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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 16.04.2026

Pronounced On : 30.04.2026

CORAM

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN**

W.A.(MD)Nos.848 & 849 of 2025 and 189 & 292 of 2026
and
C.M.P.(MD)Nos.5636 & 5639 of 2025 and 1947, 2973 & 3652 of 2026

W.A.(MD)No.848 of 2025

The General Manager (Administration)
TNSTC (KUM) Limited
No.27 Railway Station New Road
Kumbakonam 612 001.

... Appellant

Vs.

1.K.Selvaraj

2.The General Manager (Administration)
TNSTC (KUM) Limited
Nagapattinam Region
140 Public Office Road
Velipalayam
Nagapattinam 611 001.

... Respondents

PRAYER : Writ Appeal filed under Clause 15 of letters Patent against
the order passed in WP(MD)No.14028 of 2021 dated 16.08.2023.



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For Appellant : Mr.Veera Kathiravan,
Additional Advocate General
Assisted by Mr.S.C.Herold Singh

For R1 : Mr.C.K.Chandrasekaran,
for Mr.A.Rahul

For R2 : Mr.K.Ramaiah,
Standing Counsel

W.A.(MD)No.849 of 2025

The General Manager (Administration)
TNSTC (KUM) Limited
No.27 Railway Station New Road
Kumbakonam 612 001.

... Appellant

Vs.

1.V.Chellapandiyan

2.The General Manager (Administration)
TNSTC (KUM) Limited
Nagapattinam Region
140 Public Office Road
Velipalayam
Nagapattinam 611 001.

... Respondents

PRAYER : Writ Appeal filed under Clause 15 of letters Patent against
the order passed in WP(MD)No.13959/2021 dated 16.08.2023.

For Appellant : Mr.Veera Kathiravan,
Additional Advocate General
Assisted by Mr.S.C.Herold Singh



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For R1 : Mr.C.K.Chandrasekaran,
for Mr.A.Rahul
For R2 : Mr.K.Ramaiah,
Standing Counsel

W.A.(MD)No.189 of 2026

The General Manager (Administration),
Tamil Nadu State Transport Corporation
Kumbakonam Limited
No. 27 Railway Station New Road
Kumbakonam - 612 001.

... Appellant

Vs.

1.The Inspector -cum- Assistant Commissioner
of Labour (Enforcement),
Thanjavur.

2.C.Ravichandran

3.The General Manager (Administration)
Tamilnadu State Transport Corporation
Kumbakonam Limited
Nagapattinam Region
140 Public Office Road
Velipalayam
Nagapattinam - 611 001.

... Respondents

PRAYER : Writ Appeal filed under Clause 15 of letters Patent against
the order passed in WP(MD) No.27374 of 2022 dated 14.02.2023.

For Appellant : Mr.Veera Kathiravan,
Additional Advocate General
Assisted by Mr.S.C.Herold Singh



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For R1 : Mr.A.Kannan,
Additional Government Pleader.

For R2 : Mr.C.K.Chandrasekaran,
for Mr.A.Rahul

For R3 : Mr.K.Ramaiah,
Standing Counsel

W.A.(MD)No.292 of 2026

1.The Management Of
Tamil Nadu State Transport Corporation (Madurai)Ltd.
Rep.by its Managing Director Bye pass road
Madurai-16The Management of

2.The Management of
Tamilnadu state Transport Corporation (madurai)ltd. Madurai Region
Rep.by its General Manager Bye pass road
Madurai-16

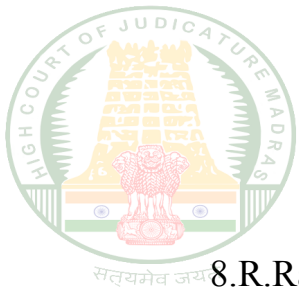
... Appellants

Vs.

1.Arasu Pokkuvarathu Madurai Thozhilalar Sangam
Represented by its General Secretary
V.o.C.2nd Street Arul nagar
Bye pass road
Madurai-16

2.B.Sakthivel
3.S.Sivakumar
4.K.Mahamani
5.P.Sathiyamurthy
6.P.Rajangam
7.G.Ganesan

4/22



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- 8.R.Rajaram
- 9.P.Murugaiah
- 10.P.Soundarapandi
- 11.M.Hyder Ali
- 12.S.Palaniraj
- 13.S.Chinnasamy
- 14.R.Kannan
- 15.M.K.Dhanapalan
- 16.T.Gopalakrishnan

17.The Labour Officer
Office of the Deputy Commissioner of Labour
K.K.nagar Madurai

... Respondents

PRAYER : Writ Appeal filed under Clause 15 of letters Patent against the order passed in WP(MD) No.2652 of 2008 dated 30.08.2022.

For Appellant : Mr.Veera Kathiravan,
Additional Advocate General
Assisted by Mr.S.C.Herold Singh

For R1 : Mr.S.Arunachalam

For R3 & R12 : Mr.M.Imran,
for M/s.Ajmal Associates.

For R17 : Mr.A.Kannan,
Additional Government Pleader.

For R2, R4 to R7,
R9 to R11 & R15 : M/s.R.Praveena



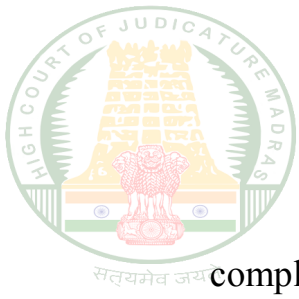
COMMON JUDGMENT

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(Judgment of this Court was delivered by **M.JOTHIRAMAN J.**)

The present intra Court appeals have been instituted challenging the writ orders passed in the writ petitions on different dates. Since the issues to be considered are common, these writ appeals have been tagged together, heard together and are being disposed of by this common judgment.

2.The case of the respondents/workmen is that they were initially engaged as daily wages basis on various dates as Driver and Conductor in Tamil Nadu State Transport Corporation between 2000-2001. As per 12(3) settlement entered between the Trade Union and Transport Corporation, permanent status has to be given to the workmen on completion of 240 days in one year as daily paid workmen. Thereafter, the employees were filed an application under Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981,[hereinafter referred as the “Permanent Status Act”] before the Inspector -cum- Assistant Commissioner of Labour (Enforcement), Thanjavur for regularisation of their service. On



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completion of 480 days from the date of their initial appointment. The Assistant Commissioner has granted relief in their favour. The benefits of regularization were granted in the year 2006 and all the employees were getting their regular time scale of pay and also the service benefits as applicable to the permanent employees in the State Transport Corporations. Thereafter, the Assistant Commissioner of Labour granted relief of permanent status to employees from the date of initial appointment as daily wage employees i.e., from the years 2000 and 2001 respectively. The said orders came to be challenged by the Management of the Transport Corporations by way of a writ proceedings. The learned Single Judge by the impugned orders dismissed the said writ petitions, which has resulted in filing of the present writ appeals.

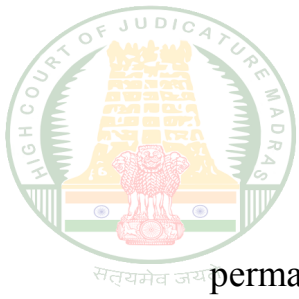
3.The learned Additional Advocate General appearing on behalf of the appellant/Transport Corporation would submit that the initial appointment of the respondent/workmen are on daily wage basis. They were regularized in the sanctioned post in the regular time scale of pay pursuant to the 12(3) settlement entered into between the Management of the Transport Corporations and the workmen on in the year 2005. All the



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workmen agreed to the 12(3) settlement, joined in the permanent sanctioned post and were receiving all the service benefits till the year 2014. Suddenly, they preferred a petition under the Permanent Status Act claiming permanent status retrospectively with effect from the date on which they had completed 480 days of continuous service as daily wage employees. It is also submitted that once workmen having agreed to the 12(3) settlement and were receiving time scale of pay for more than 8 years, thereafter filed petition seeking permanent status is un-sustainable in law. 12(3) settlement is binding on the parties by virtue of Section 18(3) of the Industrial Dispute Act, 1947. They cannot claim retrospective regularization of service under the Permanent Status Act on completion of 480 days of continuous service.

4.Per contra, the learned counsel appearing for the respondents/workmen would submit that Section 3 of the Permanent Status Act contemplates that notwithstanding anything contained in any law for the time being in force every workman who is in continuous service for a period of four hundred and eighty days in a period of twenty four calendar months in an industrial establishment shall be made



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permanent. The benefits conferred under the Act cannot be taken away by way of a 12(3) settlement. Explanation II to Section 3 of the Permanent Status Act would emphasize that for the purposes of Section 3, 'law' includes any award, agreement, settlement, instrument or contract of service, whether made before or after the commencement of the Permanent Status Act. Thus, there is no impediment for the respondent/workmen to claim the benefit of permanent status. The *non obstante* clause contemplated under Section 3 of the Permanent Status Act would be applicable in respect of the settlement under Section 12(3) of the Industrial Disputes Act, 1947. The learned counsel for the respondent would further submit that on the similar issue, the appellant/Transport Corporation has preferred SLP.Nos. 16136-16137/2024 against the judgment dated 24.10.2018 passed in WA. (MD)No.1455 of 2018 and also against the review order passed in Rev.Aplc.(MD)Nos.81 & 82 of 2019 dated 20.06.2023. The Hon'ble Supreme Court by an order dated 17.07.2025 dismissed the same. Therefore, the issue attained finality. Again the Management cannot curtail the statutory rights provided under the conferment of permanent status Act.



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5.We have considered the submissions made on either side and perused the records carefully.

6.It is pertinent to mention that in a similar circumstances the Division Bench of this Court in WA.(MD)Nos.1455 & 1456 of 2018 dated 24.10.2018 has held as under:-

3.We are not convinced by the above said submission. Admittedly, the private respondents worked for 480 days. A factual finding was also given by the first respondent in this regard. Law does not differentiate temporary employees based upon the nature of work they done. What is required is that the services should be rendered by the employees for 480 days within two consecutive years. Since the same has been found to be complied with, the first respondent rightly passed the order.

7.Thereafter, the appellant/Management has preferred review application in Rev.Aplc.(MD)Nos.81 & 82 of 2019. This Court by an order dated 20.06.2023 has passed the following orders:-

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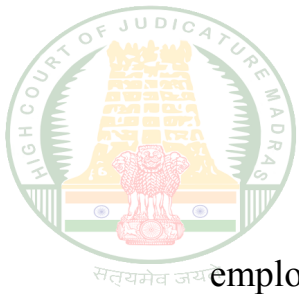


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*Review is sought for solely on the ground that there is a 12(3) settlement between the Union and the Management, which enables the Management to have different class of employees and confer permanent status to only one class and not the other. **We are afraid that such a 12(3) settlement is binding on the employees, since it amounts to the employees waiving their statutory rights.** Moreover, both the Writ Court as well as the Division Bench have concluded that the employees have worked for 480 days in two consecutive calendar years and the said factual issue has also not been disputed. Hence, we find no reason to entertain these review applications and the same are, therefore, dismissed. No costs. Consequently, connected miscellaneous petitions are closed.*

8. Aggrieved over the same, the Management has preferred SLP.Nos.16136-16137 of 2024 dated 17.07.2025 and the Hon'ble Supreme Court dismissed the same and therefore, the issue has already been reached its finality upto the Hon'ble Supreme Court.

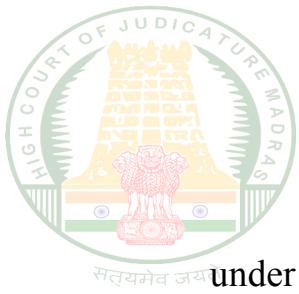
9. The respondents/workmen were engaged as daily rated employee between 2000 and 2001. They were allowed to continue as daily rated



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employees. Thereafter, Section 12(3) settlement was entered into between the Management of the Transport Corporations and the workmen on 01.09.2005 and 31.08.2005. Pursuant to the said 12(3) settlement, the services of all these daily rated employees were regularized in the sanctioned post in the regular time scale of pay in the year 2005 and 2006. The employees accepted the terms of the 12(3) settlement and joined in the sanctioned post and availed the service benefits for more than 8 years. Thereafter, they have chosen to file petition under the Permanent Status Act claiming permanent status on completion of 480 days of continuous service till such time regularization was granted to them by the Management in the year 2014.

10.It is to be noted that the employees have neither challenged the 12(3) settlement nor questioned the validity of the orders of regularization issued to them in the year 2005 and 2006. It is the specific contention of the employees that Section 3 of the Permanent Status Act provides statutory right to claim permanent status and the 12(3) settlement is not a bar for them for claiming retrospective permanent status. Admittedly, the respondents/workmen were filed the petition



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under the Permanent Status Act, after accepting the regularization in terms of 12(3) settlement.

11. In such circumstances, point for determination arise is that when the settlement made under Section 12(3) of ID Act which was agreed by the parties, have binding effect on the parties under Section 18(3) of ID Act, whether the statutory right conferred under Section 3(1) of the Permanent Status Act will override the above said settlement or not? At this juncture, it is relevant to refer Section 3 of the Permanent Status Act (post amendment, 1985), which reads as follows:-

3. Conferment of permanent status to workmen.

(1) Notwithstanding anything contained in any law for the time being in force every workman who is in continuous service for a period of four hundred and eighty days in a period of twenty-four calendar months in an industrial establishment shall be made permanent.

(2) A workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike, which is not illegal, or a lock-out [xxx] [Omitted by Tamil Nadu Industrial Establishments (Conferment of Permanent Status



to Workmen) Amendment Act, 2000 (Tamil Nadu Act 48 of 2000).], or a cessation of work which is not due to any fault on the part of the workman.

Explanation [I] [Explanation was renumbered as Explanation I by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 1985 (Tamil Nadu Act 44 of 1985)]. - [For the purposes of computing the continuous service referred to in sub-sections (1) and (2), a workman shall be deemed to be in continuous service during the days on which] [Substituted by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 1985 (Tamil Nadu Act 44 of 1985).]-

(i)he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (Central Act XX of 1946) or under any other law applicable to the industrial establishment;

(ii)he has been on leave with full wages, earned in the course of this employment;

(iii)he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv)in the case of a female, she has been on maternity leave; so however, that the total period of such maternity leave does not exceed twelve weeks.

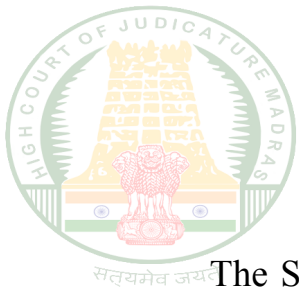


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[Explanation II. - For the purpose of this section, 'law' includes any award, agreement, settlement, instrument or contract of service whether made before or after the commencement of this Act.] [Added by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 1985 (Tamil Nadu Act 44 of 1985).]

12.It is pertinent to mention that the constitutional validity of the Permanent Status Act was challenged before the High Court of Madras in WP.Nos.5918 of 1983 and etc., batch, in a case of Nellai Cotton Mills Ltd., Vs. State of Tamil Nadu, wherein the High Court of Madras had struck down only Section 3(2) and held that the other provisions are constitutionally valid. Aggrieved over the same, the State of Tamil Nadu had preferred an appeal before the Hon'ble Supreme Court and the Hon'ble Supreme Court dismissed the same vide judgement reported in (1990) 2 SCC 581, in State of Tamil Nadu Vs. Nellai Cotton Mills Ltd.

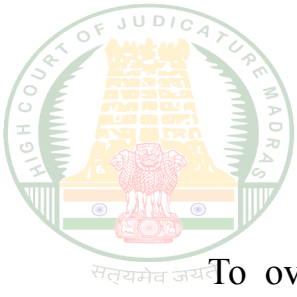
13.It is to be noted that the Permanent Status Act, before its amendment in 1985 which did not contain Explanation II in Section 3. Subsequently, in the case of Metal Powder Co. Ltd., Thirumangalam v.



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The State of Tamil Nadu [1985 (2) L.L.J. 376], a Division Bench of the Madras High Court held that because the non-obstante clause in the un-amended Section 3(1) referred only to "any law," and did not expressly mention awards, agreements, or settlements, it did not override a settlement between the employer and employees. The Court observed which has been extracted as under:

"We are bound to take notice of the legislative practice that where the intention of the legislature is that a law is to have effect notwithstanding any award, agreement or contract of service, such an intention is expressed in clear and unambiguous words. Consequently, in the absence of reference to an award, an agreement or a contract of service in S. 3(1) and restricting the operation of the non-obstante clause in S. 3(1) only to "anything contained in any law for the time being in force", we must accept the contention of the learned counsel for the petitioner that S. 3 will not supersede a settlement between the employer and the employees in so far as the subject-matter of the settlement is conferment of permanent status to the workmen. What is the nature of the settlement in a given case and how far it covers the subject-matter in respect of which S. 3(1) has been enacted, will have to be determined on the facts and circumstances of each case."



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To overcome this lacuna, the Tamil Nadu State Legislature, after the above mentioned judgment, brought in an amendment through Tamil Nadu Act 46 of 1985 which inserted Explanation II, which expressly includes "settlement" within the term of "law." This shows the intent to bring settlements within the ambit of Section 3(1).

14. At this juncture, we have to examine the repugnancy effect of the settlement made under a central Act (ID Act) on the statutory rights conferred the State Act (Permanent Status Act). The repugnancy between the Permanent Status Act which is a State law and the Industrial Disputes Act which is a Central law, the Permanent Status Act would still prevail through Article 254(2) of the Constitution of India. Both the Industrial Disputes Act, 1947 and the Permanent Status Act are enactments made with reference to matters in Schedule VII of the constitution, under Entry 22 (Trade Unions; Industrial and Labour Disputes) and Entry 24 (Welfare of Labour including conditions of work).

15. Article 254 of the Constitution of India reads as under:-

(1) If any provision of a law made by the



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Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

The Tamil Nadu Act 46 of 1981 was reserved for the consideration of the President and received Presidential assent on 05.08.1981. So if there is

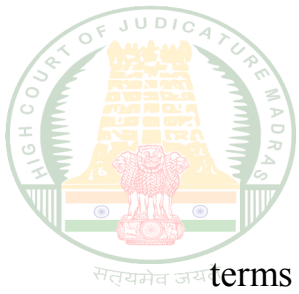


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any direct conflict between the Permanent Status Act and the ID Act, which the former creates a substantive right, the latter provides a procedure. Thus, the State Act would prevail in the State of Tamil Nadu by virtue of Article 254(2).

16.A reading of Section 3(1) and Explanation II of the Permanent Status Act, we could understand that the Legislature in the consecutive amendment to the section, has expressly stated that the term "law" over which Section 3(1) asserts overriding effect, which also includes settlements. A settlement which was made between the parties to the dispute under Section 12(3) of the ID Act falls within this definition of Section 3(1) of the Permanent Status Act as the explanation II under Section 3 which defines law includes settlement. Therefore, by reading the plain text of the statute, the non-obstante clause operates to override any inconsistent provision in such a settlement as the explanation II of the section defined law which included Settlements.

17.Therefore, this Court is of the considered view that even though the writ petitioners have entered into 12(3) settlement on accepting the



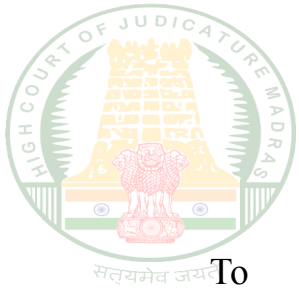
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terms mentioned in the settlement on relation to the permanency of their work, Section 3(1) read with Explanation II of Section 3 of the Permanent Status Act will have statutory effect over the above mentioned settlement. If 12(3) settlement is binding on the employees, it amounts to the employees waiving their statutory rights, which is not permissible as no person can waive off any of his statutory right that have been given under Special Act. There is no merits in these writ appeals and the same is liable to be dismissed.

18. In the result, the writ appeals are dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[N.S.K., J.] & [M.J.R., J.]
30.04.2026

NCC : Yes / No
Index : Yes / No
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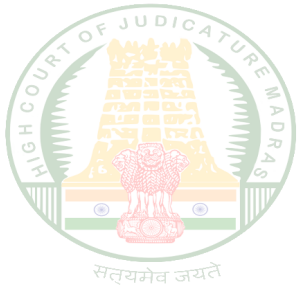


To

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1.The Inspector -cum- Assistant Commissioner
of Labour (Enforcement),
Thanjavur.

2.The Labour Officer
Office of the Deputy Commissioner of Labour
K.K.nagar Madurai



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N.SATHISH KUMAR,J.
and
M.JOTHIRAMAN, J.

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Pre-Delivery Judgement made in
W.A.(MD)Nos.848 & 849 of 2025 and
189 & 292 of 2026

30.04.2026