

06
RP
AN

30.11.2021
Ct. No. 16

MAT 499 of 2021

KRSS Metal Private Limited
vs.
Employees State Insurance Corporation & ors.

Mr. Mrityunjoy Goswami
Mr. Parikshit Goswami

... for the appellants

Mr. Soumitra Banerjee

... for the respondents 1, 2, 3

Heard the learned counsel for the parties present.

This intra-Court mandamus appeal filed by the writ petitioner is directed against the order dated 16.03.2021 in WPA 6351/2020. In the said writ petition, the appellant sought for direction upon the respondent company to permit them to withdraw the sum of Rs. 2,25,134.00 which was lying in fixed deposit. The learned Single Judge has declined to give such relief and has observed that in terms of directions issued in the earlier writ petition being WP 2445(W)/2020, the appellant had created the fixed deposit and also preferred an appeal to the appellate authority as against the order of adjudication passed by the second respondent. The appellant would contend that the appellant has preferred a statutory appeal before the appellate authority and he should be permitted to withdraw the amount which is lying in fixed deposit. Such relief was denied by the learned Single Judge. Aggrieved by the same, the appellant is before us by way of the instant appeal.

The learned Single Judge rightly declined to give relief sought for by the appellant for more than one reason. Firstly, the fixed deposit was created pursuant to an order dated 17.02.2020 in WP 2445(W)/2020. The said order has attained finality and the appellant complied with the order. Secondly, merely by obeying the directions contained therein and preferring an appeal before the statutory authority cannot be a ground to seek for withdrawal of the fixed deposit amount which has been directed to be created by the court to safeguard the interest of the employees concerned.

The court makes it clear that all issues can be adjudicated before the appellate authority since the appellant would contend that their establishment would not be covered under the provisions of the Employees State Insurance Corporation Act. Furthermore, the learned Single Judge has stated, in event, the appellant succeeds in the appeal, ESI Authority will give due adjustment to the appellant, if the facts and circumstances so require after adjustment of dues payable by the appellant establishment to the ESI Authorities.

We find that there is no error in the order and direction passed by the learned Single Judge. We note that the appellant has already preferred an appeal before the appellate authority and has paid the requisite fees. The concerned appellate authority is directed to take up the appeal as expeditiously as possible and pass final order on merits in accordance with law after affording an opportunity

of hearing to the appellant within 60 days from the date of receipt of the copy of this order.

With the above observations, while affirming the order of the learned Single Judge, the instant appeal stands disposed of with the aforesaid directions.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)