



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.06.2022**

CORAM:

THE HONOURABLE **MR. JUSTICE M. S. RAMESH**

W.P. (MD) No. 10832 of 2022

and W.M.P. (MD) No. 7790 of 2022

WEB COPY

M/s.New Security Force,
Represented by P.Prabakar,
Managing Partner,
No.12, BSS Complex,
Rabi Nagar,
Thiruvanaikoil,
Trichy - 620 005.

... Petitioner

/vs./

1.The Director General,
ESI Corporation,
Panch Deept Bhavan,
CIT Marg,
New Delhi - 110 002.

2.The Deputy Director,
E.S.I. Corporation,
Theerthamalai Vanigavalagam,
39/57 Three Roads,
Salem - 636 009.

3.The Branch Manager,
ESI Corporation,
Trichy Branch, Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned show cause notice issued by the 2nd respondent vide proceedings number 63000720520001018/MEC/SRO/SLM/C-18 (Adhoc) /09/18 dated 06.08.2018 and the consequential impugned order issued by the 2nd respondent vide impugned order bearing No.63000720520001018/MEC/SRO/SLM/9/18 dated 18.08.2020 and quash the same as illegal, improper, unlawful, unconstitutional and arbitrary and consequently direct the respondents to issue orders afresh as per the assessment made by the Branch Manager of ESI Corporation Trichy Branch, (first hand field officer), the 3rd respondent herein.

For Petitioner	:	Mr.R.Murugan
For Respondents	:	Mr.C.Karthick, Standing Counsel.

**ORDER**

The order impugned in the present writ petition is one under Section 45 A of the 'Employees' State Insurance Act, 1948' (hereinafter referred to as 'the Act'). A perusal of the grounds raised in the writ petition reveals that the grounds raised herein cannot be treated as an exception in order to overlook an alternate remedy that is available under Section 75 of the Act. Since an alternate remedy of appeal lies under Section 75 of the Act, I am not inclined to entertain the present writ petition.

2. The grounds raised in the present writ petition requires deliberations and therefore, this Court is of the view that the petitioner herein can be granted a time- limit to prefer an appeal before the ESI Court.

3. In the light of the above observations, no interference is required to the impugned order. However, the petitioner is at liberty to approach the ESI Court under Section 75 of the Act, as against the order passed under Section 45A of the Act, dated 18.08.2020 within a period of 30 days from the date of receipt of a copy of this order. The ESI Court, on receipt of such an appeal, shall take the same on file, without reference to the limitation prescribed under Section 77 of the Act. Since the limitation is being extended on the peculiar facts and circumstances of the case, the same shall not be quoted as precedent for any other case.

4. This writ petition stands ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

vsm

To

1.The Director General,
ESI Corporation,
Panch Deept Bhavan,
CIT Marg,
New Delhi - 110 002.

2.The Deputy Director,
E.S.I. Corporation,
Theerthamalai Vanigavalagam,
39/57 Three Roads,
Salem - 636 009.



3.The Branch Manager,
ESI Corporation,
Trichy Branch, Trichy.

+1 CC to M/s.R. MURUGAN, Advocate (SR-26648[F] dated 20/06/2022)

W.P.(MD) No.10832 of 2022

and W.M.P.(MD)No.7790 of 2022

17.06.2022

MGJ(04.07.2022) 3P 5C