

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.08.2021
DATE OF DECISION : 18.02.2022

CORAM:

THE HON'BLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.A.Nos.2260 to 2265 of 2012, 1141 to 1143 of 2011, 1151 to 1155 of 2011, 1203, 1929, 1930, 619, 667 to 669, 867 and 872 of 2011

W.A.NO.2260 OF 2012:

1. PARRY AGRO INDUSTRIES LIMITED,
PARALAI ESTATE,
TIAM HOUSE ANNEX, JEHANGIR STREET,
CHENNAI - 600 001.
REP. BY ITS MANAGER FINANCE MR.S.SIVARAMAN
- 2.V.CHANDRASEKAR
TIAM HOUSE ANNEXE,
JEHANGIR STREET,
CHENNAI-600 001. ..PETITIONERS in WA No.2260 of 2012

VS

- 1.STATE OF TAMIL NADU,
REP. BY SECRETARY TO GOVERNMENT,
LABOUR AND EMPLOYMENT DEPARTMENT,
FORT ST. GEORGE, CHENNAI - 9.
- 2.THE INSPECTOR OF PLANTATIONS,
VALPARAI - 642 127.
COIMBATORE DISTRICT.
- 3.ANBALAGAN
- 4.JEYAVELU
- 5.GANDINATHAN
- 6.PARVATHI
- 7.VALLIAPPAN
- 8.SUBRAMANI .. RESPONDENTS IN W.A.NO.2260 OF 2012

W.A.NO.2261 OF 2012:

- 1.PARRY AGRO INDUSTRIES LTD.
IYERPADI ESTATE REP.BY THIRU S.SIVARAMAN
MANAGER-FINANCE TIAM HOUSE CHENNAI 1.

2.V.CHANDRASEKAR

TIAM HOUSE ANNEXE JEHANGIR ST CH-1

...PETITIONERS in WA No.2261 of 2012

vs

1.STATE OF T.N.

REP.BY SECRETARY TO GOVT. LABOUR &
EMPLOYMENT DEPT.

FORT ST.GEORGE CHENNAI 9.

2.THE INSPECTGGOR OF PLANTATIONS

VALPARAI 642 127, COIMBATORE DT.

3.KANNIMUTHU

C/O IYERPADI ESTATE 2ND DIVISION
IYERPADI PO COIMBATORE DIST.

4.DHANALAKSHMI

5.MALA

6.ESWARI

7.PALANIAMMAL

8.MEENA

9.MURUGALAKSHMI

10.THIRU ARUMUGAM

11.MAGALADEVI

12.ALALYAMANI

13.CHANTIRA

14.JOTHIMANI

15.DEIVANAI

16.MARIAMMAL

17.AMMAVASAI

... RESPONDENTS in WA No.2261 of 2012

W.A.NO.2262 OF 2012:

1.MANAGEMENT OF PARALAI ESTATE
OWNERS PARRY AGRO INDUSTRIESLTD. REP BY
GENERAL MANAGER THIRU CHARLES VIJAYAKUMAR
IYERPADI PO COIMBATORE DIST

... PETITIONER in WA No.2262 of 2012

vs

1.STATE OF TN. REP.BY SECY. TO
GOVT. LABOUR & EMPLOYMENT, DEPT.
FORT ST.GEORGE, CHENNAI-9.

2.THE INSPECTOR OF PLANTATIONS
VALPARAI-642 127, COIMBATORE
DISTRICT.

3.RAJAN

4.MUNIAMMAL

5.JANSIRANI

6.KALIMUTHU

7.SELVARAJ

... RESPONDENTS in WA No.2262 of 2012

W.A.NO.2263 OF 2012:

1.MANAGEMENT OF IYERPADI ESTATE
OWNERS: PARRY AGRO INDUSTRIES LTD REP.BY
CHARLES VIJAYAKUMARGENERAL MANAGER
COIMBATORE DIST

... PETITIONER in WA No.2263 of 2012

vs

1.STATE OF TAMILNADU REP.BY
SECRETARY TO GOVERNMENT LABOUR &
EMPLOYMENT DEPARTMENTFORT ST.GEORGE CHENNAI-9.

2.THE INSPECTOR OF PLANTATIONS
VALPARAI - 642 127, COIMBATORE
DISTRICT.

3.AMMAVASAI

4.RAJENDRAN

5.VISWANATHAN

6.PERIASAMY

7.MAHALAKSHMI

8.SUBRAMANI

... RESPONDENTS in WA No.2263 of 2012

W.A.NO.2264 OF 2012:

1.THIRU CHARLES VINAYAKUMAR

G.M. MANAGEMENT OF MURUGALI ESTATE OWNERS

PARRY AGRO IND LTD. IYERPADI P.O CBE DIST

... PETITIONER in WA No.2264 of 2012

vs

1.THE SECY TO GOVT OF T.N.

LABOUR & EMPLOYMENT DEPT, FORT ST.GEORGE

CHENNAI.9

2.THE INSPECTOR OF PLANTATIONS

VALPARAI 642 127, COIMBATORE

DISTRICT

3.JAMBULINGAM

4.ANJALI

5.SUMITHRA

6.PARVATHI

7.GOVINDAN

8.KALA

9.MANOHARAN

10.KALYANASUNDARI

11.INDIRA

12.MUNIAMMA

13.KAVITHA

14.PARANJOTHI

15.JEYARAJ

16.INDIRA GANDHI
17.DHANALAKSHMI
18.MAHESWARI
19.DEIVANAI
20.VASANTHA
21.INDIRANI
22.MUNIAMMA
23.KANAGU
24.THAMARAISELVI
25.JANAKI
26.KARUPPAYEE
27.KUMAR
28.VINCENT
29.SIVAPACKIAM
30.RAMESH
31.MANIKANDAN
32.USHA
33.KRISHNAVENI
34.MALAR
35.THANGAMMAL
36.MARY
37.IYYAMMAL
38.DHANALAKSHMI
39.RAJAMMAL
40.CHITRA

41.RAVI

42.SRIDHARAN

43.MALARVILI

44.KARUPPAYEE

45.JEYALAKSHMI

46.MARIAMMAL

47.RAKKAMMAL

48.RAVI

49.KAMAL

50.ANNALAKSHMI

51.JEYAN

52.SAROJA

53.SHANTHA

54.SUMATHI ... RESPONDENTS in WA No.2264 of 2012

W.A.NO.2265 OF 2012:

1.PARRY AGRO INDUSTRIES LTD

PARALAI ESTATE REP BY GENERAL MANAGER THIRU
CHARLES VIJAYAKUMAR CHENNAI

... PETITIONER in WA No.2265 of 2012

vs

1.STATE OF TAMIL NADU REP.BY

SECRETARY TO GOVERNMENT LABOUR& EMPLOYMENT
DEPARTMENT, FORT.ST.GEORGE CHENNAI - 9

2.THE INSPECTOR OF PLANTATIONS

VALAPARAI - 642 127, COIMBATORE
DISTRICT.

3.THIRU T.THOMAS TEMPORARY

WORKER PARALAI ESTATE IYERPADI
P.O. 642 108, COIMBATORE DISTRICT.

... RESPONDENTS in WA No.2265 of 2012

W.A.NO.1141 OF 2011:

1.TATA TEA LTD
PANNIMEDU ESTATE REPTD BY ITS DEPUTY GENERAL
MANAGER IR P.G.PRAKASH SHANKAR REGIONAL OFF
MUNNAR 685 612 ... PETITIONER in WA No.1141 of 2011

vs

1.THE STATE OF TN REP BY SECY
TO GOVT. LABOUR AND EMP. DEPT CHENANI -9

2.INSPECTOR OF PLANTATIONS
VALPARAI COIMBATORE 642 127

3.SASEE

4.VELLATHAI

5.REENA

6.SENTHURPANDI

7.SEKHAR

8.HASAN KUTTI

9.MUNIYANDI

10.GANESAN

11.BASKAR

12.RAJAM

13.SUMATHY

14.VELUMSAMY ... RESPONDENTS in WA No.1141 of 2011

W.A.NO.1142 OF 2011:

1.TATA TEA LTD
PANNIMEDU ESTATE REGIONAL OFFICE PB NO.9
MUNNAR 685 612 REPTD BY ITS DEPUTY GENERAL
MANAGER IR PG.PRAKASH SHANKAR
... PETITIONER in WA No.1142 of 2011

vs

1. STATE OF TAMIL NADU SECY.
LABOUR & EMPLOYMENT DEPT.
FORT.ST. GEORGE CHENNAI.
- 2.THE INSPECTOR OF PLANTATIONS
VALAPARAI 642 127, COIMBATORE
DIST.
- 3.THE PLANTERS ASSOCIATION OF TAMIL NADU
"CANOWIE" P. B.NO.35
COONOR 643 101, NILGIRIS-4
- 4.KATHEEJA
- 5.THIRUMARAN
- 6.VIJAYAKUMAR
- 7.SANMUGATHAI
- 8.R.GOMATHI
- 9.SURESH
- 10.SIVAKUMAR
- 11.SARAVANAN
- 12.VANAJA
- 13.RAJA
- 14.SARAVANAN
- 15.SUBRAMANI
- 16.K.GANESWARI
- 17.RAJU
- 18.SIVALINGAM
- 19.MALLIKA
- 20.CHELLAMMAL
- 21.SIVAKUMAR
- 22.JOSEPH

23.RANJANI

24.K.LAKSHMI

25.SARADADEVI

26.LATCHUMIKUTTI

27.REVATHI

28.MANJULA

29.SUNDARRAJ

30.RAVIKUMAR

31.P.RAVIKUMAR

32.VELMURUGAN

33.LATCHUMI

34.D.RANI

35.KRISHNANKUTTI

36.HUSSAIN

37.RAMU

38.BIJU P.JORGE

39.SENTHURPANDI ... RESPONDENTS in WA No.1142 of 2011

W.A.NO.1143 OF 2011:

1.TATA TEA LTD

VALPARAI ESTATE REPTD BY ITS DEPUTY GENERAL
MANAGER IR REGIONAL OFFICE MUNNAR 685 612

... PETITIONER in WA No.1143 of 2011

vs

1 THE STATE OF TN REP BY SECY
TO GOVT. LABOUR AND EMP. DEPT CHENANI -9

2 INSPECTOR OF PLANTATIONS
VALPARAI COIMBATORE 642 127

3 CHINNATHAMBI

4	DHANALAKSHMI
5	SOLAIAMMAL
6	SAJITHA
7	JAYACHITRA
8	T.MANI KANDAN
9	MURUGAN
10	VANATHU
11	RENGASAMY
12	ANTONY
13	KAIRAN
14	SUBRAMANIAM
15	JEYAKUMAR
16	VEERAMUTHU
17	GANDHI
18	RAMAN
19	P.MALA
20	JAYABAL
21	SAROJA
22	RAJA
23	A.ARMUGAM
24	SURESH
25	PERUMAL
26	P.SELVAM
27	ARUNACHALAM
28	RAMAKRISHNAN

29 MUTHUPANDI

30 CHANDRASAMI

31 VEERAPPAN

32 GANDHI

33 MURUGAN

34 AYYATHURAI

35 THANGARAJ

36 SIVA

37 VARGHEESE ... RESPONDENT in WA No.1143 of 2011

W.A.NO.1151 OF 2011:

1.TATA TEA LTD.

URALIKKAL ESTATE REP. BY ITS DY. GENERAL
MANAGER (IR) P.G.PRAKASH SHANKAR REGIONAL
OFFICE MUNNAR-685612. ... PETITIONER in WA No.1151 of 2011

Vs

1.THE STATE OF TN REP BY SECY
TO GOVT. LABOUR AND EMP. DEPT CHENANI -9

2.INSPECTOR OF PLANTATIONS
VALPARAI COIMBATORE 642 127

3.LAKSHMANAN

4.DAVID

5.MAHESWARI

6.MARIAMMAL

7.SELVARAJ

8.MAHAMAYEE

9.SAKTHIVEL

10.LAKSHMI

- 11.RAMESH KUMAR
- 12.CHITRA
- 13.RAJTHUNDAN
- 14.SEKAR
- 15.LATHA
- 16.MARITHURAI
- 17.JOHN PHILIP
- 18.THANGAPANDIAN
- 19.DEVI
- 20.BABU
- 21.SINGARARAJ
- 22.CHANDRAN
- 23.SIVAKUMAR
- 24.RAJESHWARI
- 25.PONGUDI
- 26.KALIMUTHU
- 27.RAVI
- 28.MOHAMMED
- 29.VANARAJ
- 30.LATHA
- 31.SHANMUGAM
- 32.RANI
- 33.THANGAMANI
- 34.RADHAMANI
- 35.GANESAN

36.SHANTHI

37.VASANTHI

38.SENTHAMIL SELVI

39.SUMATHI

40.VIJAYAKUMAR

41.THANGADURAI

42.GOVINDARAJ

43.GANESHAN

44.JAYA

45.VELLIANGIRI ... RESPONDENTS in WA No.1151 of 2011

W.A.NO.1152 OF 2011:

1.TATA TEA LIMITED

VELONIE ESATE REP BY ITS DEPUTY GENERAL
MANAGER IR REGIONAL OFFICE MUNNAR

... PETITIONER in WA No.1152 of 2011

vs

1.THE STATE OF TAMIL NADU

REP BY ITS SECRETARY TO GOVERNMENT LABOUR
AND EMPLOYMENT DEPARTMENT FORT ST.GEORGE
CHENNAI

2.THE INSPECTOR OF PLANTATIONS

VALPARAI CBE.

3.BABU

4.SANTHAKUMARI

5.BALAN

6.P.RADHA

7.FATHIMA ... RESPONDENTS in WA No.1152 of 2011

W.A.NO.1153 OF 2011:

1.TATA TEA LTD.
VELONIE ESTATE REGIONAL OFFICE P.B.NO.9
MUNNAR-685612. REP. BY ITS DY. GENERAL
MANAGER (IR) P.G.PRAKASH SHANKAR.
... PETITIONER in WA No.1153 of 2011

Vs

1.STATE OF T.N. SECY. LABO
UR & EMPT. DEPT.,
FORT ST.GEORGE
CHENNAI

2.THE INSPECTOR OF PLANTATION
VALPARAI 642 127 COIMBATORE

3.THE PLANTERS ASSOCIATION OF TAMIL NADU
"CANOWIE" P. B.NO.35
COONOR 643 101, NILGIRIS-4

4.KALAIYARASI

5.SELVI

6.PAPPATHI

7.NEELAMMAL

8.SUMATHI

9.BABY

10.LATCHUMIKANTHAN

11.GOVINDAMMAL

12.JAYALATCHUMI

13.ISRAVEL

14.V.MUNIAMMAL

15.ANNATHAL

16.SATHIYAVELU

17.SELVARAJ

18.KALAIYARASI

19.VELLADURAI

20.CHINNAPILLAI
21.CHIDAMBARAM
22.MADATHI
23.RAJAN
24.THIRUSELVI
25. SURESH
26.SOUNDARRAJ
27.SUBBAIAH
28.LATCHUMI
29.SUNDARAM
30.PADMARAJ
31.RANI
32.PACKIAM
33.MARIAPPAN
34.MARIAMMAL
35.PAULTHTHAI
36.MUTHAMMAL
37.MEENA
38.K.SUBRAMANIAN
39.KAVITHA
40.P.LEELA
41.AARAAI
42.NATARAJ
43.JANAKIKUNJAMMAL
44.BABY PRASANNA

45. SELVA JANAKI

46. DHARMARAJ

47. P. MANIMEHALAI

48. RAJAMMAL

49. PARIMALA

50. CHITRAKANI

51. PADMA

52. RAJASEKAR

53. RAVII

54. PADMAVATHY

55. RADHAKRISHNAN

56. NARAYANAN

57. JAYALATCHUMI

58. VANASUNDARI

59. RAJANI ... RESPONDENTS in WA No.1153 of 2011

W.A.NO.1154 OF 2011:

1. TATA TEA LTD

VALPARAI ESTATE REGIONAL OFFICE PB NO.9

MUNNAR 685 612 REPTD BY ITS DEPUTY GENERAL

MANGER IR P.G.PRAKASH SHANKAR

...PETITIONER in WA No.1154 of 2011

vs

1. STATE OF TAMIL NADU

SECY. LABOUR & EMPT. DEPT.

FORT ST. GEORGE, CHENNAI

2. THE INSPECTOR OF

PLANTATIONS VALPARAI 642127, COIMBATORE

3. THE PLANTERS ASSOCIATION OF TAMIL NADU

"CANOWIE" P. B.NO.35
COONOR 643 101, NILGIRIS-4

4. NATARAJAN
5. SATHYARAJ
6. GANESAN
7. PANNEER
8. CHITHRAVEL
9. GANESAN
10. M.RAJ
11. SUBRAMANIAN
12. MURUGESH
13. RAJATHI
14. PANNERSELVAM
15. PAZHANIAMMAL
16. CHELLAMMAL
17. KANNAN
18. PANNERSELVAM
19. DHANALAKSHMI
20. RAVICHANDRAN
21. RENGASAMY
22. SAROJA
23. PONNUSAMY
24. GOVINDARAJ
25. ANNALATCHUMI
26. MURUGESWARAN
27. DURAIRAJ

28. MURUGESH
29. VASANTHI
30. JANAGARAJ
31. NATESAN
32. VIJAYAKUMAR
33. AMARAJOTHI
34. DEVANESAN
35. KUZHANTHAISAMY
36. ELANGO
37. JAYARAJ
38. P.MURUGESH
39. KANDASAMY
40. PAZHANIAPPAN
41. SANMUGANATHAN
42. CHINNASAMY
43. GOVINDAN
44. NALLATHAMBI
45. ARUMUGAM
46. SENGAIYYAN
47. MANGAI
48. DAIVALALTCHUMI
49. POONGODI ... RESPONDENTS in WA No.1154 of 2011
W.A.NO.1155 OF 2011:

1. TATA TEA LTD
 PACCHAMALAI ESTATE REGIONAL OFF PB NO.9
 MUNNAR 685 612 REPRESENTED BY ITS DEPUTY

GENERAL MANAGER IR P.G.PRAKASH SHANKAR

... PETITIONER in WA No.1155 of 2011

vs

1. THE STATE OF TAMILNADU
REPRESENTED BY ITS SECRETARY TO GOVT LABOUR
AND EMPLOYMENT DEPT FORT ST GEORGE CH-9
2. THE INSPECTOR OF PLANTATIONS
VALPARAI 642 127 COIMBATORE DIST
3. THE PLANTERS ASSOCIATION OF TAMIL NADU
"CANOWIE" P. B.NO.35
COONOR 643 101, NILGIRIS-4
- 4 MUNIAMO
- 5 RAJESWARI
- 6 PAZHANIVEL
- 7 LATCHUMANAN
- 8 INDIRA
- 9 SATEESHKUMAR

10 SURESH ... RESPONDENTS in WA No.1155 of 2011

W.A.NO.1203 OF 2011:

- 1.TATA TEA LTD
URULIKKAL ESTATE REGIONAL OFFICE PB NO.9
MUNNAR 685 612 REPTD BY ITS DEPUTY GM IR P.G.
PRAKASH SHANKAR ... PETITIONER in WA No.1203 of 2011

vs

1. STATE OF TAMIL NADU SECY.
LABOUR & EMPLOYMENT DEPT.
FORT ST. GEORGE.MADRAS
2. THE INSPECTOR OF
PLANATATIONS, VALPARAI 642 127
COIMBATORE DISTRICT
3. THE PLANTERS ASSOCIATION OF TAMIL NADU
"CANOWIE" P. B.NO.35
COONOR 643 101, NILGIRIS-4

4. BHASKAR
5. NAGARAJ
6. MURUGATHAL
7. SUGUMARAN
8. SHEELA
9. ROBIN
10. PAZHANIAMMAL
11. PONNUMANI
12. MURUGESWARI
13. PAULRAJ
14. MUNIYANDI
15. SEETHALATCHMI
16. SIVAKANI
17. SANTHAMMAL
18. DAIVANI
19. VIJAYALATCHMI
20. VALLKIAMMAL
21. RANI
22. SANTHI
23. THANGAVELU
24. SENTHIL
25. SAITHALAI
26. SUBRAMANI
27. MUTHU
28. GULCHAMMA

29. AMEENA
30. DEVI
31. A.S.RAJAN
32. MALLIGA
33. GANESAN
34. DEVASEE
35. STELLA CRESY
36. P.SEKAR
37. LATCHUMANAN
38. R.PAZHANIAMMAL
39. PAPPATHY
40. SULAIMAN
41. MERCY
42. ANANDAMMA
43. SELVI
44. CHANDRAN
45. JANAKI
46. MARUTHAI
47. CHANDRA
48. PAPZHANISAMY
49. GANAPAPTHY
50. SIVAKAMI
51. S.VASANTHI
52. RAMASAMY
53. PAKKIASAMY

54. PAZHANIAMMAL
55. SARAVANAN
56. AKILA
57. SEETHALATCHUMI
58. MALATHI
59. USHA
60. AKILA
61. RAJESWARI
62. RANGARAJ
63. LATCHUMANAN
64. MAHALATCHUMI
65. GOWRI
66. SANMUGATHTHAL
67. K.SUBRAMANI
68. RAMACHANDRAN
69. VAIYAPURI
70. VASUKI
71. RAJESWARI
72. DHARMALATCHUMI
73. KAMALAM
74. LEELA
75. SELVI
76. RAMKUMAR
77. DEIVAKANI
78. SASIKUMAR

79. MURUGAN
80. RANI
81. MANIKANDAN
82. KAMALUTHIN
83. AMUDHAVENI
84. MADASAMY
85. T.GANAPATHY
86. V.PAZHANIAMMAL
87. MARY
88. L.D.RAMAN
89. REKHA
90. SANTHI
91. SIDDICK
92. KASI
93. THANGAMMAL
94. ANGAMMA
95. SAHUL HAMEED
96. CHITRA
97. THANGAN
98. MAHASURINNISSA
99. JAYA BHARATHI
100. KALIAMMA
101. KALARANI
102. RAHEEMA

... RESPONDENTS in WA No.1203 of 2011

W.A.NO.1929 OF 2011:

1 THE BOMBAY BURMA TRADING
CORPN. LTD. OWNERS: MANIMUTTAR ESTATE
NALUMUKKU P.O. 627427 TIRUNELVELI DT.
... PETITIONER in WA No.1929 of 2011

Vs

1 STATE OF TAMIL NADU
REP. BY SECRETARY TO GOVT. LABOUR &
EMPLOYMENT DEPT. FORT ST. GEORGE CH-9.

2 THE INSPECTOR OF PLANTATIONS
NAGERCOIL - 629001.

3 NALLIAH

4 SURESH

5 RAMAKRISHNAN

6 RAJU

7 SELVARAJ

8 RAMAR

9 SUKUMARAN

10 MUTHUSAMY

11 SUBRAMANIAN

12 PRABHAKARAN

13 PACKIAM

14 JAYAKUMAR

15 MANI

16 VINCENT

17 MANI

18 BALAKRISHNAN

19 SATHEESHKUMAR

20	RAJANIKANTH
21	ISSAC
22	PAULRAJ
23	BALASUBRAMANIAN
24	SOLOMON
25	PONRAJ
26	MARIAMMAL
27	ANANDAVALLI
28	PATCHIAMMAL
29	CHODALAI
30	VIMALA
31	DEVAKI
32	SUSEELA
33	GANDHIMATHI
34	JEYARANI
35	MUTHULAKSHMI
36	SAMADANAM
37	SARASWATHI
38	LAKSHMI
39	KANAKAMMAL
40	INDIRA
41	PONNAMMAL
42	PAPPA
43	SOOSAIAMMAL
44	PETCHI

45	USHA
46	STELLA SAKUNTHALA
47	VALLIAMMAL
48	RUKMANI
49	KANNAMMAL
50	YAGAMMAL
51	RANI
52	MARIE
53	AMBIKAVATHI
54	RETHINAM
55	ARPUTHAMANI
56	GANAPATHIAMMAL
57	MARY
58	ANTHONIAMMA
59	ARUMUGATHAI
60	KANNIMARY
61	MARIAMMA
62	VIJAYAMMA
63	MUTHULAKSHMI
64	THANGAMMA
65	IRUDAYAMARY
66	SAROJA
67	PARVATHI
68	ALPHONSE
69	SUNDARI

70	DAISY
71	ROSEMARY
72	SHEELA
73	ESAKIAMMAL
74	REGILA RANI
75	JEBAMANI
76	MAADATHI
77	PAPPA
78	MUTHULAKSHMI
79	ROSEMARY
80	ANNAMARIAL
81	ANTONIYAMMAL
82	JAYALETCHUMI
83	REGINA MARY
84	SAARAAL
85	GNANASOUNDARI
86	ANTHONYAMMAL
87	VELLAIYAMMA
88	KRISHNAMMA
89	SAMUTHIRAVALLY
90	THAMILSELVI
91	MANJULA
92	CHELLAMMA
93	PETCHIAMMAL
94	STELLA

95	POOMANI
96	RAMU
97	JEBAMANI
98	SULOCHANA
99	DEVIKA
100	PETCHIAMMAL
101	KOILAMMA
102	BANUMATHI
103	ANNAPUSHPAM
104	ANTHONIAMMAL
105	ELAVARASI
106	PETCHIAMMAL
107	KUMARI
108	SABANTHIRAL
109	LATHIKA
110	MARIAMMA
111	ANNALETCHUMI
112	ELIZABETH RANI
113	PREMA
114	PETCHIAMMAL
115	UMA
116	AMBIKADEVI
117	INBARASI
118	MADASAMY
119	YOBU

120 GURUSAMY

121 GANESHAN

122 MURUGAN

123 PUSHPARAJ

124 SAMUTHIRAKANI

125 VELANKANNI ... RESPONDENTS in WA No.1929 of 2011

W.A.NO.1930 OF 2011:

1. THE PERIA KARAMALAI TEA AND
PRODUCE CO. LTD. OWNERS: KARAMALAI ESTATE
286 RACE COURSE ROAD COIMBATORE-18.
... PETITIONER in WA No.1930 of 2011

Vs

1. STATE OF TAMIL NADU
REP.BY SECRETARY TO GOVT. LABOUR AND
EMPLOYMENT DEPT. FORT ST. GEORGE CHENNAI-9.

2 THE INSPECTOR OF PLANTATIONS
VALPARAI-642127. COIMBATORE DT.

3 SHANMUGHAIAH

4 SELVARAJ

5 THIRUPPATHY

6 CHANDRAN

7 MARIAPPAN

8 RAJ

9 SHANMUGAM

10 ARUMUGAM

11 AROCKIAM

12 MARIAPPAN

13 DHARMALINGAM

14	KANTHAIAH
15	RAJENDRAN
16	IYYANAR
17	KUMAR
18	KARUPPUSAMY
19	MURUGAN
20	THANGARAJ
21	BALAMEENA
22	MUTHUMARI
23	JAYALAKSHMI
24	AATHILAKSHMI
25	SARASWATHI
26	MUNIAMMAL
27	LAKSHMI
28	SELVI
29	LAKSHMANAN
30	P . GANESHAN
31	KRISHNAMOORTHY
32	SAKTHIVEL
33	SUDALAI
34	ANNADURAI
35	PALMURUGAN
36	RAJENDRAN
37	VENKATESAN
38	SHANMUGAVELU

39 RENGANATHAN
40 DHARMAN
41 AUGUSTIN
42 VEERAPANDI
43 G.MARIAMMAL
44 SANTHI
45 VIJIAYALAKSHMI
46 JOTHI
47 DEVAMATHA
48 REJINA
49 THAMAYANTHI
50 RAJAMMAL
51 ANNALAKSHMI
52 PREMA
53 PECHIAMMAL
54 SANTHANAMARY
55 RAJESWARI
56 KOGILA
57 K.KALA
58 ANNAMARY ... RESPONDENTS in WA No.1930 of 2011

W.A.NO.619 OF 2011:

1 PERIA KARAMALAI TEA &
PRODUCE CO LTD OWNERS VELLAMALAI ESTATE 286
RACE COURSE ROAD REP BY ITS K.P.KRISHNAKUMAR
COIMBATORE 641 018 ... PETITIONER in WA No.619 of 2011

vs

1 STATE OF TAMILNADU
REP BY SECRETARY TO GOVT LABOUR & EMPLOYMENT
DEPT FORT ST GEORGE CH-09

2 THE INSPECTOR OF PLANTATIONS
VALPARAI 642 127 COIMBATORE DIST

3 PANEER ... RESPONDENTS in WA No.619 of 2011

W.A.NO.667 OF 2011:

1 PERIA KARAMALAI TEA & PRODUCE
CO LTD OWNERS AKKAMALAI ESTATE REP BY VICE
PRSEDENT N.SWAMINATHAN 286 RACE COURSE RD
CBE. ... PETITIONER in WA No.667 of 2011

Vs

1 STATE OF TAMIL NADU
REP BY SECETAR TO GOVENMENT LABOUR &
EMPLOYMENT DEPT FORT ST.GEORGE CHENNAI.

2 THE INSPECTOR OF PLANTATIONS
VALPARAI 642 127 CBE.

3 BALU

4 THANKAM

5 JAYARAMAN

6 PALANISAMY

7 ANANDAN

8 PARAMAN

9 KALAIARASI

10 VALARMATHI

11 USHA

12 NAGARAJAN

13 MANIKANDAN

14 MUTHUSAMY

15	AROCKIAMARY
16	JAYAPACKIAM
17	SELVARANI
18	ESAKIRANI
19	VASUKI
20	GANAPATHY
21	KANIRAJ
22	MARIAMMAL
23	KAVITHA
24	KANI
25	VARGHESE
26	MOORTHY
27	VALLIAMMAL
28	DEVI
29	ROOPATHI
30	PREMA
31	SWAMINATHAN
32	KALAISELVAN
33	MADASAMY
34	ARPUTHAMARY
35	PARAMASIVAM
36	GANESAN
37	TAMILSELVAN
38	MARIAMMAL
39	VALARMATHI

40 SIVAKAMI

41 KAMATCHI ... RESPONDENTS in WA No.667 of 2011

W.A.NO.668 OF 2011:

1 PERIA KARAMALAI TEA & PRODUCE
CO. LTD. OWNERS: NADUMALAI ESTATE REP. BY
ITS VICE PRESIDENT N.SWAMINATHAN NOW K.P.
KRISHAKUMAR 286 RACE COURSE ROAD CBE-18.
... PETITIONER in WA No.668 of 2011

Vs

1 STATE OF TAMIL NADU
REP. BY SECRETARY TO GOVT. LABOUR &
EMPLOYMENT DEPT. FORT ST. GEORGE CH-9.

2 THE INSPECTOR OF PLANTATIONS
VALPARAI-127. COIMBATORE DT.

3 REKHA

4 MALARVIZHI

5 MELBA

6 ESTHER

7 SARASWATHY

8 VANATHAIE

9 T.AMUTHA

10 CHITRA ... RESPONDENTS in WA No.668 of 2011

W.A.NO.669 OF 2011:

1 PERIA KARAMALAI TEA & PRODUCE
CO LTD OWNERS VELLAMALAI ESTATE REP BY ITS
VICE PRESIDENT SWAMINATHAN NOW K.P.
KRISHNAKUMAR 286 RACE COURSE RD
COIMBATORE. ... PETITIONER in WA No.669 of 2011

Vs

1 STATE OF TAMIL NADU
REP BY SECRETARY TO GOVERNMENT LABOUR &

EMPLOYMENT DEPT FORT ST.GEORGE CHENNAI.

2 THE INSPECTOR OF PLANTATION
VALPARAI 642 127 COIMBATORE DT.

3 SURESH.

... RESPONDENTS in WA No.669 of 2011

W.A.NO.867 OF 2011:

1 PERIA KARAMALAI TEA & PRODUC
TS CO LTD OWNERS VELLAMALAI ESTATE 286 RACE
COURSE ROAD COIMBATORE 641 018

... PETITIONER in WA No.867 of 2011

vs

1 STATE OF TAMILNADU
REP BY SECRETARY TO GOVT LABOUR & EMPLOYMENT
DEPT FORT ST GEORGE CHENNAI 600 009

2 THE INSPECTOR OF PLANTATION
VALPARAI 642 127 COIMBATORE DIST

3 KARUPPASAMY

4 S.RAVI

5 MUNISAMY

6 DHANDAPANI

7 BABY

8 MURUGESHWARY

9 LAKSHMI

10 TAMILSELVY

11 MUTHURACK

12 JAYALAKSHMI

13 PAULRAJ ... RESPONDENTS in WA No.867 of 2011

W.A.NO.872 OF 2011:

1. PERIA KARAMALAI TEA & PRODUCE
CO LTD OWNERS VELLAMALAI ESTATE 286 RACE

COURSE ROAD COIMBATORE 641 018

... PETITIONER in WA No.872 of 2011

vs

1 STATE OF TAMILNADU REP BY
SECRETARY TO GOVT LABOUR & EMPLOYMENT DEPT
FORT ST GEORGE CHENNAI 600 009

2 THE INSPECTOR OF PLANTATIONS
VALPARAI 642 127 COIMBATORE DIST

3 GANDHI

4 MURUGAN

5 THANGAVEL

6 DHARMARAJ

7 RAMAJEYAM

8 VELUSAMY

9 RAJENDRAN

10 N.P.RAJ

11 KALIMUTHU

12 GANDHI

13 MARIAPPAN

14 KAVITHA

15 VICTORIA

16 SELVAKUMAR

17 M.MAHESHWARI

18 VANNAMMAL

19 NAGAMMAL

20 SEETHA

21 PAPPAL

22 SHANTHI

23 V.MUTHUMANI

24 PANJAVARNAM

25 LATHA ... RESPONDENTS in WA No.872 of 2011

PRAYER IN W.A.NOS.2260 TO 2265 OF 2012, W.A.NOS.1141 TO 1143 OF 2011, W.A.NOS.1151 TO 1155 OF 2011, W.A.NO.1203 OF 2011, W.A.NOS.1929 AND 1930 OF 2011, W.A.NO.619 OF 2011, W.A.NOS.667 TO 669 OF 2011, W.A.NOS.867 & 872 OF 2011: These Appeals have been filed under Section 15 of Letter of Patent against the common order dated 29.01.2010 passed in W.P.Nos.7004 of 2000, W.P.No.7298 of 2000, W.P.No.18292 of 2001, W.P.No.18302 of 2001, W.P.No.26084 of 2001 & W.P.No.18307 of 2001, W.P.Nos.22799 of 2001, W.P.No.2333 of 2000, W.P.No.22802 of 2001, W.P.Nos.22800 of 2001, W.P.No.22801 of 2001, W.P.No.2329 of 2000, W.P.No.2331 of 2000 and W.P.No.2330 of 2000, W.P.No.2332 of 2000, W.P.No.14026 of 2000 AND W.P.No.8339 of 2001, W.P.No.17768 of 2004, W.P.No.7516 of 2000, W.P.No.7517 of 2000 AND W.P.No.18314 of 2001, W.P.No.7552 of 2000, & W.P.No.8340 of 2001 by the learned Single Judge of this Court.

Prayer in Writ Petition Nos.2329 to 2333 of 2000: Petitions presented under Article 226 of the Constitution of India praying for the issue of Writs of (i) certiorarified Mandamus to call for the records leading to the impugned orders in Na.ka.801 of 1999, 799, of 1999, 798 of 1999, 800 of 1999, 797 of 1999 dated 10.12.1999 by the Second Respondent in all the petitions and to quash the same and to direct the 1st Respondent to consider the exemption applications filed by the Planter Association of Tamil Nadu and the Trade Union and dispose of the same in accordance with law.

Prayer in Writ Petition Nos.14026, 7516, 7552, 7517 of 2000, 4874 to 4878, 8338 to 8340, 18292, 18302, 18307, 18314, 26084 of 2001, 7298, 7304 of 2000, 26969 of 2003, 17768 of 2004, 7004 of 2000 and 22799 to 22802 of 2001: (ii) Certiorari call for the records, of the Second Respondent in all the petitions in proceedings No.Na.ka.No.562 of 1999, dated 30.09.1999, 659 of 1999, 658 of 1999 and 657 of 1999 dated 04.10.1999, 271 of 1999, 273 of 1999, 274 of 1999, 275 of 1999, and 277 of 1999, dated 04.10.2000, 893 of 2000, 892 of 2000, 890 of 2000, dated 31.10.2000, 100 of 2001, 101 of 2001, dated 31.01.2001, 563 of 2000 dated 16.03.2001, 21 of 2001 dated 08.01.2001, 165 of 2001, dated 15.02.2001, 656 of 1999, dated 04.10.2009, 76 of 2000, dated 31.01.2000, 1102 of 2000, dated 14.11.2002, 115 of 2001, dated 29.07.2002, 655 of 1999, dated 04.10.1999, 894 of 2000,

dated 31.10.2000, 895 of 2000, dated 31.10.2000, 896 of 2000, dated 31.10.2000 and 897 of 2000, dated 31.10.2000 respectively.

For Appellants

in W.A.Nos.2260 to 2265/12 : Mr.S.Ravindran, SC
for Mr.D.Abdullah

in W.A.Nos.1141 to 1143,
1151 to 1155 & 1203/11 : Mr..E.K.Nandakumar, SC
for Mr.Vijayan for King
& Patridge

in W.A.Nos.1929, 1930, 619
667 to 669, 867 & 872/11 : Mr.R.Parthiban

For R1 & R2 in all WAs : Mr.T.Arunkumar, GA

For R22 in W.A.No.1151/11 : Mr.G.B.Saravana Bhavan

No representation for all other private respondents except R22

COMMON JUDGMENT

T.RAJA, J.

These writ appeals have been filed challenging the impugned order passed by the learned Single Judge in a batch of Writ Petition Nos.2329 of 2009, etc., confirming the order passed by the Inspector of Plantations/second respondent herein, granting permanent status to the workmen working in the appellants' plantations.

2. Mr.S.Ravindran, learned Senior counsel, for Mr.D.Abdulla, learned counsel for the appellants in W.A.Nos.2260 to 2265 of 2012, submitted that the impugned order passed by the second respondent inspector suffers from bias, malice in law and violation of the principles of natural justice, as he acted as a Prosecutor-cum-Judge. When none of the workmen have given evidence to prove that they have rendered 480 days of continuous service in preceding 24 calendar months, the impugned order passed by the learned Single Judge refusing to interfere with the order passed by the second respondent inspector directing the management to confer permanent status under the Act on the ground that there is no perversity is untenable. In W.A.No.2265 of 2012, one Mr.P.Thomas filed an application in his personal capacity, but, he neither examined himself nor filed any document and even in all other appeals it is the second respondent authority on his own motion initiated the proceedings. Moreover, in W.A.No.2264 of 2012, the impugned

order refers to 52 employees, but, not even single person was examined before the second respondent authority. The Hon'ble Apex Court, in Bhavnagar Municipal Corporation etc. Vs. Jadeja Govubha Chhanubha and another [2015 (1) LLN Page 1(SC)], held that it is essential for the workman to establish that he was in continuous service of the employer. Therefore, while such being the legal position, without even examining any one of the workmen, the second respondent has wrongly come to the conclusion that they have been in continuous employment for more than 480 days in preceding 24 calendar months sans support of any evidence. Hence, the impugned order suffers from flagrant violation of Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen), Act, 1981 (in short "the Act"), hence, the same is liable to be interfered with.

3. Continuing his arguments, learned Senior counsel submitted that Section 3(1) of the Act mandates that the workmen should be in continuous service for a period of 480 days in preceding 24 months. Sub-section (2) refers to continuous service being a period of uninterrupted service. But, the interruptions like, (i) on account of sickness; or

(ii) authorized leave; or

(iii) due to accident; or

(iv) a strike which is not illegal; or

(v) a lockout; or

(vi) a cessation of work which is not due to any fault on the part of the workmen;

are treated as period of uninterrupted service. But, the Division Bench of this Court in Metal Powder Co. Ltd., Vs. the State of Tamil Nadu [1985 (2) LLJ 376] has held that the explanation I to Section 3 was held to be incapable of enforcement and held to be redundant, therefore, interruptions mentioned in sub-clause (i) to (iv) of the explanation-I cannot be included as uninterrupted service. The said ratio in Metal Powder case (cited supra) has been confirmed by the Hon'ble Apex Court in State of Tamil Nadu Vs. Nellai Cotton Mills [1990 (2) SCC 518] and it was held that no provision was inserted to re-write and validate the portion which was struck down by the High Court. When all the employees have indulged in absence which caused interruptions in service and no employee has completed 480 days of continuous service without interruption of absence, the second respondent authority has failed to look in these vital points, but, on the other hand, he has simply deducting the number of days of absence arrived at a figure of 480 days and above and thereby declared permanency to the employees and therefore, such act of the second respondent authority is flagrant violation of the term "continuous service of 480 days in preceding 24 months" prescribed under the Act and the law enunciated by the Division Bench of this Court in Metal Powder

case (cited supra). Learned Single Judge taking erroneous reliance of the judgment of this Court in Mammundiraj N and others Vs. Bharat Heavy Electricals Limited, Trichy [1999 (1) LLJ 622] held that the days of absence are few and therefore, there is no interruption in service. In the said case, the Division Bench, while upholding the order passed by the learned Single Judge who quashed the order of authority and remanded the matter, directed the authority to determine the question regarding 480 days of service in preceding 24 calendar months. In the present case, learned Single Judge ignoring the fact that the absence of the workman is his own making, for, illegal strike indulged by him is his own making, wrongly granted the permanent status who has not completed 480 days of continuous service in preceding 24 months. The findings of the learned Single Judge that the employer has not produced proper register to prove their stand are erroneous, for, before the second respondent authority, the appellants have filed their reply statement showing the number of days absented by the individual workman. The second respondent authority has also accepted the absence of the workmen as found in the annexure to the orders passed by him. When the second respondent authority has accepted the absence of the workmen, learned Single Judge failed to note that no workman was examined in proof of 480 days of continuous service in preceding 24 calendar months. Moreover, the impugned order suffers from bias, malice in law and violation of the principles of natural justice on the ground of being a judge of his own cause, because, the second respondent authority acting as prosecutor cum judge wrongly conferred the permanent status to the employees. Therefore, such a flagrant order passed by the second respondent as erroneously confirmed by the learned Single Judge is liable to be set aside.

4. Supporting the above said submissions, Mr. E. K. Nandhakumar, learned Senior counsel, for Mr. M. Vijayan, learned counsel, for the appellants in W.A. Nos. 1141 to 1143, 1151 to 1155 and 1203 of 2011, argued that the question of applicability of the Conferment of Permanent Status to Workmen Act to Plantations would not depend upon the conduct of parties, but, on a question of interpretation of the statute relating to the issue whether a plantation did seasonal or intermittent work. But, the learned Single Judge dismissing the said plea has wrongly held that when they themselves applied for exemption from the Act, it goes without saying that the Act applies to them as well. When a question of law arose as to whether an establishment was seasonal or intermittent, it would be beyond the jurisdiction of the authority under the Act to decide the said issue, as the said issue has to be decided only by the Government, not the second respondent authority. However, learned Single Judge has not discussed whether the Act would apply to the plantation workers or not. In view of wrong

finding given by the learned Single Judge, the appellants are not able to approach the Government, because, unfortunately in the light of the findings given in the impugned order by the learned Single Judge, it would be futile exercise to approach the Government for a decision on this issue. Therefore, that finding should be set aside by this Court to agitate the same before the Government to decide whether the Act would apply to the plantation workers or not in accordance with Section 1(3) of the Act.

5. Continuing further, learned Senior counsel argued that when the appellants have specifically disputed the entitlement of the workmen to get permanent status, without even verifying the same by enquiring the concerned workers, the second respondent has simply issued a direction under Rule 6(4) of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Rules, 1981, assuming the entire proceedings as summary in nature. When the Government has only pointed out stating that as the plantations are establishments covered by the Act, no exemption could be given, learned Single Judge ought to have seen that the Government while rejecting the exemption has not passed orders on the points raised by the appellants. This apart, the primary object of the Act is to ensure that the permanent status is granted to workers employed in works which are permanent in nature, however, in the cases on hand, still the workers are kept in temporary status for unduly long period of time, thereby denying them the benefits extended to workers on permanent rolls. The Act does not purport to confer permanent status on workers engaged in work which by itself is temporary in nature and it is carried out in intermittent durations. Again reiterating the stand that when none of the workers was in continuous service of 480 days in preceding 24 calendar months to justify for enforcement of permanent status, it is contended that the learned Single Judge ought to have remanded the matter back to the second respondent to reappraise the above said issue. But, unfortunately, instead of doing so, learned Single Judge has wrongly confirmed the order passed by the second respondent authority granting permanent status to the workmen, hence, the same is liable to be interfered with.

6. Mr.R.Parthiban, learned counsel for the appellants in W.A.Nos.1929, 1930, 619, 667 to 669, 867 and 872 of 2011, has adopted the arguments of Mr.S.Ravindran and Mr.E.K.Nandakumar, learned Senior counsels.

7. Per contra, Mr.T.Arunkumar, learned Government Advocate, appearing for the respondents 1 and 2 in all the writ appeals, submitted that the question, whether a particular industrial establishment is seasonal or the workers are employed intermittently has to be decided only by the appropriate

Government, has already been decided by the Government, for, the management application seeking exemption under Section 9 of the Act has already been rejected by the State Government by order dated 11.08.2000, however, till date, that rejection order has not been questioned by the appellants. Therefore, they cannot once again raise the same issue before the second respondent authority. Under the Act, when the second respondent authority is bound by the order passed by the Government, he has rightly proceeded with the claim made by the workmen for conferring the permanent status to them under the Act, hence, no interference is called for, he pleaded.

8. Heard the learned counsel appearing on either side and perused the materials available on record.

9. Before dealing with the issue, it is better to take note of the historical background of Tea Plantations and enactment of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen), Act, 1981.

9.1 Many of the tea gardens in Assam and Bengal are situated in highly malarial regions and this has a blighting influence on the health of the workers. Many of the workers are anaemic and fall easy victims to disease. Further, most of the workers are recruited from distant places and life in tea gardens involves for them a change in climate and environments that cannot but have a depressing effect. To make matters worse, it often happens that food ration in tea gardens is not sufficient and most of the workers suffer from malnutrition.

9.2 Nearly all the workers in South Indian gardens are recruited from the plains and the sudden change in elevation, rainfall and climate appreciably lower their resistance to disease. There is also a change in their diet. Women and children employed on work given to the maistry on a contract basis have to work unduly long hours and even instances of corporal punishment of children by the maistries with a view to extracting more work from them are not unknown. No arrangements are made for supplying drinking water to the workers in the field.

(Emphasis supplied from Labour Investigation Committee (Main report), (1946) : Page 153.)

9.3. Plantation Labour gets Legal protection:

The agony of plantation workers (otherwise known as Tea Garden labours) was sought to be remedied only after India became a republic in the form of Plantation Labour Act, 1951. The Act for the first time attempted to provide certain minimum safeguards in respect of health and welfare of Plantation Labours. The Act provides for certain statutory service conditions including housing, hours of work, weekly holidays, leave including annual leave, maternity leave etc. Despite these safeguards, wages payable to workmen were largely left to

collective bargaining, failing which notified minimum wages were paid to these workmen.

9.4. National Labour Commission Report:

In view of large scale complaint about the plight of the labours, the Central Government appointed the First National Labour Commission presided by Justice P.B.Gajendragadkar (former Chief Justice of the Supreme Court of India). The said Commission by its extensive hearings covered all industries (both public and private sectors) in India and submitted its report in the year 1969. With reference to the position of casual labour in respect of several industries including the plantations came to the notice of the Labour Commission as found in paragraph 29.26, which is as follows:

"...During the course of our inquiries many unions complained that employers arbitrarily terminated the services of casual workers to prevent them from completing the prescribed period of service and thus deprived them of the benefits. We have also come across cases particularly in smaller establishments where within a week of termination of service, the same person is engaged afresh for the same job, making the employer's intention obvious."

3.2.The Commission in its recommendation in paragraph 29.29 had recommended as follows:

"29.29: ...We consider the prevailing practice of discontinuing employment of a casual worker for short periods and again re-employing him to debar him from enjoying the benefits of a permanent worker as pernicious. We recommend that if employment is discontinued for a short period and the worker is re-employed, this short period should not be treated as a break in service. We also recommend that after a casual worker has completed a stipulated period of service, he should be allowed the same benefits which is a permanent worker enjoys."

9.5. Powers of the Inspector under the Act:-

The Inspectors appointed under Section 4 of the Act are empowered to enforce the provisions of the Act and in the course of discharging his duties, if he finds that a workman's name is not found in Form-I, his power is delineated under Rule 6(4), which reads as follows:

"6.Maintenance of registers by employers.--

(4)Any employee who finds his name not entered in the list referred to in sub-rule (2) or finds that the entries have not been made correctly or finds that though entries regarding his service have been made correctly

but he has not attested the entries in the register of workmen in Form 1 may make a representation to the Inspector concerned. The Inspector after examining the representation or after making enquiries may issue suitable directions to the employer for the rectification of the register in Form 1 or for the issue of orders conferring permanent status to the workman concerned."

10. Now, coming to the issue on hand, it is not in dispute that the appellants claiming enquiry into the issue whether the establishment was seasonal or intermittent had already suffered an order at the hands of the State Government rejecting their prayer for exemption and the said order also has not been questioned by them before this Court. Moreover, they have not even placed before the Court the rejection order to contend that the said rejection order passed by the second respondent authority is beyond his jurisdiction under the Act. Had that rejection order refusing to grant exemption been placed before this Court, this Court could have considered the issue whether the appellants' establishments are seasonal or intermittent. When it is an admitted case of both parties that the appellants had already gone before the State Government seeking exemption from the provisions of the Act and suffered rejection order and that order also has not been questioned, we cannot find fault with the findings given by the learned Single Judge against the appellants.

11. In paragraph 6.3 of the impugned order, learned Single Judge stated that the State Government by its order dated 11.08.2000 refused to grant any such exemption as sought for by the appellants and after setting out the objects behind the Act, the State Government informed that the plantations are covered by the Act and that since it is a social legislation protecting the interest of Labours, exemption sought for cannot be granted. On this basis, learned Single Judge has proceeded further stating that the provisions of the Plantations Labour Act are applicable to all the plantations including the appellants in these appeals. When the employers sought for exemption from the provisions of the Labour enactment, that by itself would prove that such an enactment applies to them as well and without such exemption, they are bound to implement the provisions of the Act. Learned Single Judge has also found that this was the very same argument that was raised by them before the State Government in the applications seeking exemption under Section 9 of the Act. Therefore, they cannot be allowed to approbate and reprobate in the matter of application of Permanent Status Act to various plantations who are before this Court.

12. Coming to the question whether the respondents/workmen have rendered 480 days of continuous service in preceding 24 calendar months, learned Single Judge, while considering the correctness of the findings and conclusions reached by the second respondent authority, in paragraph No.7.1 of the judgment, dealing with the same issue, has come to the conclusion that the workmen were not made permanent with a view to deprive their legitimate dues, hence, some of the contesting respondents filed an applications before the Inspectors notified under the Act. In some cases, the Inspector on his own entered into the establishment and after going through the registers made an endorsement to make those workers permanent. In some other cases, on complaints, inspections were made and orders were passed in favour of the workmen. In the third type of cases, the workmen invoking the power of Inspectors under Rule 6 (4) sought for grant of permanent status, and in those cases, the authorities, after perusing the materials, having been satisfied with the same, issued appropriate orders granting permanent status to workmen.

13. Coming to the argument of the appellants that the learned Single Judge has overlooked the decision of the Division Bench of this Court in Metal Powder Co. Ltd., Thirumangalam, and another Vs. the State of Tamil Nadu and another [1985 (2) LLJ 376] and another decision of the Hon'ble Apex Court in State of Tamil Nadu Vs. Nellai Cotton Mills Limited [(1990) 2 SCC 518], learned Single Judge observed that both the judgments were referred to by a subsequent Division Bench judgment of this Court in Mamundiraj N. and others Vs. Bharat Heavy Electricals Limited, Trichy [1999 (1) LLJ 622], in which, the Division Bench held that for conferment of a permanent status on a workman, he is required to work in an industrial establishment for a period of 480 days in preceding 24 calendar months, however, interrupted period of service for no fault of workman cannot be unaccounted for the purpose of calculating 480 days of continuous service. Even cessation of work which is not due to any fault on the part of the workman cannot be debited to the account of the workman for calculating 480 days of continuous service.

14. While considering both cases, namely, Metal Power case (cited supra) and Nellai Cotton Mills case (cited supra), learned Single Judge analyzing Explanation 2 came to be amended by the Tamil Nadu Act 44/85 and came into effect with effect from 01.01.1982, observed that the necessity to introduce such explanation arose after the lacuna was pointed out by the earlier Division Bench in Metal Powder case (cited supra) and in that case, the Division Bench observed that overriding effect cannot disturb the settlement between the parties. Therefore, the legislature made specific insertion of Explanation 2 to have

the Act to override any agreement or settlement. The amendment was also noted by Hon'ble Apex Court in Nellai Cotton Mills case (cites supra) and the Court found that the amendment did not erase the earlier judgment, but, took away the legal basis of the earlier settlement. Therefore, the contention of the appellants that the learned Single Judge has overlooked the decisions in Metal Powder case(cited supra) and Nellai Cotton Mills case (cited supra) are not acceptable, for the reason that the order passed by the second respondent clearly shows that when notice was issued to the management, they have authorized their General Manager (Production) and one Mr.G.Somanathan, Assistant Manager (Legal) to represent the matter through their letter dated 01.11.1999 and during the enquiry, they have requested for postponement of the conciliation proceedings and accordingly, it was adjourned to 09.11.1999. But, even on 09.11.1999, they did not appear, however, through a letter dated 09.11.1999, they have sought for further 21 days time on the premise that the application filed by them seeking exemption is pending before the Government. Thereafter, final notice was sent to them to attend the enquiry in person and on receipt of such notice, they appeared on 06.12.199, however, they have again sought for time. The second respondent, after perusing the documents filed by the appellants, came to the conclusion that the plantations are neither seasonal nor the work is carried out intermittently, because, all the workers were kept with them years together, therefore, on the basis of the record, the second respondent has come to the conclusion that the workmen has completed 480 days of continuous service in preceding 24 calendar months. Therefore, such a well reasoned order as rightly confirmed by the learned Single Judge is sustainable in law.

15. One of the contentions of the appellants before the Writ Court and before us is that the second respondent had simply issued directions under Rule 6(4) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Rules, 1981 (in short "the Rules") assuming the entire proceedings as summary procedure and when Rule 6(4) clearly says that the Inspector shall issue such directions after making relevant enquiries, in the present case, no such opportunity is given to the appellants, therefore, the order passed by the Inspector of Plantations/second respondent herein suffers legal infirmities.

16. While dealing with the above said contention, learned Single Judge took note of the fact that when the workmen were not made permanent, some of them filed applications before the Inspectors notified under the Act and only after hearing their applications, the Inspectors, based on the materials produced and satisfying with the claim of the workmen, issued appropriate

orders granting permanent status to the workmen. Hence, in our considered view, the appellants have no locus-standi to question the decision taken by the second respondent authority granting permanent status to the workmen under the Act.

17. Another contention of the appellants is that the second respondent Inspector has not even taken into account whether the workers have rendered 480 days of continuous service in preceding 24 calendar months. It is seen from the typed set of papers filed in W.A.Nos.1142, 1153 to 1155 and 1203 of 2011 that the second respondent authority, in the impugned order, has stated that he undertook inspection on 10.09.1999 at 10 a.m. in the appellants' plantations and while verifying the records of the years 1996 to 1998, it was found that they have worked continuously for more than 480 days and thereafter, he issued a notice dated 14.09.1999 calling upon them to appear for enquiry on 01.11.1999 along with Register maintained for National and Festival Holidays, service record and leave with wages. On receipt of such notice, the management by their letter dated 01.11.1999 authorized the General Manager (Production) and one Mr..G.Somanathan, Assistant Manager (Legal) to represent the matter. Thereafter, they appeared for the enquiry held on 01.11.1999 and requested adjourning the matter and accordingly, it was finally adjourned to 09.11.1999, however, even on the said date, they did not appear, but, through a letter dated 09.11.1999, they have requested for further 21 days time on the premise that the exemption sought for by them is pending before the Government. Subsequently, a final notice was sent to them to attend the enquiry in person on 06.12.1999 and accordingly, they appeared on the said date and informed that the planters and the Trade Unions have taken up the issue to the Government and thereby they have again sought for adjournment sans producing any register maintained by them. Therefore, when sufficient opportunities were given to appellants on various dates, namely, 01.11.1999, 09.11.1999 and 06.12.1999, directing them to produce the aforesaid Registers, having utilized such ample opportunities, they have declined to cooperate with the second respondent and therefore, the second respondent inspector, in our considered opinion, cannot be found fault with in passing of the impugned order on the basis of the inspection conducted by him on 10.09.1999.

18. At this juncture, it is also apposite to take note a decision of this Court in Tamil Nadu Handicrafts Development Corporation Limited, represented by its Secretary, Madras and another Vs. the Inspector of Factories, Range No.II, Madurai and another [2000 (1) MLJ 251], whereby, while repelling the contention of the management that an opportunity was not given when the officer passed an order, in paragraphs 11 and 12, P.Sathasivam, J. (as he then was) dealt with the scope of an

Inspector under Rule 6(4) and observed as follows:-

"11.....I have already stated that before passing the order, the first respondent inspected the premises, verified the records, heard the grievances of the workers through their Union Secretary and representative of the petitioner Management. In such a circumstances, there is no hesitation to come to a conclusion that the first respondent Officer has complied with the mandate of the Hon'ble Supreme Court enunciated in the Maneka Gandhi's case. A.I.R. 1978 S.C. 597.

12.....when the Inspector has to determine whether the workman is entitled to the benefit of Sec.3 and when the employer contests this right, he has to make the necessary enquiries and these enquiries must culminate in a speaking order disposing of the contentions of the employer, and the workman..."

A mere reading of the above said ruling clearly indicates that the second respondent is the authority to inspect the premise, verify the records and hear the grievances of the workers through their Union Secretary and representative of the management. While such being the legal position, in the cases on hand, as highlighted above, umpteen number of opportunities were given to the appellants to produce the Register as stated above, but, they did not come forward to make use of such opportunities given to them. Moreover, writ petitions were filed by the management against the order passed by the second respondent Inspector and in paragraph No.7.2, learned Single Judge observed that some of the workmen were not even served and in their absence, the writ petitions as against them will have to be dismissed and no steps were taken to make any substitute service. When appellants filed writ petitions challenging the order passed by the second respondent Inspector, after issuance of notice by the learned Single Judge, they have deliberately kept the matter pending without even taking any steps to serve on them. Therefore, such conduct of the appellants would clearly show that they wanted to keep the matters pending for years together without serving the affected workmen, hence, learned Single Judge also taking serious view observed on this score that writ petitions are liable to be dismissed. Moreover, when the appellants have not come forward to take part in the enquiry conducted by the second respondent and even after their prayer for exemption was refused, they have not questioned the rejection order, in our considered view, as rightly held by the

learned Single Judge, the order passed by the second respondent, who is authorized under the Act to verify the Register and take appropriate decision, cannot be found fault with.

19. Besides, when it is the persistent contention of the appellants that the second respondent has not properly examined whether the workmen has completed 480 days of continuous service in preceding 24 calendar months, as mentioned above, despite availing repeated opportunities given to them to produce the aforesaid documents, they did not produce the same, that shows that they did not wish to disclose the register. Had the workmen not completed 480 days of continuous service in preceding 24 calendar months, they could have produced such register, but, they have not done so. Therefore, it is not open to them to say that the second respondent has failed to disclose on what basis the workmen have fulfilled the eligibility criteria under the Act. In addition thereto, as highlighted above, when the appellants themselves have made an application to the State Government seeking exemption, that itself would depict that such an enactment would apply to them as well, therefore, they are bound to implement the provisions of the Act.

20. Thus, for all the reasons stated above, we do not find any error or illegality in the impugned order passed by the learned Single Judge warranting interference. In fine, all the writ appeals fail and they are dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

rkm

To

- 1.The Secretary to Government,
Labour and Employment Department,
Fort St. George, Chennai - 9.
- 2.The Inspector of Plantations,
Valparai - 642 127.
Coimbatore District.
- 3.The Inspector of Plantations
Nagercoil-629001

4.The Planters Association of Tamil Nadu,
"CAN OWIE"
P.B.No.35,
Coonoor-643101, Nilgiris.

+8cc to M/s.King & Partridge, Advocate, S.R.No.10835
+1cc to M/s.D.Abdullah, Advocate, S.R.No.11382

W.A.Nos.2260 to 2265 of 2012, 1141 to 1143 of
2011, 1151 to 1155 of 2011, 1203, 1929,
1930, 619, 667 to 669, 867 and 872 of 2011

JP-II (CO)
SB(24/03/2022)