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W.P. No.7191/2024, etc. Batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
26.03.2026	10.04.2026

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**W.P. NOS. 7191, 37650, 37655, 37440, 37659, 37449, 37447, 37433, 37354,
37350, 37339, 37349, 37347, 37343, 37668, 37665, 37445 OF 2024**

AND

**W.M.P. NOS. 40712, 40459, 40370, 40725, 40708, 40362, 40360, 40715, 40367,
8042, 40366, 27131, 40453, 40450, 40445, 40458, 40731, 40358 OF 2024**

W.P. NO.7191 OF 2024

1. The General Manager
Tamil Nadu State Transport
Corporation (Salem) Ltd.
Salem Division – 1
No.12, Ramakrishnan Road
Salem 636 007.

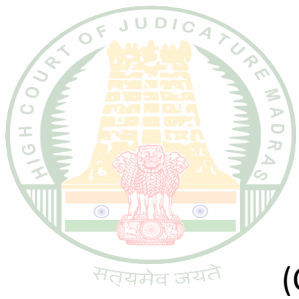
2. The Managing Director
Tamil Nadu State Transport
Corporation (Salem) Ltd.
Salem Division – 1
No.12, Ramakrishnan Road
Salem 636 007.

.. Petitioners

- Vs -

1. The Assistant Commissioner of
Labour (Enforcement)
Authority under the Tamil Nadu
Industrial Establishments

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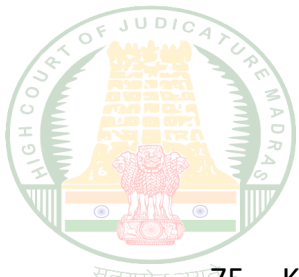
WEB COPY (Conferment of Permanent Status
To Workmen) Act, 1981, Salem – 8.

2. M. Azhagarasan
3. P.Alaguraj
4. G.Aiyathurai
5. P. Ammasi
6. T.Anbazhagan
7. T.Arivalagan
8. G.Arunan
9. P. Balasubramanian
10. K.Baskar
11. P. Chinnasamy
12. P. Chandrasekaran
13. P. Dhanishlal
14. A.Dhanish
15. M.Dharmalingam
16. V.Durairaji
17. T. Ganapathi
18. S.Irudhayasamy
19. S. Govindhan
20. N.Govindaraj
21. M.Govindasamy
22. M.Jayakumar
23. S.Jothikumar
24. N.Kalai Kolan
25. V.Kaliyamoorthi
26. R.Kanakaratinam
27. P. Kanakasundaram
28. K.Karunanidhi
29. Krishnamuruthi.A
30. N.Kathirvel
31. P. Krishnamoorthi
32. R.Krishnaraj
33. M.Kumar
34. C.Mariyappan
35. A.Sakthivel
36. P.Sakthivel



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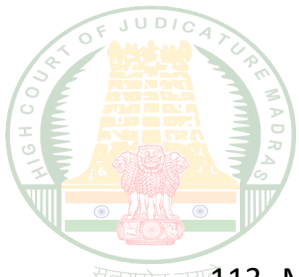
- सत्यमेव जयते
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37. A.Sangaralingam
 38. R.Sekar
 39. P.K.Sivakumar
 40. P. Sekar
 41. R.Sekar
 42. I. Selladurai
 43. K.Gunasekaran
 44. S.Selvaganesan
 45. P.Selvakumar
 46. K.Senthilnathan
 47. E. Subramaniyan
 48. T.P.Subramaniyan
 49. M.Sundaram
 50. R.Sureshkumar
 51. P. Raja
 52. I. Selvam
 53. M.Selvarasu
 54. N.Selvarasu
 55. M.Senthamaraikannan
 56. G.Senthilkumar
 57. A. Senthilkumaran
 58. P. Sekar
 59. E. Rajamanikkam
 60. K.Rajamanikkam
 61. R.Rajamanikkam
 62. S. Rajamanikkam
 63. S. Rajamanikkam
 64. A.P. Rajan
 65. M.Rajendran
 66. M.Rajendran
 67. M.Rajendran
 68. A.Ramalingam
 69. A.Ramasamy
 70. M.Ramasamy
 71. C.Rangasamy
 72. G.Ravi
 73. K.Ravi
 74. V.Ravichandran



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75. K.Ravichandran
76. R.Rangarajan
77. S. Ponnazhagan
78. B.Ponnambalam
79. C.Ponnusamy
80. K.Ponnusamy
81. C.Pulikesi
82. P. Rajamani
83. R.Rajamani
84. T.S.Gunasekaran
85. K.Loganathan
86. M.Madhavan
87. P. Madhavan
88. J.Mahadevan
89. S. Mahesh
90. S. Mani
91. P. Manickam
92. J.Manivel
93. P. Manoharan
94. S. Marimuthu
95. M.Maasalanaickan
96. S. Madhavan
97. K.Madheswaran
98. N.Madheswaran
99. P. Mohan
100. V.Munusamy
101. S. Murugesan
102. T.M.Murugan
103. P. Murugesan
104. Amurugesan
105. K.Murugesan
106. M. Murugesan
107. T. Mustafa
108. K.Muthusamy
109. M. Muthusamy
110. C.Natesan
111. R.Ravi
112. G.Palanisamy



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113. M. Palanivel
114. S.R. Palaniappan
115. P. Periyasamy
116. M.M. Periyasamy
117. M. Tamizhmaran
118. M. Thangaraj
119. M. Thangavel
120. K.Thiyagarajan
121. S. Vadivel
122. D. Vasudevan
123. P. Velavan
124. A. Veluchamy
125. O.K.Venkatachalam

.. Respondents

W.P. No.7191 of 2024 filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus holding that the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, cannot be invoked against the petitioner, the applications of the 2nd to 125th respondents are hit by delay, laches and acquiescence and forbear the 1st respondent from proceeding with proceedings No.ThaN.Na.Tho.Nee. (Pa.Nee.) Sa.Va. No.31/2023.

For Petitioners : Mr. Anand Gopalan for AGAM
Legal in all writ petitions

For Respondents : Mr.S.Ravindran, SC, for
Ms.S.Girija for RR-2 to 6, 8, 10
to 13, 15 to 24, 26 to 33, 35 to
37, 39 to 48, 50 to 53, 55 to 61,
63, 66 to 68, 71 to 74, 76 to 88,
90 to 93, 95 to 106 & 108 to 122
In WP No.7191/2024



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Mr.S.Ravindran, SC for
Ms.V.Porkodi for R-2 in WP Nos.
37655, 37447 & 37343/2024

Mr.A.Selvendran, Spl. GP for R-1
in all the writ petitions

No Appearance for RR-7, 9, 14,
25, 49, 65, 70, 89, 107, 124, 125,
34, 38, 54, 64, 69, 75, R94 in WP
No.7191/2024

No Appearance for R2 in WP
Nos. 37650, 37659, 37354,
37350, 37347, 37668,
37339/2024

R2 - Not ready Notice in WP
Nos. 37349 & 37665/2024

RR-123 & 62 - Not Ready Notice
in WP No.7191/2024

COMMON ORDER

Aggrieved by the act of the 1st respondent in entertaining the proceedings initiated by respondents 2 to 125 seeking conferment of permanent status under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (for short 'Act, 1981') as being hit by delay and laches and not invocable against the petitioners, the present petitions have been filed.



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2. Since the facts in all the writ petitions and the relief sought for in all the writ petitions are one and the same, the facts in W.P. No.7191 of 2024 is narrated and the decision based on the aforesaid facts would cover the reliefs sought for in the other petitions as well.

3. For the sake of convenience, while the petitioners in all the writ petitions and the private respondents/workmen in all the writ petitions will be referred to as '*Corporation*' and '*respondents*' and the Conferment of Permanent Status Authority, who is shown as a respondent in all the writ petitions will be referred to as '*Authority*'.

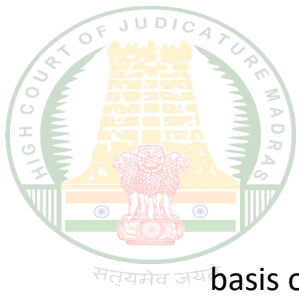
4. It is the case of the Corporation that Tamil Nadu State Transport Corporation (Salem) Ltd., is an undertaking of the Government of Tamil Nadu and is bound by the directions of the Government issued from time to time, including appointment, salary, etc. It is the further averment that to render uninterrupted service to the public even in the most emergent situations, including strike, calamities and absence of employees, the Corporation had to engage temporary conductors and drivers on need basis and they were paid daily wages for the days of service rendered by them.



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5. It is the further averment of the Corporation that some casual and temporary employees had approached the Authority under Act, 1981, as early as in the year 2001 and got orders granting them permanency in the year 2005. G.O. No.463 dated 23.11.2001 was issued prohibiting recruitment in view of the ban on creation of new posts. In the midst of the aforesaid ban, representation was given by the Unions and a settlement u/s 12 (3) of the Industrial Disputes Act, 1947 was entered into between the petitioners and the Unions on 31.08.2005 in which the absorption of temporary/casual drivers and conductors were agreed upon. Based on the said Section 12 (3) settlement, respondents 2 to 125 and few others, who were appointed as daily wagers, on completion of 240 days of continuous service, their services were regularised with the Corporation in the year 2006.

6. It is the further averment of the Corporation that in the year 2016, some of the employees, who had obtained orders from the Authority approached this Court claiming that they should be granted relief in terms of the order dated 31.3.2005, which was put in issue before this Court leading to orders being passed by the Corporation granting permanent status to the said persons on the



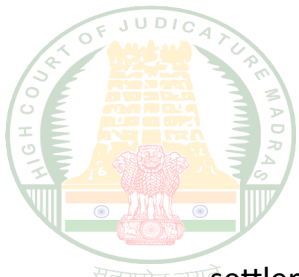
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basis of the order passed by the Authority. The respondents, taking cue from the said litigation, had filed writ petitions before this Court in the year 2021, after 15 years of their appointment as permanent employees, claiming that they should also be issued orders as was done to other persons, who had obtained orders from the Authority.

7. It is the further averment of the Corporation that during the hearing on 29.3.2023, the respondents sought permission of this Court to withdraw the petitions with liberty to pursue remedy under Act, 1981 and the Court was informed that the respondents had moved the Authority on 11.12.2023 and recording the same and leaving the contentions open, the writ petitions were disposed of. The applications moved by the Authority were entertained by the Authority and against such entertainment of the applications the present petitions have been preferred before this Court.

8. Learned counsel appearing for the petitioner submitted that Act, 1981 is not applicable to the Corporation, as it is not an industrial establishment as provided under Section 2 (3) of Act, 1981. It is the further submission of the learned counsel that the respondents were made permanent pursuant to the



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settlement arrived at u/s 12 (3) of the Industrial Disputes Act and, therefore, they cannot seek the benefit of permanent status before the Authority, as on the date of seeking permanent status, the respondents are already permanent workmen under the Corporation.

9. It is the further submission of the learned counsel that though the Corporation is a company registered under the Companies Act and is required to follow the regulations with regard to recruitment including communal reservation, however, it is a Government organisation and any appointment can be made only against a sanctioned post, borne out of a cadre by following the due process of recruitment and communal reservation and imposing the provisions of Act, 1981 would not be applicable to the Corporation.

10. It is the further submission of the learned counsel that though the Corporation would be amenable to the provisions of Act, 1981, however, the Corporation being a State Corporation, the provisions of the Constitution of India would prevail over the State enactments and, therefore, necessarily, the Corporation is bound to follow communal reservation as provided in the Constitution. Though the Corporation can follow certain procedures to fill up the

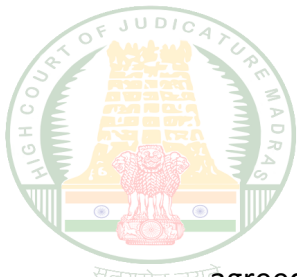


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vacant posts as per its regulations, however, any recruitment can only be against a sanctioned post and cannot be otherwise as the provisions of Act, 1981 should be read in a manner that it does not violate the provisions of the Constitution. Even if the Corporation would fall within the contours of the definition of establishment as defined u/s 1 (3) of Act, 1981, the said Act would not be applicable to the Corporation. In this regard, reliance was placed on the decision in ***Ashwani Kumar & Ors. – Vs – State of Bihar & Ors. (1996 (1) LLN 38)*** which view has been upheld in the decision in ***Uma Rani – Vs – Registrar of Co-operative Societies (2004 (7) SCC 112)***.

11. It is the further submission of the learned counsel that the respondents were inducted temporarily on daily wage basis so as to avoid inconvenience to the general public who use public transport due to absenteeism of employees and other factors, which is due to the ban on recruitment passed by the Government under G.O. No.463 dated 23.11.2001. It is the further submission of the learned counsel that the respondents were absorbed in the cadre post and their services were regularised upon completion of 240 days based on the terms of the settlement u/s 12 (3) of the Industrial Disputes Act



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agreed between the Unions and the Corporation and their services were regularised from the year 2006 onwards.

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12. It is the further submission of the learned counsel that certain other persons, who were also engaged along with the respondents had gone before the Authority and had sought for permanent status, which was considered and order passed on 31.3.2005, which is prior to the entering into settlement dated 31.08.2005 by the Union and the Corporation. Therefore, not only the said decision would not be applicable to the respondents, but also the fact that the respondents have been regularised pursuant to the entering into settlement and, therefore, they cannot seek permanent status for the period prior to the settlement, as the regularisation itself is only based on the settlement.

13. It is the further submission of the learned counsel that the earlier writ petition having been withdrawn by the respondents with liberty to move the authority claiming permanent status is grossly impermissible when the regularisation granted to the respondents is on the basis of the settlement and, therefore, the respondents go beyond the terms of the settlement to claim any other benefit, as they are guided by the settlement.



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14. It is the further submission of the learned counsel that the respondents having acquiesced the regularisation on the basis of the settlement cannot now turn back and claim for permanent status, that too after a long delay of about 20 years and the said claim is hit by delay and laches and their prayer cannot be countenanced. Though the respondents rely on the decision in W.A. No.2985/2003, etc. Batch cases to contend that their case also stands on a similar footing, however, the same cannot be pressed into service as the respondents have not spelt out any reason which had occasioned the delay and the delay is fatal to the case of the respondents.

15. In support of the aforesaid submissions, learned counsel placed reliance on the following decisions :-

- i) *Oil & Natural Gas Corporation – Vs – Krishan Gopal & Ors. (2021 (18) SCC 707);*
- ii) *State of Maharashtra & Anr. – Vs – R.S. Bhonde & Ors. (2005 (6) SCC 751);*
- iii) *State of Rajasthan & Ors. – Vs – Daya Lal & Ors. (2011 (2) SCC 429);*
- iv) *G.Gnanajothi – Vs – The Superintending Engineer, Tiruvannamalai 9W.A. No.2055/2021 – Dated – 27.02.2023);*



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- v) *The Management, rep. By its Managing Director, TNSTC – Vs – A.Kandasamy & Ors. (W.A. Nos.681/2012, etc. – Dated 02.02.2018);*
- vi) *A.Jabeer Hussain & Ors. – Vs – TNSCT (Coimbatore) Ltd. & anr. (Rev. Appln. No.s205/2018, etc. – Dated 21.01.2025);*
- vii) *D.Saravanan – Vs – The Management, MTC (W.A. No.1749/2018 – Dated 14.08.2018);*
- viii) *The Managing Director, TNSTC (Salem) Ltd. – Vs – P.Anbuechian (W.A. No.189/2019 – Dated 25.01.2019);*
- ix) *The Management, TNSTC (Villupuram) Ltd. – Vs – The Inspector of Labour & Ors. (W.A. No.962/2021 – Dated 25.01.2023);*
- x) *The Managing Director, TNSTC (Coimbatore) Ltd. – Vs – The Inspector of Labour & Ors. (W.A. Nos.362/2022, etc. – Dated 03.08.2023);*
- xi) *The Superintending Engineer, Erode Electricity Distribution Circle – Vs – The Inspector of Labour & Ors. (2022 SCC OnLine Mad 1003);*
- xii) *Selvaraju – Vs – The Superintending Engineer, Namakkal Electricity Distribution Circle (W.A. No.273 & 275/2020 – Dated 20.01.2023);*
- xiii) *The Superintending Engineer, Tiruvannamalai Electricity Distribution Circle – Vs – The Inspector of Labour & Ors. (W.P. No.33635/2016 – Dated 24.07.2023);*
- xiv) *The Superintending Engineer, TANGEDCO, Chennai – Vs – The Assistant Commissioner of Labour (Enforcement), Kancheepuram & Anr. (W.P. Nos.1366/2024, etc. – Dated 12.03.2024);*



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- xv) *Chennai Metropolitan Water Supply & Sewerage Board & Ors. – Vs – T.T.Murali Babu (2014 (4) SCC 108);*
- xvi) *Prabhakar – Vs – Joint Director, Sericulture Dept. & Anr. (2015 (15) SCC 1);*
- xvii) *L.Justine – Vs – Registrar of Cooperative Societies & Ors. (2003 (1) LLN 315);*
- xviii) *A.Umarani – Vs – Registrar of Cooperative Societies & Ors. (2004 (7) SCC 112);*
- xix) *M.P.Electricity Board – Vs – Hariram (2004 (8) SCC 246);*
- xx) *Jodhpur VidyutVitrان Nigam Ltd. – Vs – Nanu Ram (2006 (12) SCC 494);*
- xxi) *Hindustan Petroleum Corporation Ltd. – Vs – Ashok Ranghba Ambre (2008 (2) SCC 717);*
- xxii) *Indian Drugs & Pharmaceuticals Ltd. – Vs – Workmen, Indian Drugs & Pharmaceuticals Ltd. (2007 (1) SCC 408); and*
- xxiii) *The Managing Director, TNSTC Madurai Ltd. & Anr. – Vs O.Veeraiyya & Ors. (W.A. (MD) Nos.442/2025, etc. – Dated 20.08.2025)*

16. Per contra, learned senior counsel appearing for the respondents submitted that the pivotal submission with regard to delay and acquiescence are all matters, which are to be tested based on the evidence before the Authority and the respondents cannot be precluded to canvass their plea for permanency even at the inception. It is the further submission of the learned senior counsel



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that the question of limitation is not applicable to Act, 1981, as there is no prescription of any period of limitation unlike the other workmen friendly statutes.

17. It is the further submission of the learned senior counsel that upon an workman completing 480 days of continuous service within 24 calendar months, he shall be made permanent notwithstanding anything contained in any law and the Corporation being an establishment within the meaning of Section 1 (3) of Act, 1981, cannot try to wriggle out of the same by pleading constitutional embargo. Further, no worthwhile ground has been raised to show any prejudice has been caused to the Corporation merely on account of the respondents having approached the Authority in the year 2023.

18. It is the further submission of the learned senior counsel that it has been the consistent ratio that the issue of delay cannot be a ground to deny benefits to the workmen and that the settlement entered contrary to the provisions of Act, 1981 cannot be pressed into service. It is the further submission of the learned senior counsel that the ban on any new post, imposed



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vide G.O. Ms. No.212 dated 29.11.2001 cannot be taken into account for the purpose of granting permanent status to the respondents.

19. It is the further submission of the learned senior counsel that the main reason for withdrawal of the earlier writ petition in W.P. No.5303 of 2021, etc. Batch was on the ground that a plea of availability of alternative remedy was raised by the Corporation, which led to the respondents withdrawing the said petition with liberty to approach the Authority, which was acceded to by the Court. Therefore, once the alternative remedy was pleaded by the Corporation in the earlier round, it cannot now come before the Court and claim that the earlier writ petition was withdrawn, as it was only on the insistence of the Corporation on the availability of alternative remedy and not at the behest of the respondents.

20. In fine, it is the submission of the learned senior counsel that the issues raised by the Corporation with regard to delay and laches, applicability of G.O. No.463 dated 23.11.2001 and whether it would override Section 3 of Act, 1981 and whether the acceptance of appointment during the year 2006 would amount to acquiescence are all facts and law, which are to be decided by the



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Authority and not in the present writ petition and, therefore, it is pleaded that this Court may dismiss the writ petition and permit the parties to raise all contentions on the aforesaid aspect before the Authority.

21. In support of the aforesaid submissions, learned senior counsel for the respondents placed reliance on the following decisions :-

- i) *The Management, K.1570, Amaravathi Cooperative Sugar Mill Ltd. – Vs – A.Josep Selvaraj & Anr. (W.A. No.569/2022 – Dated 17.3.2022);*
- ii) *R.Lakshmi – Vs – The Chief Engineer (Personnel), TNEB, Chennai & Anr. (2012 SCC OnLine Mad 2941);*
- iii) *The Management, TNSTC (Villupuram) Ltd. – Vs – The Inspector of Labour & Ors. (W.P. 1302/2018 – Dated 01.10.2020);*
- iv) *The Management, TNSTC (Villupuram) Ltd. – Vs – The Inspector of Labour & Ors. (W.A. No.962/2021 – Dated 25.01.2023);*
- v) *The General Manager, Erode District Cooperative Milk Producers Union & Ors. – Vs – The Presiding Officer, Labour Court, Salem & Ors. (W.A. Nos.1289/2022, etc. – Dated : 09.03.2023);*
- vi) *The Superintending Engineer , Kadamparai Generation Circle, TNEB Minparai – Vs – M.Murugan & Ors. (W.A. Nos.1696/2021, etc. – Dated 31.10.2023);*



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- vii) *V.Sundararaju – Vs – The Managing Director, TNSTC (Salem Division – 1) Ltd. & Anr. (W.P. Nos.18498/2020, etc. – Dated 26.02.2024);*
- viii) *Tamil Nadu Medical Services Corporation Ltd. – Vs – Tamil Nadu Medical Services Corporation Employees Welfare Union & anr. (2024 SCC OnLine SC 982);*
- ix) *The Managing Director, TNSTC Ltd. Coimbatore Division – Vs – Shanmugam (Decd.) & Anr. (W.A. Nos.2871 & 2872/2018 – Dated 30.09.2019);*
- x) *Madurai Corporation, Madurai, rep. By its Commissioner – Vs – The Inspector of Labour, Madurai & Ors. (W.A. (MD) Nos.1163/2016 etc. – Dated 22.04.2022);*
- xi) *Jaggo – Vs – Union of India & Ors. (2024 SCC OnLine SC 3826);*
- xii) *The General Manager (Administration) TNSTC, Kumbakonam Ltd. – Vs – The Inspector cum Assistant Commissioner of Labour (Enforcement), Thanjavur & Ors. (W.A. (MD) Nos.1594 to 1599/2024 – Dated 19.09.2024);*
- xiii) *Ajaib Singh – Vs – Sirhind Cooperative Marketing cum Processing Service Society Ltd. & Anr. (1999 (6) SCC 82);*
- xiv) *Ushaben Joshi – Vs – Union of India & Ors. (SLP (Civil) No.6427/2019 – Dated - 02.08.2024);*
- xv) *Mahanadi Coalfields Ltd. – Vs – Brajrajnagar Coal Mines Workers' Union (C.A. Nos.4092-4093/2024 – Dated 12.03.2024); and*
- xvi) *Shripal & Anr. – Vs – Nagar Nigam, Ghaziabad (2025 SCC OnLine SC 221)*

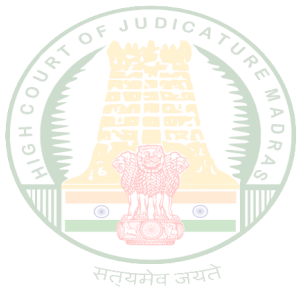


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22. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

23. The fact that Corporation is an establishment falling with the definition of Section 1 (3) of Act, 1981 has already been settled in a catena of decisions and, therefore, the said submission on behalf of the Corporation does not merit acceptance and, therefore, the proceedings, if any, initiated against the Corporation before the Authority cannot be said to be not maintainable.

24. The main ground on which the Corporation canvasses its plea that permanency sought for by the respondents cannot be dealt with by the Authority is that the permanency of the respondents is based on the settlement arrived at u/s 12 (3) of the Industrial Disputes Act and only upon the respondents completing 240 days, their services were made permanent on the basis of the terms agreed in the 12 (3) settlement. Further, without prejudice to the above contention, the permanency was granted in the year 2006, which was sought to be challenged only in the year 2023 and the delay in filing the petition is fatal to the case of the respondents.

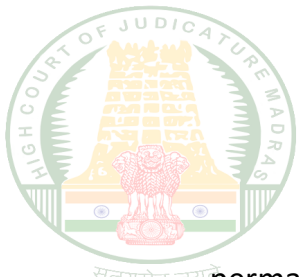


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25. It is not disputed by the respondents that based on the settlement arrived at between the Unions and the Corporation on 31.8.2005, the respondents, who were daily wagers and working as temporary/casual drivers and conductors were absorbed on completion of 240 days of continuous service and regularised in the service in the year 2006.

26. It is also not disputed by the respondents that they were working as temporary/casual drivers and conductors in the Corporation. The continuity of service of the said respondents from the time of their entry in the post on temporary basis is not spelt out. However, the issue is not on the continuity; rather, it is on the plea that the respondents were considered for permanency on completion of 240 days of service on the basis of the 12 (3) settlement entered into between the Unions and the Corporation and, accordingly, they were made permanent in service and such service was regularised in the year 2006.

27. It is not disputed by the respondents that they were made permanent on absorption and, thereafter, regularised in the service of the Corporation on and from the year 2006 and that the said absorption and regularisation and

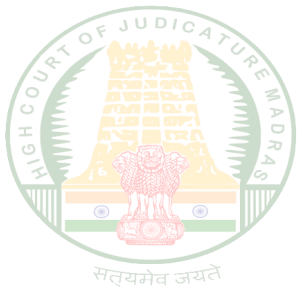


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permanency was on the basis of the settlement entered into between the Unions and the Corporation on 31.8.2005. Therefore, the whole process of permanency of the respondents is guided by the terms of the settlement, but for which their status would have remained temporary, in which case, the respondents could have had the benefit of knocking on the doors of the Authority seeking permanency. However, prior to the entering into settlement, the respondents had not initiated any proceedings claiming permanency before the Authority; rather, even immediately after the settlement, the respondents have not initiated any claim for permanency; rather after becoming permanent and holding the post for almost a decade and a half, the respondents have raked up the claim for permanency.

28. It is to be noted that once permanency has been granted based on the settlement entered into u/s 12 (3) of the Industrial Disputes Act, to which the respondents are party through the Union, the respondents cannot turn back and seek for permanency from a previous date as on the crucial date, viz., the date of claiming permanency, the respondents were already permanent workmen on the rolls of the Corporation.

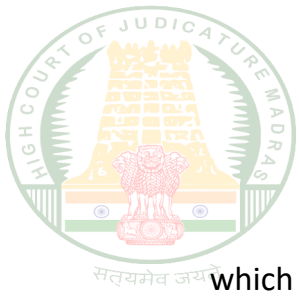


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29. The need for the enactment of Act, 1981, is spelt out through the Objects and Reasons for such enactment and it would be trite to refer to the said Objects and Reasons and the same is quoted hereunder :-

“Many workers in industrial establishments are being kept under temporary rules and on that pretext are being denied of various statutory as well as non-statutory benefits which are given to permanent workers. Mainly, in many establishments non-permanent workers are given consolidated wages which are far below the occupational wages and do not carry the benefit of dearness allowance paid to permanent employees. Similarly they are denied various other benefits like payment of festival, cyclone and marriage advances, payment of ex-gratia over and above the statutory bonus, supply of uniforms and tea, preference for the dependants of the employees in the matter of employment, etc. In order to curb various unfair labour practices and following the decision at the 25th meeting of the State Labour Advisory Board the Government have decided to under-take a special legislation to confer permanent status to the workers in various industrial establishments who have put in a service for a period of four hundred and eighty days in a period of twenty-four calendar months in such industrial establishments.”

30. Even a bare perusal of the objects and reasons for enacting Act, 1981 would reveal that the denial of various statutory as well as non-statutory benefits



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which were given to permanent workers and payment of consolidated wages far below the occupational wages was the guiding factor in enacting Act, 1981. Therefore, to curb unfair labour practices of such the nature, which acts in detriment to the workmen in getting proper wages, Act, 1981 was enacted which gives the benefit to workers by making them permanent on their completing the period specified in the said enactment. However, through the settlement, the respondents have been made permanent from the year 2006 on the terms mutually agreed to between the Unions and the Corporation.

31. When the respondents have already been made permanent on the rolls of the Corporation on the date when the application before the Authority was laid, could Act, 1981 be pressed into service by the respondents to claim permanency for a period anterior in point of time to their being made permanent is a question that falls for consideration.

32. It is to be pointed out that the purpose of enactment of Act, 1981, is only for benefitting the workmen from being made permanent so as to enable them enjoy the fruits of their labour in the form of the benefits that would accrue to them in a permanent position. Once the workmen are made permanent in a

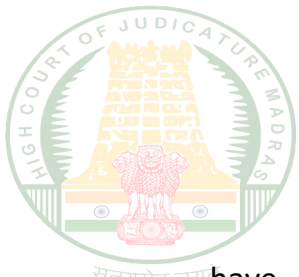


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post, the only course open to such workmen, if they are otherwise aggrieved by the fixation of the date of permanency is to approach the appropriate forum by challenging the said order fixing an unilateral date and the workmen cannot approach the Authority seeking permanency from a date anterior in point of time. However, where the permanency is on the basis of a settlement, which has been accepted by the workmen as well, the said consensus would definitely act as a bar for the workmen to seek for permanency for an anterior period of time, as permitting the workmen to interminably drag the issue of permanency is definitely not the purpose of the Act. The Act, though acts as a shield for the workmen from being victimized by the employer by not making them permanent, but it is not intended to be used to derive undue benefit of retrospective regularisation from the employer, once the benefit, which is sought to be conferred through the Act has been conferred on consensus between the parties.

33. In the present case, the grievance of the respondents have been ventilated through the Unions and the settlement had been entered into between the Unions and the Corporation, whereby, the respondents have been conferred with permanency. When the Unions have been entrusted with the task of obtaining permanency by the respondents and on negotiation, the Unions

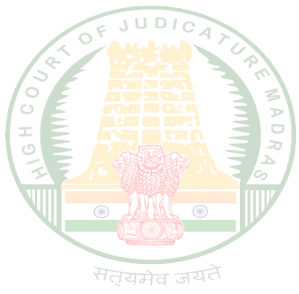


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have accepted the offer of permanency granted by the Corporation, the respondents are bound by the terms of settlement and they cannot go back and claim permanency in the form of retrospective regularisation from an anterior date merely because certain other individuals have been granted permanency.

34. Further, it is to be pointed out that the said individuals, who have been granted permanency have knocked on the doors of the Authority even before the settlement had been entered into between the Unions and the Corporation and an order had come to be passed on 31.03.2005, which is prior to the entering into settlement between the Unions and the Corporation. Therefore, on that premise, this Court, through the learned single Judge as also in appeal preferred by the Corporation have not disturbed the order of the Authority and have directed the Corporation to grant permanent status as per the order of the Authority. The said decision cannot be pressed into service by the respondents to claim equivalent treatment as the respondents and the other persons, who have obtained orders from the Authority stand on different footing and both the cases are not identical. Therefore, the reliance placed on the said decision by the respondents for seeking grant of permanency cannot be countenanced.



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35. Further, it is to be pointed out that permanency had been granted to the respondents on the basis of the settlement entered into on 31.08.2005 and the respondents have been made permanent in the year 2006. Yet, without taking any steps, if at all the respondents were aggrieved, the respondents remained silent and had come before this Court through W.P. No.5503/2021, etc., Batch, which was later withdrawn by them on the issue of availability of alternative remedy to approach the Authority. May be, the Corporation had pleaded the issue of alternative remedy and the learned single Judge had accepted the said contention and had dismissed the writ petition with liberty to the respondents to approach the Authority vide order dated 11.12.2023 leaving all the contentious issues open for deliberation. However, the fact remains that even at that point of time, almost a decade and a half had passed wherein the respondents have accepted the permanency granted to them in the year 2006 and had kept silent without taking any steps. If really they were aggrieved by the said permanency not having been granted from a date anterior in point of time, the respondents ought to have knocked the doors of the appropriate forum. Having kept silent, after obtainment of orders from the Authority by some other persons, which order was prior to the date of settlement and not applicable to



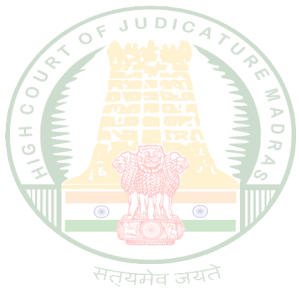
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the case of the respondents, seeking a similar relief on the basis of the said order is grossly impermissible.

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36. As aforesaid, the order obtained by the other persons was in no way connected to the settlement and it stood separate, whereas the respondents seek to claim permanency on the basis of the aforesaid order, but on the said date, the respondents have already been made permanent on the basis of settlement arrived at between the Unions and the Corporation. Therefore, the said order passed in the other case would not in any manner further the case of the respondents in their claim for permanency.

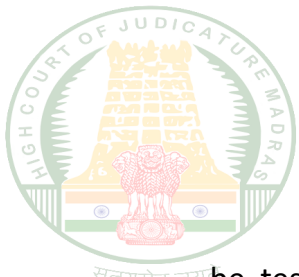
37. Be that as it may. After obtaining permanent status in the year 2006, the respondents have not taken any steps for seeking permanency anterior in point of time, but had come before the Court after about 17 years seeking permanency, which writ petition also they withdrew for going before the Authority. Though liberty was granted for moving the Authority, the question that stares writ large on the respondents is the delay in taking the said step.



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38. True it is that Act, 1981 does not impose any embargo or fetters by fixing any period of limitation for moving the plea for seeking permanent status. However, it should not be lost sight of that even if no limitation is fixed, necessarily when the respondents have been made permanent even in the year 2006 and if really they felt aggrieved that they should have been granted permanency even prior to 2006, then the respondents should have approached the Authority at the earliest point of time. However, the respondents kept silent and had approached this Court about 17 years after they have been made permanent. Further, they seek the benefit on the basis of the order passed in respect of other persons dated 31.3.2005, yet, they were granted permanency on the basis of the settlement dated 31.08.2005 and they had not questioned the said permanency by pointing out to the order obtained by the other persons and had kept silent for more than a decade and a half before taking action in the matter.

39. Though there is no period of limitation prescribed under Act, 1981, still prudence warrants this Court to find out the reason for such a long delay on the part of the respondents to approach this Court. Though the delay cannot be put against the respondents, but definitely the *bona fides* of the respondents could



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be tested on the basis of the reasons submitted for the delay. If really the respondents were basing their case on the orders passed in respect of other workmen, it is to be pointed out that the said order was passed on 31.3.2005, which is much prior to the date of the settlement on 31.8.2005. Even otherwise, the respondents, if pressing their claim on the basis of the order dated 31.3.2005, ought to have filed the application before the Authority at the earliest point of time upon their permanency in the year 2006 by claiming that they should have been granted permanency even from a date anterior in point of time by relying on the order dated 31.3.2005. However, the respondents having kept silent for 17 long years, though there being no period of limitation prescribed, the respondents are bound to establish their *bona fides* in making the claim for permanency, which they have miserably failed. It could very safely be held that the respondents have not come to the Court with clean hands by expressing the reason for the delay and the said act clearly casts a shadow of doubt in the mind of this Court with regard to act of the respondents.

40. Many decisions have been relied on by the respondents to submit that delay in seeking permanency cannot be treated as fatal as no limitation is prescribed under Act, 1981 and, therefore, the stand of the Corporation that the



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delay and laches vitiates the case of the respondents. There could be no quarrel with the said proposition of law, as it has been time tested that delay in seeking permanency cannot be a ground to oust the claim of a workman for grant of permanent status as evidenced through the aforesaid decisions relied on. However, in the present case, it is not a question of delay alone which forms the basis for negating the claim for permanency. The whole case lingers on the settlement entered into on behalf of the workmen, including the respondents by the Union with the Corporation in and by which permanency was granted. Once the respondents got the permanency which they sought for through the settlement, having accepted the date on which they would be deemed to be permanent employees of the Corporation, the respondents cannot at a later date turn back and claim for permanency from a date anterior to the said date on which they have been granted permanency. If such a situation is allowed to ripen, then there would be no end to such litigations, as any workmen, even after obtaining permanency, could drag the employer to the Authority and seek for permanency from an anterior date. Definitely that is not the intention with which Act, 1981 was enacted. When the respondents with open eyes accepted the date from which they would be taken to be permanent under the settlement, they are bound by the terms of the settlement and Act, 1981 cannot be pressed

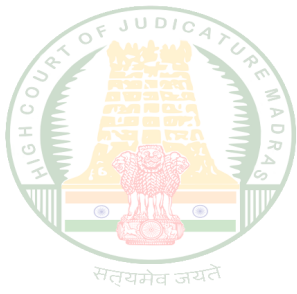


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into service at a later point of time, that too, after a decade and a half, which delay definitely needs an explanation, as otherwise granting such a relief would open a Pandora's Box for other persons to make such claims. Therefore, *bona fides* need to be tested though delay alone may not be fatal to raising such a claim.

41. Further, as already pointed out above, the respondents have acquiesced the settlement entered into by accepting the grant of permanency from the year 2006 without any demur and such being the case, once the respondents have approved the settlement and accepted it, then they are bound by the terms of the settlement, which has been mutually agreed between the Unions on behalf of the workmen and the Corporation and they cannot go back on the terms of the said settlement, merely because Act, 1981, could be invoked by the respondents at any point of time at their convenience. Therefore, the claim of the respondents that the delay and the period of limitation in the light of the provisions of Act, 1981 cannot be put against them and their approval would not bar their claim for permanency from an anterior point of time from the one accepted in the settlement cannot be countenanced and accepted and definitely the same has to fail.



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42. For the reasons aforesaid, this Court finds no merit in the claim for permanency, sought for by the respondents by filing applications before the Authority, more especially by relying upon the orders passed by this Court vide order dated 25.01.2019 with regard to certain other workmen, whose cases are covered in W.A. No.189/2019, as the facts in the said case stands on a different footing and the same cannot be pressed into service in the present case.

43. Accordingly, these writ petitions filed by the Corporation are allowed by forbearing the Authority from proceeding with the proceedings impugned herein, viz., proceedings No.ThaN.Na.Tho.Nee. (Pa.Nee.) Sa.Va. No.31/2023. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

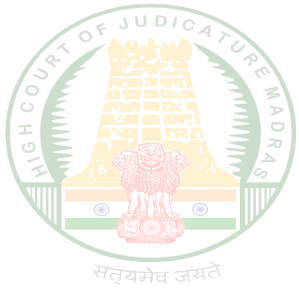
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Index : Yes / No

GLN

Note to Registry :

Registry is directed to incorporate all the cause title along with the prayer in the drafted order while issuing order copy to the parties.

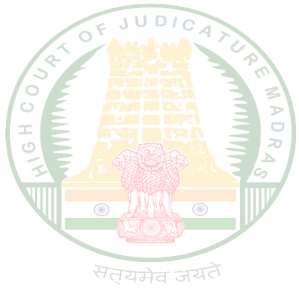


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To

1. The General Manager
Tamil Nadu State Transport
Corporation (Salem) Ltd.
Salem Division – 1
No.12, Ramakrishnan Road
Salem 636 007.
2. The Managing Director
Tamil Nadu State Transport
Corporation (Salem) Ltd.
Salem Division – 1
No.12, Ramakrishnan Road
Salem 636 007.
3. The Assistant Commissioner of
Labour (Enforcement)
Authority under the Tamil Nadu
Industrial Establishments
(Conferment of Permanent Status
To Workmen) Act, 1981, Salem – 8.



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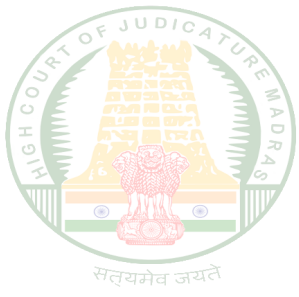
W.P. No.7191/2024, etc. Batch

M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
W.P. NOS. 7191 OF 2024, etc.**

**Pronounced on
10.04.2026**



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