

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C) .No. 3079 of 2015 (H)

PETITIONER(S) :

M/S.TRANS ASIAN SHIPPING SERVICES (P) LTD.,
TRANS ASIAN CORPORATE PARK,
XIV/396-C, SEAPORT AIRPORT ROAD, KAKKANAD,
COCHIN-682 037,
REPRESENTED BY IT'S DEPUTY MANAGER(H.R)AND AUTHORIZED
SIGNATORY.

BY ADV. SRI.G.KRISHNAKUMAR.

RESPONDENT(S) :

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1. THE REGIONAL DIRECTOR,
ESI CORPORATION, PANCHDEEP BHAVAN,
NORTH SWARAJ ROUND,
THRISSUR-20.
 2. DEPUTY DIRECTOR,
ESI CORPORATION, PANCHDEEP BHAVAN,
NORTH SWARAJ ROUND,
THRISSUR-20.
 3. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
LABOUR AND REHABILITATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-1.

BY SRI.P.SANKARANKUTTY NAIR, SC, ESI CORPORATION
BY SENIOR GOVERNMENT PLEADER SRI. BIJU MEENATTOOR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ivs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT.P1 TRUE COPY OF THE C-18 ADHOC NOTICE DATED 16.09.2003 TO
31.3.2007 DEMANDING CONTRIBUTIONS.

EXT.P2 TRUE COPY OF THE C-18 NOTICE FOR THE PERIOD 4/2007 TO 1/2013

EXT.P3 TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER, TO
THE 3RD RESPONDENT

EXT.P4 TRUE COPY OF THE LETTER DATED 18.08.2007.

EXT.P5 TRUE COPY OF THE ORDER DATED 14.10.2014 U/S.45 (A) OF THE
ESI ACT.

EXT.P6 TRUE COPY OF THE APPEAL DTD 31.12.2014 PREFERRED BY THE
PETITIONER TO THE 1ST RESPONDENT.

EXT.P7 TRUE COPY OF THE CHALLAN DATED 20.01.2015 EVIDENCING
PAYMENT OF RS.2,75,901 TO ESI CORPORATION.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. Vinod Chandran, J.

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W.P.(C)No.3079 of 2015

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Dated this the 27th day of February, 2015.

JUDGMENT

1. The petitioner is aggrieved with the rejection of Ext.P6 appeal filed as per Regulation 31D of the Employees State Insurance (General) Regulations, 1950. The appeal was delayed by seventeen days. The Act provides for an appeal only within a period of sixty days as per Section 8(5) of the Act. No time for condonation of delay is available under the statute; but the petitioner claims consideration under Section 5 of the Limitation Act, 1963. The learned counsel for the petitioner would contend that the issue is covered by a judgment of the Hon'ble Supreme Court in *State of Madhya Pradesh and another v Anshuman Shukla* [2014(10)SCC 812].

2. It is relevant to notice that, even as per the said decision, Section 5 of the Limitation Act was declared to be applicable, only in cases, where the proceedings were taken before a Court, *inter alia* under special enactments. In the present case, the appeal is to be filed before the statutory authority and hence Section 5 of the Limitation Act, would not be applicable.

3. In fact, specific reservation was made in Paragraph 33 of the said decision, which reads as follows:

“In our opinion, it is unnecessary to delve into the question whether the Arbitral Tribunal constituted under the Act is a court or not for answering the issue in the present case as the delay in filing the revision has occurred before the High Court, and not the Arbitral Tribunal.”

4. The statutory authority has not been conferred with specific powers to condone delay and the issue would be covered by the decisions of this Court in *Assistant Commissioner of Central Excise v. Krishna*

***Poduval* [2005(4) KLT 947] and *Panopharam v. Union of India* [2010(3) KLT 149].** The writ petition, hence, is found to be devoid of merit and the same is dismissed. The dismissal, however, would be subject to any proceeding taken by the petitioner under Section 75 of the Act.

K. Vinod Chandran, Judge.

sl.