



W.P.Nos.93, 97 and 99 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

**W.P.Nos.93, 97 and 99 of 2025
and W.M.P.Nos.112, 113 and 118 of 2025**

Bharatiya Vidya Bhavan's
Rajaji Vidyashram,
Represented by the Authorised
Signatory / K.N.Ramaswamy,
Bhavani Campus,
No.6, Kilpauk Garden Road,
Kilpauk, Chennai - 10.

.. Petitioner
(in all W.Ps)

Versus

Employees State Insurance Corporation,
Represented by its Deputy Director,
Employees State Insurance Corporation,
143, Sterling Road,
Nungambakkam,
Chennai - 600 034.

.. Respondent
(in all W.Ps)

Prayer in W.P.No.93 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for records of the respondent, leading to the impugned order



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No.5100-108787-000-1302./Ins-8/c18act/ passed by the respondent, dated 17.04.2023 for the period 01/2020 to 1/2023 and the consequential proceedings in notice, dated 4th September, 2024 under Section 85(b)(1) issued by the respondent seeking damages and quash the same as illegal, arbitrary.

Prayer in W.P.No.97 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for records of the respondent, leading to the impugned order No.TN/Ins.VIII/51-00-108787-000-1302/C18 Adhoc-727/20 passed by the respondent, dated 08.10.2021 being the Speaking Order in respect of C18 Adhoc, dated 27.01.2020 for the period 01/2014 to 12/2019 and the consequential proceedings in notice, dated 4th September, 2024 under Section 85(b)(1) of ESI Act, issued by the respondent seeking damages and quash the same as illegal, arbitrary.

Prayer in W.P.No.99 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for records of the respondent, leading to the impugned order No.TN/Ins.VIII/51-00-108787-000-1302/C18 Adhoc-726/20 passed by the respondent, dated 08.10.2021 being the Speaking Order in respect of C18 Adhoc, dated 27.01.2020 for the period 12/2010 to 12/2013 and the consequential proceedings in notice, dated 4th September, 2024 under Section 85(b)(1) of ESI Act, issued by the respondent seeking damages and quash the same as illegal, arbitrary.

For Petitioner : M/s.Rohini Ravikumar
(in all W.P.s)

COMMON ORDER



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2. When the matters came up for admission, this Court queried the learned Counsel for the petitioner that when the management is entitled to approach the E.S.I Court and when the period of limitation is also intact, how the Writ Petitions are entertainable, the learned Counsel, though initially sought an adjournment, after getting instructions, now submits that liberty can be given to the management to approach the E.S.I Court with reference to the determination of the original contribution.

3. As far as the determination of damages is concerned, the same is

only at show-cause notice stage. The learned Counsel submits that if the



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E.S.I Court grants an interim order staying the very contribution itself, then, the levy of damages cannot be further proceeded. There cannot be any two opinion with reference to the same.

4. In view thereof, the Writ Petitions are disposed of on the following terms:-

(i) Liberty is given to the petitioner establishment to approach the E.S.I Court as against the order passed under Section 45-A of the Employees' State Insurance Act, 1948 determining the liability;

(ii) As far as the proceedings relating to the damages are concerned, the same are only at a show-cause notice stage and the further hearings need not be held for another period of three weeks;

(iii) The management is given liberty to move for such interim order before the E.S.I Court and if any interim order is granted in favour of the management, the same can be produced in the next date of hearing with reference to the damages also and depending upon the interim order, that



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will be granted by the appropriate Court, further proceedings can be held

with reference to the damages;

(iv) It is needless to mention that the management shall approach the E.S.I Court immediately considering the fact that the limitation will expire by February, 2025;

(v) There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

27.01.2025

Neutral Citation : no
grs

To

The Deputy Director,
Employees State Insurance Corporation,
143, Sterling Road,
Nungambakkam,
Chennai - 600 034.



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D.BHARATHA CHAKRAVARTHY, J.

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