



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 08.07.2025

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.No.27207 of 2022

and

W.M.P.Nos.26407 and 26408 of 2022

and

W.M.P.No.4785 of 2024

Dr.B.M.S.Matriculation Higher Secondary School,
No.40, 1st Main Road, Shenoy Nagar,
Chennai - 600 030.

Rep.by its Correspondent,

Dr.B.S.Tiruvadanam,

S/o.Dr.B.M.Sundaravadanan

...Petitioner

...Versus...

1. The State of Tamil Nadu,
Rep.by its Principal Secretary to Government,
Labour Welfare and Skill Development Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Regional Director,
Regional Office (Chennai)
Employees State Insurance Corporation,
Panchdeep Bhawan, No.143, Sterling Road,
Chennai - 600 034.
3. The Deputy Director,
Regional Office (Chennai),
Employees State Insurance Corporation,
Panchdeep Bhawan, No.143, Sterling Road,
Chennai - 600 034.
4. The Recovery Officer,



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Regional Office (Chennai),
Employees State Insurance Corporation,
Panchdeep Bhawan, No.143, Sterling Road,
Chennai - 600 034.

5. The Branch Manager,
Tamil Nadu State Cooperative Bank,
15/16, Ayyavu Street,
Shenoy Nagar,
Chennai - 600 030.

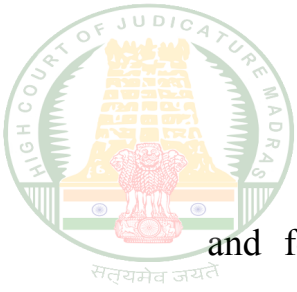
...Respondents

For Petitioner	::	Mr.J.Jayamalan
For R1	::	Mr.L.S.M.Hasan Fizal, Additional Government Pleader
For R2 to R4	::	Mr.S.P.Srinivasan, Standing Counsel

ORDER

This Writ Petition has been filed challenging the order passed in the proceedings by the third respondent in No.51/Ins8/51-00-100315-000-1302/C18act dated 15.12.2021 and the subsequent impugned proceedings in No.51/Ins8/51001003150001302/1520221021/C18act/582/21, dated:19.01.2022 and the consequential recovery order issued by the fourth respondent in Ref.No.51001003150001302/CP/468303/CCR-107190, dated 21.01.2022 and to quash the same.

2. The learned counsel for the petitioner submitted that the third



and fourth respondents passed the impugned order without giving the petitioner an opportunity of hearing. As per Section 45A of the E.S.I. Act, an opportunity must be given by the employer, and recovery of the amount is subject to a limitation period of five years. However, in the present case, the amount pertains to the period beyond the limitation, i.e., from November 2011 to November 2021. Therefore, it is submitted that by granting an opportunity to the petitioner, the impugned order may be remitted back to the authority to pass appropriate orders after affording opportunity to both parties.

3. The learned counsel for the respondents submitted that the authority has not passed any order under Section 45-A of the E.S.I. Act. Since the petitioner had produced the documents an enquiry was not conducted under Section 45-A of the E.S.I. Act and that they have not served with Form C-18(ad hoc) as they had produced certain documents. The authorities served Form C-18(casual) and thereby no enquiry under Section 45-A of the E.S.I. Act is required in this case. Therefore, Section 45-A of the Act is not applicable in the present case. Moreover, the petitioner has not filed any petition challenging the order passed by the authorities, and there is an alternative remedy available to the petitioner before the E.S.I. Court.



Without exhausting this alternative remedy, the petitioner has approached this Court directly, and hence, this petition may be dismissed.

4. Heard both sides and perused the materials available on record.

5. In this case, the maintainability of the petition itself is in dispute, and the petitioner has filed this petition challenging the order passed by the E.S.I authority. As per Section 75 of the E.S.I Act, there is a provision to challenge the order passed by the third and fourth respondents.

6. However, the petitioner, without challenging the said order before the E.S.I Court under Section 75 of the Act, has directly approached this Court. Further, an appeal lies before the High Court only on substantial questions of law, as against the order passed by the E.S.I Court, and only after exhausting the alternative remedy, the petitioner can approach this Court as per law. Therefore, when there is an alternative remedy available to the petitioner, the Writ Petition is not maintainable.

7. However, the petitioner is at liberty to challenge the impugned



order before the appropriate forum in accordance with law. The petitioner is entitled to the benefit of Section 14 of the Limitation Act during the period of pendency of the writ petition.

8. Accordingly, with the above observations, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

08.07.2025

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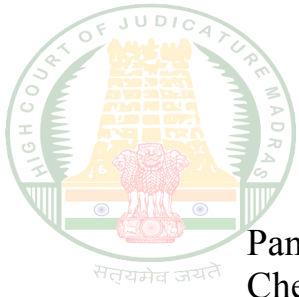
Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To:

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