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The Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981

Act 46 of 1981

Keyword(s):

Employer, Industrial Establishment

Amendments appended: 44 of 1985, 17 of 1999, 48 of 2000, 9 of 2003

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**THE TAMIL NADU INDUSTRIAL ESTABLISH-
MENTS (CONFERMENT OF PERMANENT STATUS
TO WORKMEN) ACT, 1981.**

ARRANGEMENT OF SECTIONS.

SECTIONS.

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TAMIL NADU AGT NO. 46 OF 1981.*

THE TAMIL NADU INDUSTRIAL ESTABLISH-
MENTS (CONFERMENT OF PERMANENT
STATUS TO WORKMEN) ACT, 1981.

[*Received the assent of the President on the 5th August
1981, first published in the Tamil Nadu Government
Gazette Extraordinary on the 10th August 1981
(Aadi 26, Thunmathi-2012-Thiruvalluvar Aandu).*]

*An Act to provide for the conferment of permanent status
to workmen in the industrial establishments in the
State of Tamil Nadu.*

BE it enacted by the Legislature of the State of Tamil
Nadu in the Thirty-second Year of the Republic of India
as follows :—

Short title,
extent, appli-
cation and
commence-
ment.

1. (1) This Act may be called the Tamil Nadu Indust-
rial Establishments (Conferment of Permanent Status
to Workmen) Act, 1981.

(2) It extends to the whole of the State of Tamil
Nadu.

(3) It applies to every industrial establishment (not
being an establishment of a 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 estab-
lishment employing such number of workmen less than
fifty as may be specified in the notification.

(4) It shall come into force on such date as the
Government may, by notification, appoint :

Provided that nothing contained in this Act shall apply
to any industrial establishment until the expiry of a period
of two years from the date of its establishment.

* For Statement of Objects and Reasons, see *Tamil Nadu
Government Gazette Extraordinary*, dated the 20th April 1981,
Part IV-Section 1, page 522.

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2. In this Act, unless the context otherwise requires,— **Definitions.**

(1) “employer” means the owner of an industrial establishment to which this Act for the time being applies and includes,—

(a) in a factory, any person named under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (Central Act LXIII of 1948) as manager of the factory ;

(b) in any industrial establishment under the control of any department of any State Government in India, the authority appointed by such State Government in this behalf, or where no authority is so appointed, the head of the department ;

(c) in any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment ;

(2) “Government” means the State Government ;

(3) “industrial establishment” means—

(a) a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (Central Act LXIII of 1948) or any place which is deemed to be a factory under sub-section (2) of section 85 of that Act ; or

(b) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (Central Act LXIX of 1951) ; or

(c) a motor transport undertaking as defined in clause (g) of section 2 of the Motor Transport workers Act, 1961 (Central Act 27 of 1961) ; or

(d) a beedi industrial premises as defined in clause (i) of section 2 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (Central Act 32 of 1966) ;
or

(e) an establishment as defined in clause (6) of section 2 of the Tamil Nadu Shops and Establishments Act, 1947 (Tamil Nadu Act XXXVI of 1947) ; or

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(f) a catering establishment as defined in clause (1) of section 2 of the Tamil Nadu Catering Establishments Act, 1958 (Tamil Nadu Act XIII of 1958) ; or

(g) any other establishment which the Government may, by notification, declare to be an industrial establishment for the purpose of this Act ;

(4) "workman" means any person employed in any industrial establishment to do any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, but does not include any such person,—

(a) who is employed in the police service or as an officer or, other employee of a prison ; or

(b) who is employed mainly in a managerial or administrative capacity ; or

(c) who, being employed in a supervisory capacity, draws wages exceeding one thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

**Conferment of
permanent
status to
workmen.**

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

(2) A workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike, which is not illegal, or a lock-out or on account of non-employment or discharge of such workman for a period which does not exceed three months and during which period a substitute has been employed in his place by the employer, or a cessation of work which is not due to any fault on the part of the workman.

Explanation.—For the purposes of this section, the number of days on which a workman has worked in an industrial establishment shall include the days on which—

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial

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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.

4. (1) The Government may, by notification, appoint such persons or such class of persons as they think fit to be Inspectors for the purpose of this Act within such local limits as the Government may specify. **Appointment of Inspectors.**

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

5. Subject to any rules made by the Government in this behalf, the Inspector may, within the local limits for which he is appointed,— **Powers and duties of Inspectors.**

(a) enter at all reasonable times and with such assistants, if any, who are persons in the service of the Government or of any local authority as he thinks fit to take with him, any industrial establishment;

(b) make such examination of the industrial establishment and of any registers, records and notices and take on the spot or elsewhere the evidence of such person as he may deem necessary, for carrying out the purposes of this Act ; and

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act.

6. (1) Every employer who contravenes the provisions of section 3 shall be punishable with fine which may extend to five thousand rupees and in the case of continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues. **Penalties.**

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(2) No prosecution for an offence punishable under the section shall be instituted except with the previous sanction of the prescribed authority.

Act not to apply to workmen employed in certain industrial establishments.

7. Nothing contained in this Act, shall apply to workmen employed in an industrial establishment engaged in the construction of buildings, bridges, roads, canals, dams or other construction work whether structural, mechanical or electrical.

Cognizance of offence.

8. No court inferior to that of a metropolitan magistrate or a judicial magistrate of the first class shall try any offence under this Act.

Power to exempt.

9. The Government may, by notification, exempt conditionally or unconditionally any employer or class of employers or any industrial establishment or class of industrial establishments from the provisions of this Act.

Power to make rules.

10. (1) The Government may make rules to carry out the purposes of this Act.

(2) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette*, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(3) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(4) Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

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Part IV—Section 2
Tamil Nadu Acts and Ordinances.

The following Act of the Tamil Nadu Legislature received the assent of the President on the 20th September 1985 and is hereby published for general information :—

ACT No. 44 OF 1985.

An Act to amend the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

BE it enacted by the Legislature of the State of Tamil Nadu in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 1985.

(2) It shall be deemed to have come into force on the 1st day of January 1982.

2. *Amendment of section 3, Tamil Nadu Act 46 of 1981.*—In section 3 of the Tamil Nadu Industrial Establishments (Conferment

of Permanent Status to Workmen) Act, 1981 (Tamil Nadu Act 46 of 1981) (hereinafter referred to as the principal Act),—

(1) in the *Explanation*, for the opening portion beginning with the words “For the purposes of this section” and ending with the words “include the days on which—”, the following shall be substituted, namely :—

“For the purposes of computing the continuous service referred to in sub-sections (1) and (2), a workman shall be deemed to be in continuous service during the days on which—”;

(2) the *Explanation* shall be numbered as *Explanation-I* and after *Explanation-I* as so numbered, the following *Explanation* shall be added, namely :—

“*Explanation III.*—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.”

3. *Validation.*—Notwithstanding anything contained in any judgement, decree or order of any court or other authority, all acts done or proceedings taken in pursuance of section 3 (including the *Explanation*) of the principal Act at any time on or after the 1st day of January, 1982 and before the date of publication of this Act in the *Tamil Nadu Government Gazette* in relation to every workman in an industrial establishment for the purpose of conferment of permanent status to such workman by any officer or authority shall, for all purposes, be deemed to be, and to have always been, validly done or taken in accordance with law as if section 3 of the principal Act as amended by this Act had been in force at all material times when such acts or proceedings were done or taken.

(By order of the Governor)

S. VADIVELU,

Commissioner and Secretary to Government,
Law Department.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 16th June 1999 and is here by published for general information :—

ACT No. 17 OF 1999.

An Act further to amend the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fiftieth Year of the Republic of India as follows :—

Short title and commencement

1. (1) This Act may be called the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 1999.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Amendment of section 2.

2. In section 2 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, in clause (4), in sub-clause (c) for the words "draws wages exceeding one thousand rupees per mensem", the words "draws wages exceeding three thousand and five hundred rupees per mensem" shall be substituted. Act 46 of 1981.

(By order of the Governor.)

K. PARTHASARATHY,
Secretary to Government, Law Department

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 11th December 2000 and is hereby published for general information:—

ACT No. 48 OF 2000.

An Act further to amend the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 2000. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

2. In section 2 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (hereinafter referred to as the principal Act), in clause (4),— Amendment of section 2.

(1) in the opening portion, after the words “whether the terms of employment be express or implied”, the words “and includes a badli workman” shall be inserted;

(2) after sub-clause (c), the following *Explanation* shall be added, namely:—

“*Explanation.*—“Badli workmen” means a workman who is employed in an industrial establishment in the place of another workman whose name is borne on the muster rolls of the establishment.”.

3. In section 3 of the principal Act, in sub-section (2), the expression “or on account of non-employment or discharge of such workman for a period which does not exceed three months and during which period a substitute has been employed in his place by the employer” shall be omitted. Amendment of section 3.

(By order of the Governor)

K. PARTHASARATHY,
Secretary to Government,
Law Department.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 17th May, 2003 and is hereby published for general information:—

ACT No. 9 OF 2003.

An Act further to amend the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 2003.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Amendment of section 6.

2. In section 6 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981,—

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46 of 1981.

(1) sub-section (2) shall be renumbered as sub-section (3);

(2) before sub-section (3) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) every employer who contravenes the provisions of any rule made under section 10 shall be punishable, for a first offence, with fine which may extend to five hundred rupees, and for a second or subsequent offence, with fine which may extend to one thousand rupees.”

(By Order of the Governor)

A. KRISHNANKUTTY NAIR,
*Secretary to Government,
Law Department.*