



W.P.(MD).No.7980 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.7980 of 2016

and

W.M.P.(MD).Nos.6530 and 6531 of 2016

A.Kandan

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Department of Labour and Employment,
Fort St George,
Chennai – 600 001.

2.The Regional Director,
Employee State Insurance Corporation,
143, Sterling Road,
Nungambakkam,
Chennai.

3.The State Medical Commissioner,
E.S.I.Corporation,
Chennai.

4.The Regional Administrative Medical Officer (I/C),
E.S.I.Scheme,
Salem District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Government Order in G.O(D)No.679, Labour and Employment Department dated 14.08.2002 and quash Clause No.B(a) of Annexure as illegal, which warrants that only 20% of the claims shall be admissible for taking treatment in private hospital without reference from ESI Hospital and quash the consequential impugned order in K.DIS.No. 5444/S4/2014 dated 20.07.2015 on the file of Respondent No.3 and consequently direct the respondents to reimburse the balance amount of Rs.69,740/- (Sixty Nine Thousand and Seven Hundred Forty rupees) to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.M.M.Iqbal

For R-1 : Mr.M.Lingadurai,
Special Government Pleader.

For R-2 and R-3 : Mr.P.Ganapathisamy

ORDER

This Writ Petition is filed challenging the impugned Government Order dated 14.08.2002 and Clause No.B(a) of Annexure and the consequential impugned order dated 20.07.2015 with a consequential relief to reimburse the balance amount of Rs.69,740/- (Sixty Nine Thousand and Seven Hundred Forty only) to the petitioner.



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2. The petitioner was working as an Assistant Manager (Admin) in Private concern namely, Sree Gokulam Chit and Finance Private Company. He is the member in ESI scheme and an amount of Rs.276/- is deducted from the petitioner's monthly salary towards ESI subscription vide ESI IP No. 6312959689. On 14.07.2013, the petitioner met with an accident along with his friends and suffered serious injuries in his neck of left humerus. He was immediately rushed to the private hospital namely, Sudha Hospital at Sivakasi. Due to serious injuries, he was shifted to Meenakshi Mission Hospital, Madurai for further treatment. The petitioner was discharged on 25.07.2013 after taking treatment as inpatient in the above said Hospital. Thereafter, the petitioner submitted medical reimbursement towards medical expenses for Rs.82,800/-. By taking into consideration, the fourth respondent has passed the impugned order dated 20.07.2015 accorded sanction for lesser payment of Rs.13,060/- by relying upon G.O.Ms.No.679 dated 14.08.2002. Aggrieved over the same, the present Writ Petition is filed.

3. The fourth respondent vehemently opposed this Writ Petition by stating the appropriate forum would be Tribunal because factual matrix is involved in this case.



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4. The petitioner prayed the first respondent Government to consider the issue. On perusing the records, it is seen that the petitioner is an employee of private concern and not a Government employee. Therefore, the Medical Attendant Rules are not applicable to the petitioner and the Government is also not liable to consider the petitioner's case.

5. The only remedy that is available to the petitioner is to prefer an appeal before the Tribunal. Since the Writ Petition was filed in the year 2016 and the same was pending for so long years, the petitioner submitted that his claim may be considered by this Court. The claim of the petitioner is rejected, since the issue involves factual matrix. Therefore, the period from 21.04.2016 until the date of issuance of this order is condoned for the purpose of delay. The petitioner is directed to file a petition before the Tribunal within a period of four (4) weeks from the date of receipt of a copy of this order. The Tribunal is directed to dispose of the petition filed by the petitioner within a period of six (6) months from the date of submission of the petition.



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6. With the above direction, this Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

20.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

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Department of Labour and Employment,
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S.SRIMATHY, J.

Nsr

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