

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

W.P.(C).No.5901 of 2015 (K)

PETITIONER(S):

M/S.CHERRY'S PRINTERS,
LF CHURCH ROAD, KALOOR,
ERNAKULAM KOCHI 682017,
REP. BY PROPRIETOR JOY MADATHINKUNNEL

BY ADVS.SRI.PRAVEEN K. JOY
SRI.T.A.JOY.

RESPONDENT(S):-

1. THE DIRECTOR, EMPLOYEES STATE INSURANCE CORPORATION,
ERNAKULAM - 682 017.
2. DEPUTY DIRECTOR,
ESI CORPORATION, ERNAKULAM - 682 017.
3. EMPLOYEES STATE INSURANCE CORPORATION,
ST.FRANCIS CHURCH ROAD, KALOOR, KOCHI-17.
4. THE SOCIAL SECURITY OFFICER,
EMPLOYEES STATE INSURANCE CORPORATION, ERNAKULAM - 682 017.

R1 TO R4 BY STANDING COUNSEL SRI.P.SANKARANKUTTY NAIR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

WP(C).No.5901 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXT. P1: THE TRUE COPY OF THE ORDER DATED 29.01.2015 OF THE
2ND RESPONDENT.

EXT.P2: THE TRUE COPY OF THE APPEAL BEFORE THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K.Vinod Chandran, J.

W.P.(C).No.5901 of 2015-K

Dated this the 09th day of April, 2015

JUDGMENT

The petitioner is aggrieved with the non-consideration of an appeal filed under Section 45-AA of the Employees' State Insurance Act, 1948 [for brevity "ESI Act"]. Admittedly the non-consideration was on account of the pre-deposit having not been made.

2. Exhibit P1 is an order passed under Section 45-A of the ESI Act, determining the contributions to be made by the petitioner herein. Section 45-AA stipulates for an appeal within sixty days of the date of such order "after depositing twenty-five percent of the contribution so ordered". Hence, an appeal filed necessarily has to be with proof of payment of twenty-five percent as directed in Section 45-AA of the Act. The petitioner having not made the pre-deposit, the appeal would not be a properly instituted one. In such circumstance, the petitioner cannot seek for consideration of the appeal; nor can the petitioner, at this point of time; i.e., after more than two months from the date of filing of appeal, seek for deposit of the amounts as stipulated in Section 45-AA.

3. However, the petitioner has an alternate remedy under Section 75 of the Act to approach the Employees' Insurance Court, which definitely the petitioner can avail of within the limitation period provided therein.

With the above observation, the writ petition is dismissed. No costs.

Sd/-
K.Vinod Chandran,
Judge

vku.

[true copy]