



W.P.(MD).No.10938 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.10938 of 2023

and

W.M.P.(MD)No.9573 of 2023

G.Ashok Kumar

... Petitioner

Vs.

1.The Director of Medical and Rural Health Service,
Employees State Insurance Corporation,
Chennai.

2.The State Medical Officer,
Employees State Insurance Corporation,
143, Sterling Road,
Chennai – 600 034.

3.The Medical Officer,
E.S.I.C.Dispensary,
Velayuthampalayam,
Karur District – 639 117.

4.The Chairman/Managing Director,
Tamil Nadu Newsprint and Papers Limited,
No.67, Mount Road,
Guindy,
Chennai – 32.

... 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 proceedings in No.



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51/SMC/DMR/RETURN/2016-17 dated 30.01.2019 issued by the second respondent and quash the same on the ground that the same is arbitrary, illegal and without any legal basis and consequently directing the respondents to pay the medical reimbursement incurred by the petitioner with accrued interest within the time frame stipulated by this Court.

For Petitioner : Mr.P.Krishnasamy

For R-1 : Mr.M.Siddharthan
Additional Government Pleader

For R-2 and R-3 : Mr.C.Karthik

For R-4 : Mr.M.P.Senthil

ORDER

Heard Mr.P.Krishnasamy, learned counsel for the petitioner, Mr.M.Siddharthan, learned Additional Government Pleader for the 1st respondent, Mr.C.Karthik, learned counsel for the 2nd and 3rd respondents and Mr.M.P.Senthil, learned counsel for the 4th respondent.

2. This Writ Petition has been filed seeking to quash the order of the second respondent dated 30.01.2019 and consequently directing the respondents to pay the medical reimbursement incurred by the petitioner with accrued interest.



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3. The petitioner, who is a member of E.S.I Corporation, has made a claim for medical reimbursement for the treatment taken by him in the year 2017. The second respondent has passed an order on 31.01.2019 on the proposal submitted by the petitioner stating that in order to get the benefits under ESI scheme, the petitioner ought to have completed two years from the date of registration. The date of treatment of the petitioner is 07.04.2017, whereas the date of registration with ESI is 16.05.2017. Hence, the claim of the petitioner is rejected by the second respondent vide order dated 30.01.2019.

4. However, Mr.P.Krishnasamy, learned counsel for the petitioner submitted that the petitioner has registered with ESI in the year 2014 itself and his claim cannot be dismissed by stating that two years period has been lapsed from the date of his registration.

5. In the instant case, the petitioner had taken treatment on 07.04.2017. However, the petitioner has filed this Writ Petition without exhausting the remedy available under the statute. Even the fourth respondent has filed a counter stating that the petitioner without approaching the appellate authority as prescribed under ESI Corporation has filed this Writ Petition and hence it is not maintainable.



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6. The factual matrix with regard to the date of registration of the petitioner under the ESI scheme and the applicability of the scheme to the treatment for which the claim is made ought to have been decided by authority concerned with the materials placed before them. Since the petitioner had not filed any appeal, if he is aggrieved due to the order of the second respondent, it would be appropriate if the petitioner is given with the liberty to file an appeal before the appellate authority under the ESI Act.

7. In view of the above observations, this Writ Petition is **disposed of** with liberty to the petitioner to file an appeal along with a petition to condone the delay before the authorities concerned and as per the ESI Act and get an order on the same. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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R.N.MANJULA, J.

Nsr

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