.Arunachalam
(in W.P.(MD)No.11008 of 2011)
For Respondents :Mr.S.Arunachalam
(in W.P.(MD)No.26770 of 2019)

COMMON ORDER

The issue raised in all these writ petitions is one and the same.

Hence, these writ petitions are taken up together and disposed of by this

common order.



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W.P(MD)No.11008 & 13396 of 2011 and 26770 of 2019

2.For the sake of convenience, the parties in all these writ petitions are referred to as petitioner's Management, Union and workmen.

3.Ms.D.Geetha, learned counsel appears on behalf of Madurai General Worker's Union, Mr.Vijayan, learned counsel appears on behalf of the Corporation and Mr.S.Arunachalam, learned counsel appears on behalf of the workmen.

4.The Management had appointed 23 workmen as piece rate employees in their services. They were not made permanent and they continued their temporary status for 480 days. This prompted the Madurai General Workers Union to initiate proceedings before the Inspector of Factories at Madurai. By initiation of proceedings, they claimed permanent status under the provisions of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 (hereinafter referred to as 'the Act' for the sake of brevity).

5.In and by order dated 09.04.1997, the Inspector of Factories came to the conclusion that the Tamil Nadu Handicrafts Development Corporation, Brass Articles Production Unit, Madurai is an industry



coming under the Industrial Corporation and is governed under Section 2(3)(A) of the Act. It is also concluded that the workmen working in that unit are 'Workers' under Section 2(4) of the Act. It also came to the conclusion that 23 workmen, who were listed out in the order, had worked more than 480 days and therefore, they are entitled to be conferred with the permanent status.

6. Not being satisfied with the order, the management filed W.P.No. 5964 of 1997 before this Court. The said writ petition came up for disposal before Honourable Mr. Justice P. Sathasivam (as His Lordship then was). The learned single Judge was pleased to confirm the order of the Inspector of Factories, Madurai and dismissed the writ petition on 26.10.1999. Against the said order, an appeal was preferred in W.A.No. 2410 of 1999. The appeal was dismissed by order dated 27.07.2007.

7. The Management took up the matter by way of a further appeal to the Supreme Court in Civil Appeal Nos. 10008 and 1009 of 2010. The said civil appeals were dismissed by the order of the Supreme Court on 20.07.2017. In fine, the order of the Inspector of factories attained finality and the finding of the authority that the 23 workmen are entitled for permanent status reached conclusion.



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8.It is thereafter, this second round of litigation has been commenced at the instance of the Madurai General Workers Union. Few of the workers decided to approach the labour Court at Madurai in C.P.No.34 of 1998 etc., batch. Before the labour Court, the workmen wanted that their wages to be paid in terms of the post of Artisans Grade II. The very same relief has been sought in W.P.(MD)No.11008 of 2011.

9.The learned counsel appearing for the Management would submit that the order of the Inspector of Factories making, the workmen permanent means that the workmen are made “permanent” in that capacity, i.e., from temporary piece rate workmen to permanent piece rate workmen. According to him, the post of Artisans Grade II is a promotional post from the post of piece rate permanent workers and therefore, the order of the Inspector of Factories making them permanent would only mean that their position has made permanent as piece rate permanent workers.

10.The learned counsel for the workmen and Union submit that there is no post below to the post of Artisans Grade II in the service of the petitioner's Management and by virtue of making the workmen



permanent, the workers are entitled to the wages that is being paid to the post of Artisans Grade II. The learned counsel for the Union would also point out that the entry level post in the petitioner's Management is that of Artisans Grade II.

11.I have heard the learned counsel appearing on either side and perused the materials placed on record.

12.The facts aforesaid would go to show that 23 workmen were made permanent by the order of the Inspector of Factories and that order has attained finality having been adjudicated till the Supreme Court. The argument of the learned counsel for the petitioner's Management is that the workmen were made permanent from the post of piece rate temporary workmen to piece rate permanent workers by virtue of the order of the Inspector of Factories. But, the learned counsel for the workmen states that the lowest post in the petitioner's Management is Artisans Grade II. Further, he would point out that piece rate workmen were doing the same work as Artisans Grade II.

13.I have to agree with the workmen for the reason that a careful perusal of the records as well as the impugned order before the Labour



Court would show that the statement that the post of Artisans Grade II is a promotional post was never urged before the Labour Court and nor pleaded in the counter affidavit. The point now raised is no point at all. The reason for this conclusion is perusal of the order under Ex.R2 would go to show that the persons, who had sufficient practice like workers were '**appointed**' to the post of Artisans Grade II and not promoted to the post of Artisans Grade II. This would go to show that the post of Artisans Grade II is not a promotional post and it is the lower most post available in the Management.

14.The submission of the Management that there is no pre existing right for the workers to claim salary of Artisans Grade II, has to fail for the simple reason that by virtue of the order of the Inspector of Factories, the Writ Court and the Supreme Court, the workmen cannot be denied the same. They were being paid according to the pieces that were manufactured by them and it defeats logic and law that even after making them permanent, they were continued to be paid only this wage. The law does not know of the temporary piece rate workmen and permanent piece rate workmen. By granting the permanent status, the workmen go into the time scale of pay. The lowest time scale of pay in the services of the petitioner's Management is the post of Artisans Grade II. Knowing that



the workmen have been made permanent and verifying the fact of lowest post in the petitioner's Management, the Labour Court had rightly come to the conclusion that the workmen are entitled to the wages as Artisans Grade II.

15.Having come to the conclusion that Artisans Grade II is the lowest post available in the Rules of the Management and the fact that the workmen were made permanent by the Inspector of Factories had attained finality, I am not inclined to interfere with the order of the Labour Court. In the result, the 23 workmen are directed to be paid the wages of Artisans Grade II as per the order of the Authority and they shall be entitled to the consequential benefits, if they are so entitled to it. The said exercise is directed to be completed within a period of eight weeks from the date of receipt of a copy of this order.

16.Apart from that, the scope of writ petition under Article 226 of the Constitution of India dealing with the claim petition is only visitatorial or supervisory. I am not sitting on appeal against the order passed by the Labour Court. I have to see whether the Labour Court has properly analysed the evidence placed before it and has come to the conclusion, which the labour Court is expected to do. Perusal of the order in the



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claim petitions would go to show that the Labour Court has properly analysed all the facts and has considered the arguments that has been raised by the learned counsel appearing on either side.

17. Accordingly, W.P.(MD)No.26770 of 2019 stands dismissed and W.P.(MD)Nos.11008 and 13396 of 2011 stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

31.10.2023

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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V.LAKSHMINARAYANAN, J

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W.P(MD)Nos.11008, 26770 & 13396 of 2014

31.10.2023