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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.19183 of 2022
and WMP.Nos. 18486 & 18487 of 2022

Dr.C.Anbu Suresh Rao
S/o. Mr.Christu Doss
Medical Superintendent
Scudder Memorial Hospital
Ranipet, Kelley's Road
Ranipet – 632 401.

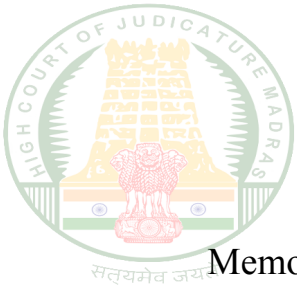
... Petitioner

Vs

1. The Secretary to Government
Labour Welfare and Skill Development(L1) Department
Fort St. George, Chennai.
- 2.The Commissioner of Labour
DMS Campus,
Teynampet, Chennai – 600 006.
- 3.The Additional Chief Secretary to Government
Labour and Employment Department
Fort St.George, Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to G.O.(D) No.270 dated 03.06.2022 passed by the first respondent and quash the same and consequentially directing the first respondent to grant exemption to the petitioner hospital namely Scudder



Memorial Hospital, Ranipet.

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For Petitioner : Mr.D.Prabhu Mukunth Arunkumar for
Mr.C.Robert Bruce
For Respondents : Mr.L.S.M. Hasan Fizal, AGP

ORDER

This writ petition has been filed to quash the G.O.(D). No.270 dated 03.06.2022 passed by the 1st respondent and consequently direct the 1st respondent to grant exemption to the petitioner hospital namely Scudder Memorial Hospital, Ranipet.

2. The learned counsel appearing for the petitioner submits that the petitioner hospital is a 155-year-old multi-speciality mission hospital functioning in Ranipet. The benefits extended by the hospital to its employees include sickness benefits, comprehensive medical coverage for staff and their dependents, maternity benefits, and disablement benefits for injuries sustained during work, among others. In case of disablement or death during service, a job is offered in the hospital to the dependents of the deceased. Staff whose services are required on a 24/7 basis are provided with residential quarters within the hospital campus, while those residing outside are provided with conveyance facilities through a fleet of vehicles



owned by the hospital. The petitioner hospital administers a staff welfare fund scheme, which extends loans to staff at short notice to meet emergencies at reasonable interest rates without requiring collateral. It also operates a scholarship scheme and a hospital pension scheme, which is provided to retired staff as a third superannuation benefit, in addition to contributory provident fund and gratuity.

2.1. He further submitted that there is no ESI hospital in Ranipet District; only an Outpatient Department (OPD) is available. The staff members of the hospital do not visit ESI hospitals. Therefore, the hospital has initiated an internal “Good Samaritan” medical insurance scheme for the benefit of its employees, providing emergency financial assistance to meet the cost of advanced procedures and other medical contingencies. Accordingly, the petitioner submitted a request to respondents 2 and 3 on 26.03.2021 and again on 05.04.2021. The department requested a few additional particulars, which the petitioner duly submitted along with all required documents. Subsequently, on 16.09.2021, an inspection was conducted by Mr. Vineeth Jain, Social Security Officer, ESI Regional Office, Chennai and found that all the requirements under the ESI Act were being fully met by the hospital. The second respondent also recommended



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granting an exemption. But the first respondent without any valid reasons rejected the request of the petitioner. The impugned order was passed against the inspection report and the recommendation of the second respondent. The first respondent failed to note that the petitioner hospital is providing more facilities than the ESI hospitals. The first respondent failed to note that all the employees are not willing to join in the ESI scheme and without perusing the materials, the first respondent passed the impugned order by declining to grant exemption. Therefore, the order passed by the first respondent is liable to be quashed.

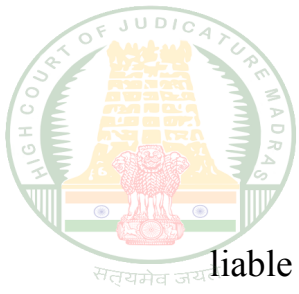
3. The learned counsel appearing for the respondents submits that the petitioner, through letters dated 26.03.2021 and 26.07.2021, requested exemption from the provisions of the Employees' State Insurance Act. In response, the Deputy Director of the ESI Corporation rendered his remarks, stating that under Section 87 of the Employees' State Insurance Act, 1948, exemption may be granted only if the employees in factories or establishments are otherwise in receipt of benefits that are substantially similar or superior to those provided under the Act. Upon scrutiny of the benefits claimed by the petitioner, it was found that the benefits offered by the petitioner are neither similar nor superior to those under the ESI Act.



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The Employer's scheme of benefits cannot be said to be as comprehensive as the ESI Scheme, with the grant of the proposed exemption in the absence of superiority or similarity of benefits, though for a year in prospect, the very spirit and purpose of the exemption provisions get diluted and even defeated.

3.1. He further submitted that the Commissioner of Labour, Chennai, through a letter dated 19.01.2022, recommended that exemption be granted. Based on the particulars furnished by both the Employees' State Insurance Corporation and the management, the first respondent examined a comparative statement and found that out of 13 benefits listed, only five of the management's schemes were similar or superior to those provided under the ESI Scheme namely, sickness benefits, extended sickness benefits, vocational/rehabilitation allowance, conveyance allowance, and disablement benefits. It was concluded that most of the benefits provided by the Employees' State Insurance Corporation are superior to those offered by the petitioner management. Therefore, the first respondent passed an order declining to grant the exemption, and the request was accordingly rejected. Hence, the order was passed in accordance with the provisions contemplated under the Employees' State Insurance Act, and the present writ petition is



liable to be dismissed.

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4. This Court heard both sides and perused the materials available on record.

5. In this case, the petitioner establishment submitted a request before the second and third respondents seeking exemption of the hospital from the provisions of the Employees' State Insurance Act. Upon receipt of the said request, the Deputy Director of the ESI Corporation submitted his remarks. According to his observations, the benefits stated to have been provided by the petitioner establishment, namely M/s. Scudder Memorial Hospital (SMH), Ranipet, Vellore District, were neither similar nor superior to those provided under the Employees' State Insurance Act. The Deputy Director further noted that the benefits extended by the petitioner establishment could not be considered as comprehensive as the ESI Scheme, which is designed to address both economic and physical distress under all foreseeable contingencies. The ESI Scheme offers reasonable and complete medical care not only to insured persons but also to their eligible family members, along with adequate cash compensation, supported by its extensive infrastructure across the country. Consequently, he recommended



that the request for exemption be declined. On the other hand, the Commissioner of Labour, Chennai, recommended that exemption be granted for the period from 01.11.2021 to 31.10.2022. However, after a thorough scrutiny of the documents and the comparative statement, the first respondent found that out of 13 benefits listed, only five of the management's schemes were similar or superior to the benefits offered by the ESI Corporation. It was observed that the majority of the benefits provided by the ESI Corporation were superior to those offered by the petitioner management. Accordingly, exemption for the said period was declined.

6. According to the petitioner, the first respondent failed to properly examine the facilities offered by the petitioner establishment and passed the impugned order without duly considering the comparative statement. In this context, it is relevant to refer to the remarks of the Deputy Director, Employees' State Insurance Corporation, Chennai, dated 28.09.2021. The said authority clearly stated, after reviewing the comparative statement, that the benefits provided by the petitioner hospital were neither similar nor superior to those under the Employees' State Insurance Act. Thus, it is evident that the first respondent passed the impugned order after due



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consideration of the comparative statement. At this stage, it is relevant to point out that Section 87 of the Employees State Insurance Act, held as follows,

“ The appropriate Government may, by notification in the Official Gazette and subject to such conditions as may be specified in the notification, exempt any factory or establishment or class of factories or establishments in any specified area from the operation of this Act for a period not exceeding one year and may from time to time by like notification renew any such exemption for periods not exceeding one year at a time:

Provided that such exemptions may be granted only if the employees in such factories or establishments are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act;

Provided further that an application for renewal shall be made three months before the date of expiry of the exemption period and a decision on the same shall be taken by the appropriate Government within two months of receipt of such application.



WEB COPY 7. On a careful perusal of the above provision, it is clear that exemption may be granted only if the employees in the concerned establishments are in receipt of benefits substantially similar or superior to those provided under the Employees' State Insurance Act. Therefore, the authority rightly exercised its discretion and conducted a comparative study before arriving at its decision. Exemption cannot be granted mechanically or as a matter of course. Though the second respondent had recommended granting exemption, the first respondent analyzed the reports submitted by the Deputy Director of the Employees' State Insurance Corporation and the Commissioner of Labour (second respondent), and independently undertook a comparative study. Only thereafter did the first respondent pass the Government Order declining to grant exemption to the petitioner establishment. Therefore, the order passed by the authorities are in accordance with law and there is no illegality or perversity in the order passed by the first respondent. Therefore, there is no warrant to interfere with the order passed by the authorities.



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8. In view of the above said discussions, this Court is of the opinion that this writ petition has no merits and deserves to be dismissed.

9. In this result, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

04.07.2025

drl

To

1. The Secretary to Government
Labour Welfare and Skill Development(L1) Department
Fort St. George, Chennai.

2. The Commissioner of Labour
DMS Campus,
Teynampet, Chennai – 600 006.

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P.DHANABAL, J.,



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