



W.P.No.29788 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

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M/s. Axenus Global Solutions Private Limited
Represented by its Managing Director named Manojkumar
No.5/212A, Seeniveerampalayam,
Chikkampalayam, Karamadai,
Mettupalayamtaluk,
Coimbatore District.

... Petitioner

Vs.

1. The Deputy Director,
Employees State Insurance Corporation,
D.No.1897, Thiruchy Road,
Ramanathapuram, Coimbatore 641 045.

2. The Recovery Officer,
Employees State Insurance Corporation,
D.No.1897, Thiruchy Road,
Ramanathapuram, Coimbatore 641 045.

... 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 of the ESI Court/Principal Labour Court at Coimbatore in ESIOP 1 of 2022 in ESICFR No.3521/2022 and to quash the order dated 23.03.2023 and to direct the ESI Court/Principal Labour Court to number the appeal in ESICFR No.3521/2022.



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For Petitioner : Mr. M.Saravanakumar

For Respondents : Mr.S.P. Srinivasan

ORDER

Challenging the orders dated 23.03.2023 passed in Interlocutory Application No.1 of 2022 in ESIOP CFR No.3251 of 2022 by the learned Presiding Officer (FAC), Principal Labour Court, Coimbatore, the present Writ Petition is filed.

2. Heard Mr. M. Saravanakumar, learned counsel for the petitioner and Mr.S.P. Srinivasan, learned counsel for the respondents.

3. Mr.S.P. Srinivasan, learned counsel for the respondents would contend that Section 82 of the Employees' State Insurance Act, 1948 (herein after referred to as "the ESI Act") empowers the aggrieved party to prefer an Appeal and the present Writ Petitioner without exhausting the said remedy had approached this Court by way of filing the present Writ Petition, which is not maintainable.



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4. It is relevant to extract Section 82 of the Employees' State Insurance Act, 1948.

Section 82 in The Employees' State Insurance Act, 1948

82. Appeal.?

(1) Save as expressly provided in this section, no appeal shall lie from an order of an Employees' Insurance Court.

(2) An appeal shall lie to the High Court from an order of an Employees' Insurance Court if it involves a substantial question of law.

(3) The period of limitation for an appeal under this section shall be sixty days.

Thus it is clear from Section 82 of the ESI Act that any interim or final order can be questioned only by way of CMA and not by filing a Writ Petition. Accordingly, the present Writ Petition is dismissed on the ground of maintainability. It is open to the petitioner to approach the Appellate Forum by invoking Section 82 of ESI Act and explain the reasons for the delay.



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5. In the result, the Writ Petition is dismissed. No costs.

Registry is directed to return the certified copy of the order passed by the Presiding Officer (FAC), Principal Labour Court, Coimbatore, in Interlocutory Application No.1 of 2022 in ESIOP CFR No.3251 of 2022 to the Writ Petitioner.

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Index : yes/no

Speaking /Non speaking Order



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