



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.20338 of 2021

and WMP(MD)No.16984 of 2021

WEB COPY

M/s.Pandian Textiles Pvt. Ltd.,
Kasipalayam,
Vedasandur,
Dindigul District - 624 711.

... Petitioner

versus

The Deputy Director (Benefit)
Employees State Insurance Corporation,
Sub-regional Office,
2nd West Street, K.K.Nagar,
Madurai - 20.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records pertaining the impugned order passed by the respondent in No.57-R/13/68/DGL/DB/BF/SRO/MDU/2019, dated 19.03.2020 under Section 68 of ESI Act and quash the same as illegal.

For Petitioner : Mr.V.O.S.Kalaiselvam
For Respondent : Mr.C.Karthick

ORDER

The writ petition is filed against the order dated 19.03.2021, passed by the respondent under Section 68 of the Employees' State Insurance Act.

2. The learned counsel for the respondent made preliminary objections on the maintainability of the writ petition by referring provisions under Section 75 of the Employees' State Insurance Act.

3. Section 75 of the Employees' State Insurance Act is extracted as under:

75. Matters to be decided by the Employees' Insurance Court. - (1) If any question or dispute arises as to - (a) whether any person is an employee within the meaning of this Act or whether he is liable to pay the employee's contribution, or

(b) the rate of wages or average daily wages of an employee for the purposes of this Act, or



(c) the rate of contribution payable by a principal employer in respect of any employee, or

(d) the person who is or was the principal employer in respect of any employee, or

(e) the right of any person to any benefit and as to the amount and duration thereof, or

[(ee) any direction issued by the Corporation under section 55-A on a review of any payment of dependants' benefits, or]

[(f) * * *]

(g) any other matter which is in dispute between a principal employer and the Corporation, or between a principal employer and an immediate employer, or between a person and the Corporation or between an employee and a principal or immediate employer, in respect of any contribution or benefit or other dues payable or recoverable under this Act, [or any other matter required to be or which may be decided by the Employees' Insurance Court under this Act], such question or dispute [subject to the provisions of sub-section (2A)] shall be decided by the Employees' Insurance Court in accordance with the provisions of this Act.

(2) [Subject to the provisions of sub-section (2A), the following claims] shall be decided by the Employees' Insurance Court, namely : -

(a) claim for the recovery of contribution from the principal employer;

(b) claim by a principal employer to recover contributions from any immediate employer ;

[(c) * * *]

(d) claim against a principal employer under section 68 ;

(e) claim under section 70 for the recovery of the value or amount of the benefits received by a person when he is not lawfully entitled thereto; and

(f) If any claim for the recovery of any benefit admissible under this Act.

[(2A) If in any proceedings before the Employees' Insurance Court a disablement question arises and the decision of a medical board or a medical appeal tribunal has not been obtained on the same and the decision of such question is necessary for the determination of the claim or question before the Employees' Insurance Court, that Court shall direct the Corporation to have the question decided by this Act and shall thereafter proceed with the determination of the claim or question before it in accordance with the decision of the medical board or the medical appeal



tribunal, as the case may be, except where an appeal has been filed before the Employees' Insurance Court under sub-section (2) of section 54-A in which case the Employees' Insurance Court may itself determine all the issues arising before it.]

[(2-B) No matter which is in dispute between a principal employer and the Corporation in respect of any contribution or any other dues shall be raised by the principal employer in the Employees' Insurance Court unless he has deposited with the Court fifty per cent. of the amount due from him as claimed by the Corporation :

Provided that the Court may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this sub-section.]

(3) No civil Court shall have jurisdiction to decide or deal with any question or dispute as aforesaid or to adjudicate on any liability which by or under this Act is to be decided by [a medical board, or by a medical appeal tribunal or by the Employees' Insurance Court].

4. As per the provisions of the Employees' State Insurance Act, there is an alternative remedy available to the petitioner before the ESI Court. Hence, without expressing anything on merits, the writ petition is dismissed with liberty to the petitioner to work out its remedy by filing necessary application before the ESI Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

The Deputy Director (Benefit)
Employees State Insurance Corporation,
Sub-regional Office,
2nd West Street, K.K.Nagar, Madurai - 20.

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25.11.2021

SJ(CO)

SB(15.12.2021) 3P 2C

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