



W.P.No.5735 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.5735 of 2024

and

WMP.Nos.6336 & 6337 of 2024

Muthaiah K.

... Petitioner

VS.

1.The Regional Director,
Regional Office (Tamil Nadu),
Employees State Insurance Corporation,
143, Sterling Road,
Chennai – 600 034.

2.The Recovery Officer,
Regional Office (Tamil Nadu),
Employees State Insurance Corporation,
143, Sterling Road,
Chennai – 600 034.

3.Punjab National Bank,
Chennai - Moulivakkam,
Kanchipuram,
Tamil Nadu – 600 116.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified



W.P.No.5735 of 2024

Mandamus, calling for the records of the 2nd respondent in Proceedings No.TN/RECY/45G/ 51001008670001099/CCR – VARIOUS CLAIMS dated 16.02.2024, quash the same, direct the 3rd respondent to de-freeze the bank Account No.05811131003762 of the petitioner, forbear the 3rd respondent from releasing the sum of Rs.7,57,857/- to the 2nd respondent.

For Petitioner : Mr.G.Anandgopalan for
Agam Legal

For R1 & R2 : Mr.G. Bharadwaj

For R3 : No appearance

* * * *

ORDER

This Writ Petition is filed to call for the records of the 2nd respondent in Proceedings No.TN/RECY/45G/ 51001008670001099/ CCR – VARIOUS CLAIMS dated 16.02.2024, quash the same, direct the 3rd respondent to de-freeze the bank Account No.05811131003762 of the petitioner, forbear the 3rd respondent from releasing the sum of Rs.7,57,857/- to the 2nd respondent.



W.P.No.5735 of 2024

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2. With the consent of both the parties, the main writ petition is taken up for hearing and disposal.

3. The main contention in the writ petition is that without issuing the order under Section 45 A of the ESI Act for the period 2016 to 2019, the impugned order passed under Section 45 G of the ESI Act is unsustainable.

4. Mr. G. Bharadwaj, learned counsel appearing for the respondent Nos. 1 and 2 produced the copy of the order dated 31.08.2021 passed under Section 45 A of the ESI Act. The learned counsel for the respondents submits that the petitioner without challenging the 45-A order has challenged only the consequential order. In view of the said submission, the learned counsel for the petitioner prays that time may be



W.P.No.5735 of 2024

granted to the petitioner on such terms as this Hon'ble Court may deem fit, to enable the petitioner to workout his legal remedies against the 45-A order under the ESI Act.

5.The learned counsel for the respondents submits that if this Hon'ble Court is inclined to accept the petitioner's prayer, then the petitioner should be put on terms.

6.The learned counsel for the petitioner in reply submits that an amount of Rs. 1,12,000/- was already withdrawn by the respondent from the petitioner's bank account. The learned counsel further submits that none of the orders passed by the authorities were served on the petitioner. Therefore, the learned counsel for the petitioner prays that a direction may be issued to the respondents to issue the copies of the orders passed against the petitioner. The learned counsel for the petitioner submits that 25% of the demand of Rs.7,57,857/- is Rs. 1,90,000/- (approximately) and as the petitioner had already paid Rs.1,12,000/-, the balance amount payable is



W.P.No.5735 of 2024

only Rs.78,000/-. The learned counsel for the petitioner submits that he has no objection to the withdrawal of the balance amount of Rs.78,000/- from his account towards 25% of the Demand Amount, but the respondents should de-freeze the account on such withdrawal. The learned counsel further submits that the amount of Rs.1,90,000/- retained by the respondent may be credited towards the mandatory deposit for filing appeal.

7.The submission of the learned counsel for the petitioner that the respondents have withdrawn the amount of Rs.1,12,000/- from the petitioner's bank account is not disputed by the respondent.

8.Under the factual scenario, the following directions are issued.

1.The respondents are permitted to withdraw a further sum of Rs.78,000/- from the



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W.P.No.5735 of 2024

petitioner's bank Account towards Mandatory deposit of 25% of the Demand amount for preferring the statutory appeal;

2.On receipt of the said sum of Rs.1,90,000/- the respondents are directed to pass orders revoking the attachment order;

3.The petitioner is directed to make a formal request for a copy of the 45-A order required by him for filing the statutory appeal within a week of the receipt of a copy of this order;

4.The respondents are directed to give a copy of the order passed by them under Section 45-A, within a period of two weeks from the date of receipt of the petitioner's request;

5.The petitioner shall within two weeks of the receipt of the 45-A order from the



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W.P.No.5735 of 2024

respondent, file the appeal; and

6.The amount of Rs.1,90,000/- (25% of the demand) shall be credited towards the 25% mandatory deposit for filing the appeal.

It is needless to state that the appeal shall be considered on merits and in accordance with law.

9.With the above directions, this Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

01.03.2024

Index : Yes / No

Internet : Yes / No

Speaking order/Non-speaking order
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To



W.P.No.5735 of 2024

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N.MALA, J.

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W.P.No.5735 of 2024

W.P.No.5735 of 2024

01.03.2024