

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 20TH DAY OF DECEMBER 2013/29TH AGRAHAYANA, 1935

WP(C) .No. 33101 of 2006 (N)

PETITIONER(S) :

P. CHOYI, PARAMBAT HOUSE,
KODAKKAD P.O., CHETTIPADI VIA., PARAPPANANGADI
MALAPPURAM DISTRICT.

BY ADVS.SRI.HARISH R. MENON
SRI.K.T.SHYAMKUMAR

RESPONDENT(S) :

1. THE DIRECTOR OF INSURANCE MEDICAL
SERVICES, THIRUVANANTHAPURAM.
2. THE REGIONAL DEPUTY DIRECTOR,
INSURANCE MEDICAL SERVICES, KOZHIKODE.
3. THE LOCAL OFFICER,
EMPLOYEES STATE INSURANCE CORPORATION, LOCAL OFFICE
FEROKE, KOZHIKODE DISTRICT.
4. THE INSURANCE MEDICAL OFFICER,
ESI DISPENSARY, CHERUVANNUR, KOZHIKODE DISTRICT.

BY SRI.P.SANKARANKUTTY NAIR, SC, ESI CORPORATION

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-12-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 33101 of 2006

Dated this the 20th day of December, 2013

J U D G M E N T

The petitioner retired after 27 years of service in the loading section of Parakkadavu Tile Factory in Parappanangadi in the year 1997. He was a member of the ESI scheme for so many years. The petitioner fell ill in October 2005 and; he consulted the doctor in the ESI Dispensary at Cheruvannur, Kozhikode. He was advised to consult a senior doctor in the Department of Neurology in the Medical College Hospital at Kozhikode. Consequently, he was admitted on 14.10.2005 in the Medical College Hospital and was discharged on 21.10.2005. The medical expenses incurred by the petitioner came to nearly ₹30,000/-. After obtaining the requisite Essentiality Certificate, the petitioner submitted the same for reimbursement after obtaining the endorsement from the Medical Officer of the ESI

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Dispensary. The same was returned stating that Eligibility Certificate from the local office has to be produced. However, the local office has declined to issue the Eligibility Certificate. According to the petitioner, though he filed a representation before the Director of Insurance Medical Services, the same was rejected even without an enquiry as to why the said certificate is not being issued to the petitioner. It is in this context, the petitioner has come up before this Court.

2. The stand taken by the respondent Corporation is that the petitioner's remedy lies under Section 75 of the ESI Act, which provides for an application before the EI Court.

As the petitioner is having an alternative remedy, this writ petition is closed reserving the right of the petitioner to move the Employees' Insurance Court within a period of one month from today.

The petitioner shall be at liberty to file such an application along with a copy of this judgment before the

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Employees' Insurance Court within a period of one month from today and; if the same is filed within the aforesaid time, it shall be reckoned as one filed within the period of limitation.

Sd/-
A.V. RAMAKRISHNA PILLAI,
JUDGE

bka/-