



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
Dated : 05.12.2018

CORAM :

WEB COPY

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P (MD)No.12393 of 2015

and

W.P (MD) .No.2130 and 2131 of 2016

and

W.M.P (MD) .Nos.1857 and 1858 of 2016

**W.P (MD)No.12393 of 2015**

V.Leela

... Petitioner

Vs.

1.The President,  
Pulliyoorsalai Village Panchayat,  
Pulliyoorsalai Village Office,  
Mayankavoom Cheruvallor Post,  
Vilvankode Taluk,  
Kanyakumari District.

2.The Block Development Officer  
(Village Panchayat),  
Melputam Panchayat Union,  
Panchayat Union Office,  
Pakode Post, Vilvancode Taluk,  
Kanyakumari District.

... Respondents

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents to implement the order passed in Na.Ka.No.2283/2013 dated 31.12.2014 by the inspector of Labour, Nagercoil.

For Petitioner : Mr.S.Kumar  
For Respondents : Mr.Anandaraj

W.P (MD) .No.2130 of 2016

Puliyursalai Panchayat,  
Pulyursalai Panchayat Office,  
Malayankavu Cheruvallor Post,  
Vilavancode Taluk,  
Kanyakumari District,  
rep., by its President

... Petitioner

Vs.



1.The Labour Inspector,  
(under the Tamil Nadu Industrical Establishment  
Conferment of Permanent Status Act, 1981)  
Nagercoil.

2.R.Vijayamma

3.Block Development Officer,  
(Village Panchayat),  
Melpuram Panchyat Union,  
Panchayat Union Office,  
Pacode Post, Vilavancode Taluk,  
Kanyakumari District.

... Respondents

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent in Na.Ka.No.2284/2013 dated 31.12.2014 and quash the same as illegal.

For Petitioner : Mr.R.Anandharaj  
For R2 : Mr.S.Kumar

**W.P(MD) .No.2131 of 2016**

Puliyursalai Panchayat,  
Puliyursalai Panchayat Office,  
Malayankavu Cheruvallor Post,  
Vilavancode Taluk,  
Kanyakumari District,  
rep., by its President

... Petitioner

Vs.

1.The Labour Inspector,  
(under the Tamil Nadu Industrical Establishment  
Conferment of Permanent Status Act, 1981)  
Nagercoil.

2.Leela

3.Block Development Officer,  
(Village Panchayat),  
Melpuram Panchyat Union,  
Panchayat Union Office,  
Pacode Post, Vilavancode Taluk,  
Kanyakumari District.

... Respondents

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for

<https://hcservices.ecourts.gov.in/hcservices/>



the records relating to the impugned order passed by the first respondent in Na.Ka.No.2283/2013 dated 31.12.2014 and quash the same as illegal.

For Petitioner : Mr.R.Anandharaj  
For R2 : Mr.S.Kumar

WEB COPY

**COMMON ORDER**

Pulliyooralai Village Panchayat is the writ petitioner in W.P(MD).Nos.2130 and 2131 of 2016. It is the contesting respondent in W.P(MD).No.12393 of 2015. One Leela and Vijayamma were employed by the Panchayat as Sweepers. They claimed that they had put in 480 days of continuous service within a period of 24 consecutive calendar months and demanded conferment of the status of permanency. Since the Panchayat Management declined to accept the said request, they moved the statutory authority constituted under the Tamil Nadu Act 46 of 1981. The authority, by orders dated 31.12.2014, allowed both the petitions filed by the said Leela and Vijayamma. Since the said orders were not implemented, Leela filed a petition in W.P(MD). No.12393 of 2015 for its implementation. After receiving notice in the said writ petition, the Panchayat Management filed the other two writ petitions in W.P(MD).Nos.2130 and 2131 of 2016 questioning the orders passed by the statutory authority.

2. Since all three writ petitions are inter-linked, they are taken up together and disposed of by this common order.

3. The first question that arises for consideration is whether Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act 46 of 1981 will apply to a Village Panchayat.

4. The learned counsel appearing for the Work Women placed reliance on the decision of the **Hon'ble High Court of Punjab and Haryana** in **C.W.P.No.14114 of 1997** dated 30.03.2017. The Hon'ble Punjab High Court held that the Panchayat Samiti satisfies the triple tests of industry evolved by the Hon'ble Supreme Court in **Bangalore Water Supply and Sewerage Board Vs., R.Rajappa** reported in **AIR 1978 SC 548** and therefore, it would fall within the definition of industry. The Panchayat Samiti does not perform any sovereign functions. It produces services with the help of labour.

5. A local body like a Village Panchayat has to perform a quite a few functions. One of the primary functions of the local body is to handle the sanitation needs of the locality. Following the implementation of Solid Waste Management Rules, the sweepers and scavengers employed in a local body, will have to collect the waste generated from the locality and carry to the compost yard. There is a conversion of waste into manure. Thus there is a manufacturing process involved. Hence, a local body will also qualify as a



factory within the meaning of Section 2(m) of the Factory Act, 1948. Therefore, it has to be characterised as an Industrial Establishment.

6. I therefore hold that the provisions of Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act 46 of 1981 would apply to a Local Body also.

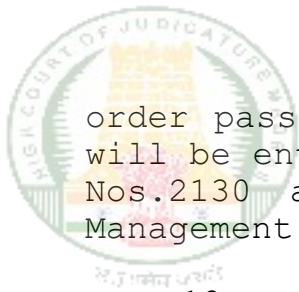
7. Having thus disposed of the objection as regards the jurisdiction, the question arises as to whether the statutory authority in this case was justified in conferring the status of permanency on these two work women.

8. The learned counsel for the work women contended that they have been working on a full time basis, but this is rebutted by the learned counsel appearing for the Village Panchayat. He drew the attention of this Court to the deposition given by the work women before the authority. A mere reading of the testimony would show that they are working only on a part time basis.

9. The learned counsel appearing for the Panchayat invoked the decision of the Hon'ble Supreme Court rendered in the case of **Secretary to Government, Commercial Taxes and Registration Department, Secretariat Vs., A.Singamuthu** dated 07.03.2017. But then the said decision pertains to Service Law and therefore, this Court would not be justified in applying the principle set out therein, to the case arising under Labour law.

10. I am unable to agree with the contention of the learned counsel for the Panchayat that a person working on a part time basis cannot file a petition under Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act 46 of 1981. This is because Section 2(4) of the Act, which defines the term 'workman' does not make a distinction between a full time workman and a part time workman. I am informed that the Madras High Court in a quite a few decisions has held that where the person was working on a part time basis for a period of 480 days within 24 consecutive calendar months and applies for a status of permanency, he will be made permanent and given part time pay scale. I am of the view that I should adopt the very same course of action in this case also.

11. In so far as the work women are concerned, they have obviously been working only on a part time basis. The learned counsel for the Panchayat has convincingly shown before me that they have not worked on a full time basis. He would also claim that they have not worked for a period of 480 days within 24 consecutive calendar months. But then this is being question of fact, I am not interfering with the finding of the fact rendered by the statutory authority. However, I agree with the contention that said Leela and Vijayamma are part time workers. Hence, even while sustaining the



order passed by the statutory authority, I make it clear that they will be entitled to part time pay scale only. Accordingly, W.P(MD). Nos.2130 and 2131 of 2016 are partly allowed. The Panchayat Management shall issue orders on the lines indicated above.

12. The learned counsel for the work women states that the following the interim order given by this Court, the said Leela had been placed on a full time basis. It is open to the Panchayat Management to continue the said Leela and Vijayamma on a full time basis. The order of this Court need not take away the benefit, which the Panchayat may otherwise confer. In any event, the monetary benefits paid to the said Leela will not be recovered. Accordingly, W.P(MD).No.12393 of 2015 is disposed of . No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS )

To

The Labour Inspector,  
(under the Tamil Nadu Industrial Establishment  
Conferment of Permanent Status Act, 1981)  
Nagercoil.

+1.CC. To Mr.S.Kumar, Advocate in SR No.98653

W.P (MD)No.12393 of 2015

and

W.P (MD).No.2130 and 2131 of 2016

05.12.2018

rmk

\_MK (30.09.2019) 5P 3C