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**Tamil Nadu Shops And Establishments (Amendment) Act,  
2008****44 of 2008**

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Statement of Objects and Reasons<sup>2</sup> When an employer prefers any proceeding in the High Court or in the Supreme Court against the decision of the Appellate Authority under Section 41 of the Tamil Nadu Shops and Establishments Act, 1947 (Tamil Nadu Act XXXVI of 1947), regarding the reinstatement of the employee, there is no provision for payment of full wages to that employee till the disposal of the case as has been provided under Section 17-B of the Industrial Disputes Act, 1947 (Central Act XIV of 1947). The Government have decided to incorporate such a provision in the said Tamil Nadu Act XXXVI of 1947 as it would be beneficial to the person employed. 2. It has also been decided to provide a provision for imposing a penalty for failure to comply with such provision as provided in Section 29 of the said Central Act XIV of 1947. 3. The Government have, therefore, decided to amend the said Tamil Nadu Act XXXVI of 1947, suitably. 4. The Bill seeks to give effect to the above decisions. PREAMBLE An Act further to amend the Tamil Nadu Shops and Establishments Act, 1947. Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-ninth Year of the Republic of India as follows:-- 1. Received the Assent of the Governor of Tamil Nadu on June 2, 2008 -- Published in Tamil Nadu Government Gazette, Extraordinary, Part IV, Section 2, Iss. No. 172, page 161-162, dated June 3, 2008. 2. Vide L.A. Bill No.37 of 2008 -- Published in T.N. Govt. Gazette, Extra., Part IV, Section 1, Issue No.143, pages 143-144, dated May 13, 2008.

## **1. Short Title And Commencement :-**

(1) This Act may be called the Tamil Nadu Shops and Establishments (Amendment) Act, 2008.

(2) It shall come into force on such date as the State Government may, by notification, appoint.<sup>1</sup>

1. Act came into force w.e.f. June 19, 2008 -- G.O. Ms. No.77, Labour and Employment (G-1), June 18, 2008-- As published in Tamil Nadu Government Gazette, Extra., Part II, Section 2, Iss. No. 191, page 1, dated June 19, 2008

## **2. Insertion Of New Section 41-A :-**

After Section 41 of the Tamil Nadu Shops and Establishments Act, 1947 (T.N. Act XXXVI of 1947) (hereinafter referred to as the principal Act), the following Section shall be inserted, namely:--

"41-A. Payment of full wages to person employed pending proceedings in Higher courts.-- Where in any case, the Appellate Authority, by its decision under Section 41, directs reinstatement of any person employed and the employer prefers any proceeding against such decision in a High Court or the Supreme Court, the employer shall be liable to pay such person employed, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the person employed had not been employed in any establishment during such period and an affidavit by such person employed had been filed to that effect in such Court:

Provided that where it is proved to the satisfaction of the High Court or the Supreme Court that such person employed had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this Section for such period or part, as the case may be."

## **3. Insertion Of New Section 45-A :-**

After Section 45 of the principal Act, the following Section shall be inserted, namely

"45-A. Penalty for failure to comply with the provisions of Section 41-A.-- Any employer who fails to comply with the provisions of Section 41-A shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both and

where such failure is a continuing one, with a further fine which may extend to two hundred rupees for every day during which such failure continues after the conviction for the first and the court trying the offence, if it fines the offender, direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been injured by such failure."