

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

WP(C).No. 16489 of 2015 (I)

PETITIONER(S):

**MUHAMMED ABDULLA, AGED 42 YEARS,
S/O.MOHAMMED KASIM, MANAGER,
M/S.WEST COAST PUBLIC SCHOOL, KALLATTUMUKKU,
MANACAUD P.O., THIRUVANANTHAPURAM - 695 009.**

**BY ADVS.SRI.T.I.UNNIRAJA,
SMT.S.PRATHIBHA,
SRI.H.BIJU,
SRI.S.G.SREEKANTH,
SRI.S.BADUSHA.**

RESPONDENT(S):

**JOINT DIRECTOR & APPELLATE AUTHORITY,
SUB REGIONAL OFFICE (THIRUVANANTHAPURAM),
EMPLOYEES' STATE INSURANCE CORPORATION,
PANCHDEEP BHAVAN, THYCAUD,
THIRUVANANTHAPURAM - 695 014.**

**BY ADVS. SRI.P.SANKARANKUTTY NAIR, SC.
SRI.SANDESH RAJA. K.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 16489 of 2015 (I)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXT.P-1: TRUE COPY OF THE ORDER NO.78-P-12/11/45-AA- APPEAL
ISSUED BY THE RESPONDENT DATED 24.04.2015.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.16489 of 2015

Dated this the 2nd day of July, 2015.

JUDGMENT

The petitioner has approached this Court against the order of dismissal of statutory appeal by the appellate authority of the Employees State Insurance Corporation due to delay of 9 days.

2. The petitioner is the manager of M/s. West Coast Public School. The petitioner alleges that on 3.12.2014, the authorised officer issued an order and thereby fixed the contribution of the employer due to the Employees State Insurance Corporation as Rs.1,44,788/- for the period from 1.4.2012 to 30.6.2014 and the same was received by the petitioner on 19.12.2014. Accordingly, the petitioner approached Adv.Muhammed Sha for filing an appeal against the aforesaid order. However, while the aforesaid advocate was shifting his advocates office, petitioner's case bundle was misplaced. Subsequently, when the petitioner's advocate

traced out the case bundle, the appeal was filed without filing any petition to condone the delay on 25.2.2015. The respondent dismissed the appeal since the appeal was not filed within the statutory period. Accordingly, the respondent directed the petitioner to remit an amount of Rs.1,44,788/-.

3. I have heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent in the matter.

4. The learned counsel for the petitioner would submit that the petitioner is ready to deposit 25% of the contribution or actual contribution payable during the relevant period.

5. The learned Standing Counsel for the respondent per contra would submit that there was a delay of 26 days in filing the appeal and even along with the appeal, the petitioner has not remitted the requisite statutory deposit. It was also pointed out that the petitioner has an alternative remedy to approach the Employees Insurance Court under Section 75 of the E.S.I. Act.

Therefore, the writ petition is disposed of directing the petitioner to approach the aforesaid court within a period of one month from today if he chooses and till that date, further action against the petitioner shall be kept in abeyance.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.