



WEB COPY



W.P.No.26626 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.09.2024

CORAM

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

**W.P.No.26626 of 2022**

Pondicherry Textile Mills Labour Union,  
Rep. by its Secretary,  
Regn.No.94/RTU/69-AITUC  
Affiliation No.16-POND-77  
V.S.Abishekam  
No.49, Rodiyar Mill Street,  
Mudaliarpet,  
Puducherry 605 004.

... Petitioner

Vs.

- 1.The Regional Director,  
ESI Corporation,  
Mudaliarpet, Puducherry 605 004.
- 2.The Chairman,  
Anglo French Textiles Corporation,  
Mudaliarpet, Puducherry 605 004.
- 3.The Manager,  
(Industries Relations)  
Anglo French Textiles Corporation,  
Mudaliarpet, Puducherry 605 004.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India,  
to issue a Writ of Mandamus, to direct the respondents 2 & 3 to continue



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to pay the pending ESI contribution to the 1st respondent and also to pay closure compensation to the members of the petitioner's Union.

For Petitioner : Mr.M.Gnanasekar  
For Respondents : Mr.S.P.Srinivasan, SGP for R1  
No appearance for R2 & R3

### **ORDER**

This Writ Petition has been filed to issue a Writ of Mandamus, to direct the respondents 2 & 3 to continue to pay the pending ESI contribution to the 1st respondent and also to pay closure compensation to the members of the petitioner's Union.

2. Heard Mr.M.Gnanasekar, learned counsel for the petitioner, Mr.S.P.Srinivasan, learned Special Government Pleader for the first respondent and perused the materials available on record.

3. The workers of the petitioner Union are being given with the benefit of the ESI and the second respondent who is the employer is said to have making contribution to the ESI until the closure of the Company. However, closure compensation has not been awarded to the members of the petitioner Union so far and the contributions were also not made till the closure.



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4. It is seen that the first respondent had refused to receive any contribution from the second respondent by stating that the members of the petitioner Union have crossed the ceiling of Rs.21,000/- as their salary and hence, it is not permissible for the first respondent to receive contribution for the workers of the petitioner Union.

5. However, the contention of the learned counsel for the petitioner is that the members of the petitioner Union have not received any such salary and hence, it is not fair on the part of the first respondent to refuse to give contribution even when the second respondent is willing to pay the same.

6. The learned Special Government Pleader for the first respondent submitted that the coverability of the employers who are getting layout compensation would be determined only basing on the wages. As the ceiling element of Rs.21,000/- has been crossed, they will not come under the coverability. It appears that the petitioner has already given a representation in this regard to the first respondent. The first respondent has also sent a reply to the petitioner stating that due to the closure of the



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factory, lay out compensation has been paid only for the eligible 318 employees.

7. In that case, the petitioner has to raise an industrial dispute as to his entitlement for coming under the coverability of ESI before the appropriate forum. Without determining the petitioner's pre-existing right, a direction cannot be given and hence, the petitioner is at liberty to invoke his remedy before the appropriate forum in accordance with the manner known to law.

8. With these observations, this Writ Petition is disposed. No costs.

Index : Yes /No  
Speaking / Non-speaking  
Neutral Citation : Yes / No  
gsk

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**R.N.MANJULA, J.**

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