

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.11.2019
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.32930 of 2013

M.Ponnambalam

..Petitioner

Vs.

1.M/s.Bhabha Atomic Research Centre,
Trombay, Mumbai - 400 085.

2.Employees' State Insurance Corporation,
Rep. by its Assistant Director,
Benefits Branch,
Regional Office,
No.143, Sterling Road,
Chennai - 600 034.

3.The Deputy Commissioner of Labour - I,
Teynampet,
Chennai - 600 006.

4.The Industrial X-Ray Inspection Company,
No.26, 2nd Street,
Kalaimagal Nagar,
Ekkattuthangal,
Chennai - 600 032.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd Respondent in 51-R-16-35-Spl Med. Guindy-9-2013 and Quash the Impugned Order dated 03-06-2013 and further direct the 2nd Respondent to subject the Petitioner for Physical Examination before a Specialist Radiologist, assess the disability on account of his occupational disease and pay the compensation the petitioner is entitled to.

For Petitioner : Mr.J.Ashok
For Respondents : Mr.Ramasundaram for R1

Mr.C.V.Ramachandramurthy for R2

Mr.J.Ramesh,
Additional Government Pleader,
for R3

O R D E R

The Medical Board opinion offered in respect of the writ petitioner Shri.M.Ponnambalam in proceedings dated 03.06.2013 is sought to be quashed in the present writ petition.

2.The grievance of the petitioner is that the medical opinion is erroneous and incorrect. The petitioner made certain allegations regarding the incorrect medical opinions made as per his affidavit.

3.The learned counsel appearing on behalf of the writ petitioner reiterated that the Medical Board conducted the medical examination without following the procedures and the finding that the petitioner was not suffering from any occupational disease is incorrect.

4.This Court is of the considered opinion that the High Court is not the competent Court of law for the purpose of ascertaining the correctness or otherwise of the medical opinions offered by the doctors. Such expert opinions cannot be interfered with by the High Courts and even in case of any doubt, another expert body is to be created for the purpose of finding out the correctness or otherwise. Contrarily, the High Court cannot decide whether the medical opinions offered by the Medical Board are correct or not. This apart, challenging the medical opinion in a writ petition, normally cannot be entertained. Even in case, some basic errors or principles are not followed, then, the Courts are bound to refer the matter before another Medical Board.

5.In this regard, the learned counsel appearing on behalf of the respondents brought to the notice of this Court that the provisions of the Employees State Insurance Act, 1948 itself contemplates an appeal to the Medical Appeal Tribunal, constituted in accordance with the provisions and regulations, with a right of appeal in the prescribed manner and within the prescribed time to the employees of the State Insurance Corporation. Section 59(A)(2) of the said Act contemplates such an appeal to the Medical Appeal Tribunal. Admittedly, the writ petitioner has not exhausted the statutory remedy provided under the said Act.

6.The disputed facts cannot be entertained in a writ proceeding under Article 226 of the Constitution of India. The writ petitioner is at liberty to approach the Medical Appeal Board under the provisions of the Act for the redresal of his grievance. Accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

tsg

To

1.Employees' State Insurance Corporation,
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Benefits Branch,
Regional Office,
No.143, Sterling Road,
Chennai - 600 034.

2.The Deputy Commissioner of Labour - I,
Teynampet,
Chennai - 600 006.

+lcc to M/s.J.Ashok, Advocate sr.96692
+lcc to Mr.C.V.Ramachandramurthy, Advocate sr.96435
+lcc to Government Pleader SR.NO. 97604

W.P.No.32930 of 2013

gp(co)
nr 10/01/2020

सत्यमेव जयते

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