



W.A.No.2867 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**JUDGMENT RESERVED ON : 25 / 11 / 2025**

**JUDGMENT DELIVERED ON: 16 / 12 / 2025**

**CORAM:**

**THE HONOURABLE MR. JUSTICE M.S.RAMESH  
AND  
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

**W.A.No.2867 of 2024**  
**AND**  
**CMP NO.21111 OF 2024**

The Administrator,  
 Chengalrayan Co-operative Sugar Mills Ltd.,  
 Periyasevalai and Post,  
 Ulundurpet Taluk,  
 Now Thiruvannamalai Taluk,  
 Villupuram District. ... Appellant / Petitioner

*Versus*

1.The Deputy Commissioner of Labour,  
 Cuddalore.  
 2.K.R.Kulothungan,  
 Technical Assistant,  
 Chengalrayan Co-operative Sugar Mills Ltd.,  
 Periyasevalai and Post,  
 Ulundurpet Taluk,  
 Now Thiruvannamalai Taluk,  
 Villupuram District.

...Respondents/ Respondents

**PRAYER** : Writ Appeal filed under Clause 15 of the Letters Patent,



W.A.No.2867 of 2024

praying to set aside the Order dated March 16, 2023 made in  
W.P.No.18175 of 2010 passed by the learned Single Judge of this Court by  
allowing the Writ Appeal.

WEB COPY

For Appellant	:	Mr.Haja Nazirudeen Additional Advocate General assisted by Mr.P.Hari Babu Government Advocate
For Respondent-1	:	Mr.G.Ameedius Government Advocate
For Respondent-2	:	No representation
<i>Amicus Curie</i>	:	Mr.K.M.Ramesh Senior Counsel

## JUDGMENT

### R.SAKTHIVEL, J.

The second respondent herein had submitted an application dated November 27, 2009, under Section 3 of 'the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 (Tamil Nadu Act No.46 of 1981)' ['1981 Act' for brevity] to the first respondent herein praying to confer permanent status to his employment / service as Technical Assistant (Civil) at the appellant - sugar mill.

**1.1.** The first respondent after hearing both sides, concluded that the second respondent having joined the appellant - sugar mill as Technical



W.A.No.2867 of 2024

Assistant (Civil) as early as June 8, 1989 on temporary basis and having been continuously employed ever since then, thereby being in continuous service for a period of 480 days and above within a period of 24 calendar months, is entitled to permanent status from the date of competition of 480 days of service. Accordingly ordered for conferment of permanent status with all service and monetary benefits vide Proceedings No. 'E/3156/2010' on July 2, 2010.

**1.2.** Aggrieved by the aforesaid Order of the first respondent dated July 2, 2010, the appellant - sugar mill filed a writ petition in W.P. No.18175 of 2010. Learned Single Judge of this Court allowed the writ petition in part on March 16, 2023. Relevant portion of the learned Single Judge's Order reads thus:

*"11. From the case pleaded by the petitioner in the additional affidavit, this Court finds that findings of the first respondent regarding the engagement of the second respondent for a period of 480 days in two years period, is against the petitioner's version. Though the second respondent is not entitled for regularisation of services in the petitioner Establishment, the second respondent is certainly entitled to the benefit of permanent status as declared respondent.*

*Page No. 3 of 32*



W.A.No.2867 of 2024

WEB COPY

12. *Accordingly, this writ petition is partly allowed While confirming the order of the second respondent, (sic, read as first Respondent) conferring the permanent status to the second respondent, a direction regarding the regularisation of the petitioner [sic, read as second respondent] in a suitable post with pay protection and service benefits is set aside. No costs."*

**1.3.**Challenging the Order of the learned Single Judge made in the aforesaid writ petition, the writ petitioner therein has filed this writ appeal.

**2.** Mr.Haja Nazirudeen, learned Additional Advocate General, assisted by Mr.P.Hari Babu Government Advocate, appeared on behalf of the appellant - sugar mill and Mr.G.Ameedius learned Government Advocate, appeared for the first respondent. Though the second respondent - workman initially entered appearance through his Counsel in this writ appeal, later there was no representation on his behalf, despite sufficient time being given.

**3.** The main questions that needs to be decided in this writ appeal are as follows:

*Page No.4 of 32*



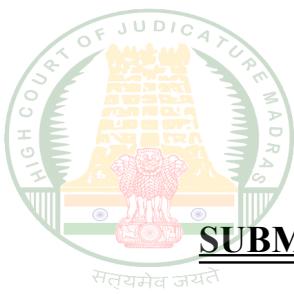
W.A.No.2867 of 2024

WEB COPY

- (i) Whether the appellant - sugar mill is a seasonal mill, that is to say, an establishment of seasonal character as per Section 1 (3) of the 1981 Act ?
- (ii) Whether the second respondent is a seasonal employee at the appellant - sugar mill ?
- (iii) Whether the 1981 Act is applicable to the appellant - sugar mill ?

4. Learned Additional Advocate General brought two Judgments to the notice of this Court. The two Judgments are Division Bench Judgments of this Court in **T.N. Civil Supplies Corpn. Workers Union -vs- T.N. Civil Supplies Corpn. Ltd.**, reported in **1997 (III) CTC 535** and **Perambalur Sugar Mills Employees Union Ltd. -vs- Perambalur Sugar Mills Ltd.**, reported in **2002 (2) L.L.N 345**, wherein it was *inter alia* observed that sugar mill is a season mill and that the 1981 Act would not apply to the workmen thereof.

5. Considering the significance of the questions and the wider implications involved, and also bearing in mind that there was no representation on behalf of the second respondent - workman, in the interest of justice, this Court appointed Mr.K.M.Ramesh, learned Senior Counsel as *Amicus Curie* to assist the Court in this matter.



W.A.No.2867 of 2024

## **SUBMISSIONS:**

सत्यमेव जयते

**WEB COPY** 6. Learned Additional Advocate General submitted that the appellant is a Co-operative Sugar Mill engaged in crushing sugarcane during the harvest season. Being a seasonal factory, its operations entirely depends on the harvest and availability of sugarcane. During peak season the mill runs at full capacity and seasonal labourers are engaged. While so, expansion work was carried out in the appellant's factory in 1989 and there arose a temporary need for Technical Assistant to carry out civil and masonry work. Hence, the second respondent was appointed as a Technical Assistant (Civil) in 1989, even though the factory did not have a sanctioned post for that role. Initially, the second respondent was engaged at the appellant's factory for two years. Later due to lack of work and the absence of a sanctioned post, he was sent to the Amaravathi Co-operative Sugar Mill. After a few years of service there, he returned to the appellant's factory on September 1, 1994. He was subsequently sent to the Perambalur Cooperative Sugar Mill, and after about eight months of service, he came back again to the appellant's factory. Thus, the second respondent had been engaged as a Technical Assistant on a seasonal basis as and when required across various sugar mills and hence the 1981 Act is not applicable and therefore, permanent status cannot be granted to the second respondent and



W.A.No.2867 of 2024

his service cannot be regularised. He relied on the definition for a seasonal factory provided in the Employees' Provident Funds Scheme, 1952, whereof Section 2 (kk) states that seasonal factory includes a factory exclusively engaged in manufacture of sugar and other related products. Accordingly, he prayed to set aside the Order of the learned Single Judge and thereby set aside the impugned Order of the first respondent. In support of his contentions, in addition to the aforesaid two Judgments, the learned Additional Advocate General relied on *Morinda's Case* [*Morinda Co-operative Sugar Mills Ltd -vs- Ram Kishan*, reported in (1995) 5 SCC 653] and *Anil Bapurao Kanase's Case* [*Anil Bapurao Kanase -vs- Krishna Sahakari Sakhar Karkhana Ltd.* reported in (1997) 10 SCC 599].

7. Since there is no representation on behalf of the second respondent, this Court deems fit to state here his counter (writ petition) averments. His contentions were that he was appointed as a Technical Assistant on June 08, 1989 as a temporary staff member. He worked for 480 days continuously within two years and is entitled to be considered for permanent status. He denied the claim that the writ petitioner's factory is a seasonal factory and that his employment was seasonal. Accordingly, he prayed for dismissal of the writ petition in his counter.

*Page No. 7 of 32*



W.A.No.2867 of 2024

WEB COURT

8. Mr.K.M.Ramesh, learned Senior Counsel / *Amicus Curie* drew attention of this Court to the Letter dated April 4, 2008 addressed by the District Collector / Managing Director of the appellant - sugar factory to the Commissioner of Sugar, Chennai, and submitted that the second respondent was selected and appointed as Technical Assistant (Civil) / Draughtsman to undertake the expansion and civil work, from among the candidates sponsored by the employment exchange. He served for over 480 days within 24 calendar months. Thereafter, he was deputed to various sugar factories and eventually came back to the appellant - sugar factory. Then, vide the aforesighted letter, the appellant - sugar factory recommended to the Commissioner of Sugar, Chennai for creation of a supernumerary post and appointment of the second respondent thereto, as a special case considering his 19 years of service (as on the date of letter). The request was not acceded to and in the meanwhile the second respondent continued in service and retired on July 31, 2019. Further submitted that the sugar mill may be seasonal in nature, but the employment of the second respondent was continuous in nature. Further, for a seasonal employment or a mill to be considered as seasonal under the 1981 Act, the Government must issue a declaration to that effect. In this case, no Government Order or evidence was produced by the appellant to show that it was seasonal in

Page No.8 of 32



nature, nor to show that the second respondent's employment was seasonal. Hence, the 1981 Act is applicable to the appellant - sugar factory.

WEB COURT

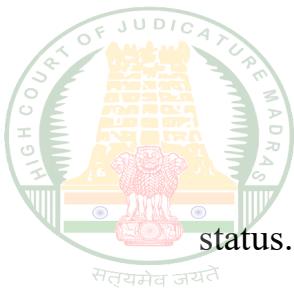
Therefore, having served continuously for over 29 years, the second respondent is entitled to permanent status as per the 1981 Act.

### **DISCUSSION:**

**9.** Heard the learned Additional Advocate General, learned Government Advocate and learned *Amicus Curie*. Perused the materials available on record.

**10.** Case of the appellant in short is that its sugar factory is seasonal in character and hence, the 1981 Act is not applicable to its employees in view of Section 1 (3) thereof. Therefore, the second respondent is not entitled to the benefit under Section 3 of the 1981 Act; in other words, the second respondent is not entitled to permanent status.

**11.** Case of the respondents in short is that the appellant's sugar factory is not a seasonal one. The second respondent joined there on June 8, 1989 and completed 480 days of continuous service in 24 calendar months. Thus, the second respondent satisfied the condition stipulated under Section 3 of the 1981 Act. Therefore, he is entitled to permanent



W.A.No.2867 of 2024

WEB COPY

12. From a broad perspective, a sugar mill operates in several steps and requires different workers. When harvested sugarcane arrives, loadmen unload them from vehicles and feed them into the machines. There are also timekeepers who manage the flow of vehicles to ensure that the feeding of cane into the factory occurs in an orderly manner without overloading the machines. Once the cane is fed into the machines, skilled, semi-skilled, and technical workers operate and maintain the machinery that crushes the cane and processes it into sugar. Transport workers and storekeepers are responsible for the movement of the finished sugar and by-products to the storage facilities. Supervisors and officials oversee the entire operation, ensuring that all departments function smoothly and they are supported by clerks, office assistants, watchmen, *etc.* Outside the mill, there are area and field inspectors who visit the sugarcane fields to check the crops and assist farmers. Their offices also have support staff to help them with their day-to-day operations. The point here is that while the mill mainly operates during the crushing season, not all the activities and not all workers are seasonal. Many, including technical staff, maintenance staffs, supervisors, office staff, timekeepers and field staff, are needed round the year. This is a general perspective and there may be some

Page No.10 of 32



W.A.No.2867 of 2024

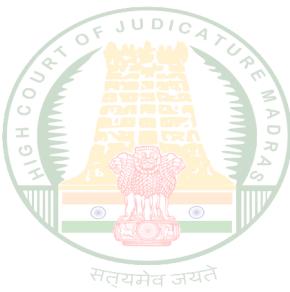
exception to it.

सत्यमेव जयते

## WEB COPY

**13.** To adjudicate the matter, first it has to be decided whether the appellant's sugar factory is a seasonal one. The question as to whether a sugar factory is seasonal in nature came up for consideration before the Hon'ble High Court of Karnataka in ***Special Officer & Joint Registrar of Co-operative Societies -vs- Workmen of Vanivilas Co-operative Sugar Factory, reported in 1996 (3) LLN 99***. In that case, it was held that running a sugar factory is not only about crushing sugarcane; it involves various other activities linked to crushing of cane. Industrial activity in a sugar cane industry includes maintenance, marketing, accounting, etc. Merely because crushing happens only during certain months, it doesn't mean that the entire industry is seasonal. The relevant paragraph of the Judgment is Paragraph No. 8, which reads thus:

*"8. ... It hardly requires to be stated that an industrial establishment can consist of different units and each of the units can work independently of the other. The definition "industrial establishment or undertaking" in Section 2(ka) of the Act means an establishment or undertaking in which any industry is carried on. It further provides that where several activities are carried on in an establishment and only one of such activities is an industry, then the unit of*



WEB COPY



W.A.No.2867 of 2024

*such establishment is severable from the other unit or units. The definition further provides that if the predominant activities carried on in the establishment or in any unit thereof is the industry and other activities are not severable and are carried on to aid the predominant activities, then the entire establishment shall be deemed to be an industrial establishment. In our judgment, several units in the sugar factory are performing activities, which are industrial in nature and in any event, the predominant activities carried on by the sugar factory are industrial and it is not possible to sever the other units from the predominant activities. The distillery is functioning because of the molasses available after crushing of the sugarcane and the functioning of the distillery is dependent upon the availability of the molasses. The marketing and other activities also depend upon the sugarcane crushed by the factory. In our judgment, various activities performed by the industry are so inter-connected that it is not possible to claim that crushing of the sugarcane is the only unit which can be described as an industrial establishment and because of the non-availability of sugarcane, the industry should be declared as a seasonal industry. "*

**14.** The said decision was challenged before the Hon'ble Supreme

Page No.12 of 32



W.A.No.2867 of 2024

Court by way of an appeal in ***Special Officer & Joint Registrar of Co-operative Societies -vs- Workmen of Vanivilas Co-operative Sugar Factory*** [Civil Appeal Nos.10881 and 10882 of 1996], reported in **(2001) ILLJ 1381 SC** and the Hon'ble Supreme Court confirmed the Judgment of the High Court. The Order of the Hon'ble Supreme Court is reproduced hereunder:

*" An order was made on November 7, 1986 by the Government of Karnataka under Section 25-K(2) of the Industrial Disputes Act declaring the Establishment of the appellants of a seasonal character.*

*2. The Government found that from the year 1971-73 when the Sugar Factory was started till the year 1986 when the order was passed, the appellant's Establishment recorded that crushing of sugarcane was ranging from 43 days to 230 days only; that in most years the number of days crushed ranged from 140 days to 160 days; that these variations occurred on account of non-availability of sufficient sugarcane in the factory; that these facts established that the industry is seasonal. When this order was challenged before the High Court it was pointed out that the Government itself had adopted certain standards in matters of this nature. In regard to two Establishments*



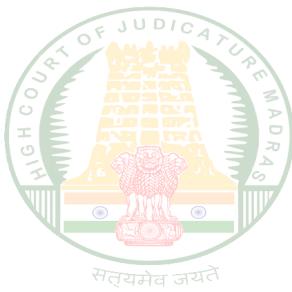
WEB COPY



W.A.No.2867 of 2024

namely Gauri Bidanur Sugar Factory and Tungabhadra Sugar Works (P) Ltd. it was noticed that the difficulty in procurement of sugarcane would not be a relevant factor in determining whether the Establishment is of seasonal character or not; that working of a Sugarcane Factory cannot be equated with crushing of sugarcane alone and various other activities such as maintenance, marketing, accounting and extension work for sugarcane cultivation, etc. should be taken note of in addition to the fact of the number of permanent employees in the establishment. On that basis the Government reached the conclusion that though crushing occupation was seasonal, the industrial Establishment was not seasonal. However, in the case of the appellants the reasons referred in other cases as irrelevant were taken note of without noticing that there were 338 out of 600 employees of permanent character. The only reason set out is that the crushing activity had been drastically reduced. In that background the High Court has rightly adopted the very standards set out by the Government itself as touchstone to come to the conclusion that different standards are adopted with regard to different sugar factories and what was adopted as standard if applied to the appellant the impugned order could not have been passed by the Government. The High Court allowed the writ petition and that order was upheld by

Page No.14 of 32



WEB COPY

W.A.No.2867 of 2024

*the Division Bench. We do not see any good reason to interfere with the order made by the High Court. The appeals are therefore dismissed."*

15. It is apposite to mention here that the *Vanivilas Case* [cited *supra*] had its roots in the Order passed by the Karnataka State Government under Section 25-K (2) of the Industrial Dispute Act, 1947 declaring the Vanivilas Sugar Factory as a seasonal one. While deciding the validity of the said Order, the Karnataka High Court after detailed discussion held that a sugar factory is as such not seasonal, unless the appropriate Government makes a declaration to that effect. The same was confirmed by the Hon'ble Supreme Court as stated *supra*. The present matter before this Court concerns the 1981 Act which is a special legislation and not the Industrial Dispute Act, 1947. Nonetheless, *Vanivilas Case* is applicable to the present case, as the provisions of the 1981 Act is *pari materia* to the relevant provisions of Industrial Dispute Act, 1947 contained in Chapter V-B thereunder. Under Section 25 K (2) of the Industrial Dispute Act, 1947 as well as under Section 1 (3) of the 1981 Act, it is the decision of the concerned Government that is final *qua* seasonal nature of any industrial establishment. Hence, *Vanivilas Case* is applicable to the facts of the present case. For ease of reference, Section 1

*Page No.15 of 32*



W.A.No.2867 of 2024

(3) of the 1981 Act and Section 25 (K) of the Industrial Dispute Act, 1947

सत्यमेव जयते

WEB COPY are extracted hereunder:

### **Section 1 (3) of the 1981 Act:**

*"1 (3) : It applies to every industrial establishment (not being an establishment of seasonal character or in which work is performed only intermittently) in which not less than fifty workmen were employed on any day of the preceding twelve months. If any question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently the decision of the Government thereon shall be final : Provided that the Government may, by notification, apply the provisions of this Act to any industrial establishment employing such number or workmen less than fifty\* as may be specified in the notification.*

*\*No. II (2)/LE/5527/82. - -- In exercise of the powers conferred by the proviso to sub-section (3) of section 1 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (Tamil Nadu Act 46 of 1981), the Governor of Tamil Nadu hereby applies the provisions of the said Act to all industrial establishments (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than twenty workers were employed on any day of*



W.A.No.2867 of 2024

*the preceding twelve months."*

WEB COPY

### **Section 25K the Industrial Dispute Act, 1947:**

*"25K. Application of Chapter V-B.- (1) The provisions of this Chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than one hundred workmen were employed on an average per working day for the preceding twelve months. (2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final."*

**16.** Further, the same question *viz.*, whether sugar factory is a seasonal one, was considered by this Court in ***Special Officer, Salem Co-operative Sugar Mills -vs- Deputy Chief Inspector of Factories*** [Writ Petition No.14971 of 2009], reported in ***2012-III-LLJ-249 (Mad)***. The factual matrix of that case is similar to the present case. The case of the sugar factory in that case and in this case are substantially one and the same - seasonal employment and hence, 1981 Act is not applicable and therefore, permanent status cannot be conferred. The learned Single Judge



W.A.No.2867 of 2024

in *Salem Co-operative Sugar Mills's Case*, after referring to the Judgments  
सलैयमेव जयते

of Hon'ble Supreme Court in *Vanivilas Case* and *Bhikubhai's Case*

[*Director Fisheries Terminal Ltd. -vs- Bhikubhai Meghajibhai Chavda*,  
reported in (2010) 1 SCC 47] held that if in case any doubt arises as to  
whether a particular industry is seasonal in character or not, the  
Government's Decision alone is final. Further held that simply labelling  
one part of a mill's operations as seasonal, such as sugarcane crushing,  
does not mean that industry as a whole is a seasonal one, when it is  
functioning throughout the year. Relevant extract reads thus:

*"28. Even if a particular activity of the mill is held to be seasonal, i.e., crushing activity of the sugar mill, it does not automatically make the other department also seasonal if it is proved that this department is working round the year. In this context, it is necessary to refer to a judgment of the Supreme Court in *Special Officer and Joint Registrar Cooperative Societies and Anr. v. Workmen of Vanivilas Sugar Factory and Ors.* reported in 2001-I-LLJ-1381 (SC). The Supreme Court in that case upheld the decision of Karnataka High Court and set aside the order passed by the Government of Karnataka passed under Section 25-K(2) declaring the sugar mill is of seasonal in character so as to exclude the application of Chapter V-B to the said*

*Page No.18 of 32*



W.A.No.2867 of 2024

WEB COPY

mill. The said order of the Supreme Court may be reproduced in its entirety, which reads as follows:

'x x x            x x x            x x x'

29. Therefore, in the present case, since there is no authoritative order by the Government in respect of the petitioner mill under Section 25-A or Section 25-K of the I.D. Act or under Section 1(3) of the Conferment of Permanent Status Act, the court cannot presume that the Government had gone into the issue and decided the issue in respect of the petitioner mill. The letter dated July 20, 1998 issued by the Industries Department cannot be said to be a statutory order in terms of the two enactments. In the absence of the authoritative order from a competent authority, the court cannot presume that the entire operation of the petitioner mill is of a seasonal character. "

17. From the above, the legal position is clear that it is the concerned Government that is competent to declare whether a sugar factory is seasonal or not and in the absence thereof, it has to be decided considering the facts and circumstances as there is no straight jacket formula for the same.

18. In the instant case, the appellant - sugar mill did not produce any

Page No.19 of 32



W.A.No.2867 of 2024

Government Order declaring it as a seasonal industry. There is no documentary evidence adduced on the side of the appellant to show that its sugar factory is seasonal in nature. In this regard, learned Additional Advocate General would contend that Section 2 (kk) of the Employees' Provident Funds Scheme, 1952 regards Sugar Industry as a seasonal one. This Court is of a considered view that the definition is applicable only for the purpose of the EPF Scheme and not to the 1981 Act which is a special Act. When Section 1 (3) of 1981 Act specifically provides that *'if any question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently the decision of the Government thereon shall be final'*, external aid viz., the definition of seasonal industry under the aforesaid Scheme, does not gain significance. Hence, this Court is not inclined to accept the contention of the appellant - sugar mill that it is a seasonal one.

**19.** Even while assuming otherwise, the employment of the second respondent is not seasonal. It is the case of the appellant that its sugar factory runs from December to April which is the crushing season. During the crushing season, based on the harvest, they will engage casual temporary labourers. In a similar manner, the second respondent was temporarily employed as a Technical Staff (Civil) / Draughtsman to meet

*Page No.20 of 32*



W.A.No.2867 of 2024

the expansion and civil work requirements of the appellant.

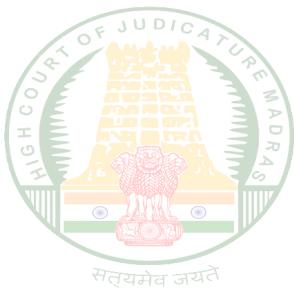
संसद्यमेव जयते

## WEB COPY

**20.** Firstly, perusal of the additional affidavit filed by the Managing Director of the appellant makes it abundantly clear that though the appellant claims the mill to be a seasonal one, not all the employees working there are seasonal employees; there are some employees in continuous employment as well. So continuous employment is not something unprecedented to the appellant. For ease of reference, relevant portion of the additional affidavit is extracted hereunder:

*"The petitioner factory at the time of establishment had 340 employees in toto, out of which 200 employees were only temporary and given layoff for 6 months every year. The categories of employees classified as Unskilled, Semiskilled, Skilled B working on temporary basis. Presently there are 124 persons employed in the petitioner mill out of which 58 are mill workers and 66 are marginal staffs. The persons employed on a seasonal basis are 33 workers out of the total 58 and 4 staffs out of 66 marginal staffs. The periods in which the cultivation takes place are during the month of December to April every year and the rest of the months in a year, all the seasonal/temporary employees are given layoff with 50% of their wages. Therefore, this conclusively proves the fact that the petitioner mill is seasonal in*

Page No.21 of 32



W.A.No.2867 of 2024

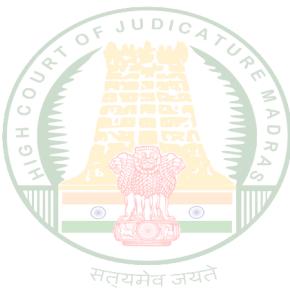
*nature."*

## WEB COPY

**21.** Secondly, the Managing Director of appellant themselves vide their Letter dated April 4, 2008 addressed to the Commissioner of Sugar, Chennai, has stated that the second respondent has been in continuous employment since his date of appointment on June 8, 1989. He has stated that the second respondent has been in continuous employment for about 19 years as on the date of letter. Hence, the appellant is estopped from contending otherwise. Moreover, perusal of the additional affidavit filed by the appellant's Managing Director reveals that second respondent attended superannuation on July 31, 2019 and he was relieved from service vide Relieving Order dated October 26, 2019. This shows that the second respondent continued to serve under the second respondent after April 4, 2008 (date of appellant's Managing Director's letter) till his superannuation.

**22.** These two facts prove that the second respondent though appointed on temporary basis, was in continuous employment under the appellant. Hence, even while assuming that the appellant is a seasonal industry, the employment of the second respondent cannot be said to be seasonal to deny him the permanent status under the 1981 Act.

*Page No.22 of 32*



W.A.No.2867 of 2024

**23.** The next question is whether the second respondent is entitled to the benefit of Section 3 of the 1981 Act which provides that a workmen continuously employed for over 480 days in a period of 24 calendar months, shall be conferred with permanent status of employment. Section 3 of 1981 Act is extracted hereunder for ready reference:

*"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 authorized leave or an accident or a strike, which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.*

*Explanation I. - For the purposes of computing the continuous service referred to in sub-sections (1) and (2), a workman shall be deemed to be continuous service during the days on which :*

*(i) he has been laid off under an agreement or*

*Page No.23 of 32*



W.A.No.2867 of 2024

WEB COPY

*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 previous years;*

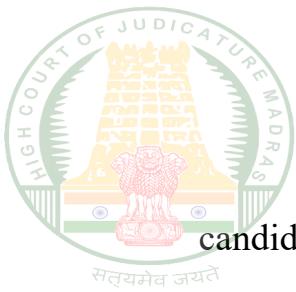
*(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment ; and*

*(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.*

*Explanation II. – For the purposes of this section, 'law' includes any award, agreement, settlement, instrument or contract of service whether made before or after the commencement of this Act.*

**24.** Even according to the appellant, there arose a need for a Technical Assistant (Civil) for the expansion work of the appellant's sugar mill carried out in the year 1989. For that purpose, the appellant represented before the Commissioner of Sugar who in turn approached the Employment Exchange. The Employment Exchange sponsored a few

*Page No.24 of 32*



W.A.No.2867 of 2024

candidates and the second respondent was chosen among them and appointed as Technical Assistant (Civil) / Draughtsman on temporary basis

by the appellant on May 29, 1989 for a consolidated pay of Rs.800/- per month. Hence, the appointment of the second respondent cannot be termed as a 'backdoor entry'. He was duly employed through employment exchange.

**25.** As already alluded to *supra*, the appellant's Managing Director addressed the Commissioner of Sugar, Chennai vide their Letter dated April 4, 2008 stating that the second respondent was working in the appellant - sugar mill since June 8, 1989 *i.e.*, for about 19 years (as on the date of letter). In addition to that, the appellant's Managing Director stated that the second respondent completed over 480 days of continuous service in a period of 24 calendar months and accordingly, recommended for conferment of permanent status, fixation of appropriate pay scale as well as for creation of a Supernumerary post and appointment of the second respondent thereto. Quite surprisingly, the appellant whose Managing Director made such recommendations, is vehemently contending today that the second respondent is not entitled to permanent status. However,

*Page No.25 of 32*



W.A.No.2867 of 2024

the appellant had made an admission to the effect that the second respondent satisfied the condition stipulated under Section 3 of the 1981 Act for conferment of permanent status.

**26.** Moreover, the competent authority under the 1981 Act namely the first respondent herein recorded a factual finding that the second respondent has worked over 480 days within 24 calendar months from his joining on June 8, 1989. Accordingly, the competent authority conferred permanent status upon second respondent. The appellant is statutorily required to maintain a register of workmen as per Rule 6 (1) of The Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Rules, 1981 in the form of 'Form 1' appended thereto. Though no such particulars were presented before this Court by either side, it could be reasonably inferred that the first respondent, only upon perusing such documents, arrived at the factual finding. This Court finds no reason to interfere with the factual finding.

**27.** In view of the admission made by the appellant's Managing Director *qua* second respondent's continuous employment as Technical Staff (Civil) / Draughtsman since his appointment on June 8, 2008, for more than 480 days in a period of 24 calendar months, considering the fact



W.A.No.2867 of 2024

that second respondent has completed diploma in civil engineering, that employed through employment exchange and that he was permitted to retire upon attaining superannuation, and also in view of the *non-obstante* clause contained in Section 3 of the 1981 Act and in view of the labour welfare object of the 1981 Act, this Court is of the considered view that the second respondent is entitled to permanent status as per Section 3 of the 1981 Act.

**28.** The learned Single Judge of this Court rightly held so and dismissed the writ petition confirming the conferment of permanent status by first respondent upon second respondent. Though there was no prayer for regularisation before the competent authority / first respondent, the learned Single Judge held that the second respondent is not entitled to regularisation since there was no sanctioned post. Admittedly, there was no sanctioned post for Technical Staff (Civil) / Draughtsman. He cannot be regularised or absorbed without sanctioned posts. In these circumstances, this Court finds no illegality or irregularity with the Order of the learned Single Judge.

**29.** The decision in ***T.N. Civil Supplies Corpn. Workers Union -vs- T.N. Civil Supplies Corpn. Ltd.***, reported in ***1997 (III) CTC 535*** relied on



W.A.No.2867 of 2024

by the learned Additional Advocate General is not applicable to the instant case. In that case, the appointment order of the workmen concerned, states that the appointment is seasonal in character. They were appointed in Direct Purchase and Procurement Centre for Paddy. The workmen were clearly informed that the appointments were purely temporary and were for a short period of time, after which they will be ousted. The workmen were terminated on the ground that they were seasonal employees and the termination was challenged. The demand of the workmen there was regularisation. The facts are distinguishable and hence, *Civil Supplies Corp. Ltd. Case* is not applicable to the instant case.

**30. In *Perambalur Sugar Mills Employees Union Ltd. -vs- Perambalur Sugar Mills Ltd.*, reported in 2002 (2) L.L.N 345** relied on by the learned Additional Advocate General, the termination of workmen was challenged. They sought for absorption and regularisation. None of them were sponsored by employment exchange and none of them had satisfied the condition stipulated under Section 3 of the 1981 Act. While dealing with the above factual matrix, this Court made a passing remark that sugar industry is a seasonal industry. The verdict of the Court had no bearing on the seasonal or non-seasonal nature of the sugar factory. Hence, it can only be considered as an *obiter dictum*.

*Page No.28 of 32*



W.A.No.2867 of 2024

WEB COPY

**31.** In *Morinda's Case* [cited *supra*] relied on learned Additional Advocate General, the facts were that workmen were not working throughout the year but only during crushing season and consequent to closure of season, they ceased work. Their employment was terminated. The facts are clearly distinguishable and hence it is not applicable to the instant case.

**32.** The learned Additional Advocate General relied on yet another case *viz.*, *Anil Bapurao Kanase's Case* [cited *supra*], wherein the workman was appointed in the chemical section of a sugar factory as a seasonal worker and his service was terminated once the work / season was over. His case was that termination being in the nature of retrenchment is in violation of Section 25 F of the Industrial Dispute Act, 1947. That being the facts, *Morinda's Case* was followed and Hon'ble Supreme Court held that it was not retrenchment but closure of factory after the crushing season was over. It is factually deviant and hence not applicable to the instant case.

**33.** Before parting with the Judgment, this Court would like to take this opportunity to recognise and commend the assistance rendered by Mr.K.M.Ramesh, learned Senior Counsel / *Amicus Curie*, to this Court in



W.A.No.2867 of 2024

the effective adjudication of the matter.

सत्यमेव जयते

WEB COPY

**CONCLUSION:**

34. In the result, the writ appeal is dismissed. The Order of the learned Single Judge, is confirmed. The second respondent is entitled to permanent status and as such, entitled to appropriate monetary and service benefits. In view of the facts and circumstances of this case, there shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

[M.S.R., J.] [R.S.V., J.]  
16 / 12 / 2025

Index : Yes  
Neutral Citation : Yes  
Speaking Order : Yes  
pam

Page No.30 of 32



W.A.No.2867 of 2024

संस्कृत ज्ञाने To  
WEB COPY

The Deputy Commissioner of Labour,  
Cuddalore.

*Page No.31 of 32*



W.A.No.2867 of 2024

WEB COPY

M.S.RAMESH, J.  
AND  
R.SAKTHIVEL, J.

pam

PRE-DELIVERY JUDGMENT MADE IN  
W.A.No.2867 of 2024

16 / 12 / 2025

*Page No.32 of 32*