

Rev. Apic.(MD)No.27 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.04.2025

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Rev. Apic.(MD)No.27 of 2025

Ramanathapuram District Sarvodya Sangh
66-67, Kanthadai Street,
Srivilliputhur, Virudhunagar District,
Rep. by its Secretary.

... Review Petitioner

Vs.

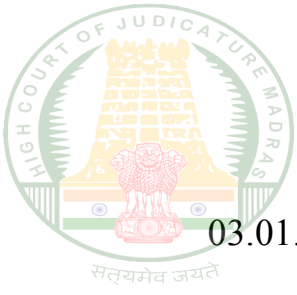
1.Joint Director,
Employees State Insurance Corporation,
4th Main Road, K.K.Nagar,
Madurai – 625 020.

2.The Assistant Director,
Employees State Insurance Corporation,
4th Main Road, K.K.Nagar,
Madurai – 625 020.

... Respondents

PRAYER in Rev. Apic.(MD)No.27 of 2025: Review application is filed under Order 47 Rule 1 & 2 r/w Section 114 of C.P.C., to review the order, dated 09.09.2024 passed in C.M.A.(MD).No.101 of 2021.

PRAYER in C.M.A.(MD).No.101 of 2021: Civil Miscellaneous Appeal is filed under Section 82(2) of the Employees State Insurance Act, 1946, to call for the records relating to the fair order and Ex-order, dated



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03.01.2020 passed by the ESI Judge, ESI Court (Labour Court), Madurai,
in E.S.I.O.P.No.15 of 2010 and to set aside the same.

For Petitioner : Mr.T.Ravichandran

For Respondents : Mr.N.Dilipkumar

ORDER

This application is filed to review the order, dated 09.09.2024
passed in C.M.A.(MD).No.101 of 2021.

2.The facts in brief:

C.M.A.(MD).No.101 of 2021 was filed by the respondents herein
challenging the order passed by the ESI Judge, ESI Court (Labour
Court), Madurai, in E.S.I.O.P.No.15 of 2010. It was allowed by this
Court by the Order, dated 09.09.2024. Seeking review of the order, this
petition is filed on the ground that the matter may be remitted back to the
ESI Court (Labour Court), Madurai, granting permission to the petitioner
herein to lead evidence to substantiate or prove his case.

3.Per contra the learned counsel for the respondent would submit
that no ground is made out by the petitioner to review the order, there is



no illegality or perversity in the order passed by this Court. There is no error apparent on the face of the record. So no indulgence is called for.

4.The appeal was allowed by making the following observation:

“22.As directed or suggested by the writ court, if they have improved the benefits offered to the employees, the exemption is lawful. Had it been the case of the respondent, the Labour court would have or could have chance to address that point. But the Labour Court exceeded its jurisdiction. Even without any basic documents and reasons, the Labour Court set aside the order stating that since the representation made by the respondent herein was pending before the Government for consideration. In the meantime, the writ court has also passed an order giving opportunity to the respondent again to approach the Government for exemption. The Government dismissed the representation made by the respondent herein.

23.When the Government itself has refused to grant exemption for the impugned period, the Labour Court has absolutely no jurisdiction to set aside the notice. More particularly, the writ court itself has dismissed the writ petition challenging the



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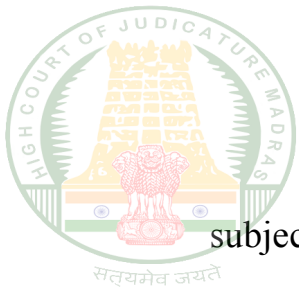
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impugned G.O passed, dated 01/02/2010 The Labour Court ought to have directed the respondent herein to comply the directions issued by this court in WP(MD)No.4860 of 2010.

24. So, the impugned order passed by the Labour Court is per se illegal and beyond the jurisdiction not only on the ground of development during the pendency of the petition, but also on the ground that no material was placed by the respondent herein to prove that during the relevant period, benefits were offered to the employees either similar or better as provided under the provisions of the ESI Act. Without any proper reason, the above said order has been passed by the Labour Court.

25. In the light of the above said, I am not concentrating much upon the argument advanced on the side of the appellants herein in an extensive manner. The above said development is sufficient enough to set aside the award passed by the Labour Court.”

5. The above said observation of this Court shows that on the limited ground of exceeding the jurisdiction in passing the order the ESI Court has committed a jurisdictional error. So this could not be the



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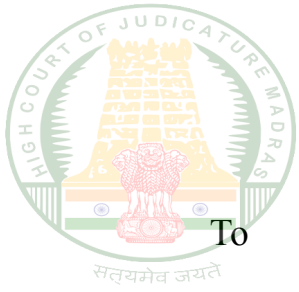
subject matter of review. The revision petitioner in particular failed to put forth his evidence. Even before the ESI Court, he failed. Moreover, as observed above, opportunity was given to the review petitioner to approach the Government for appropriate remedy. Even at that time, he failed to satisfy the Government.

6.Having failed at several stages this is too a late for the review petitioner herein for another chance. Such an opportunity cannot be given in the form of review. So I find that absolutely no ground is made out by the petitioner to exercise the jurisdiction. So I find absolutely no merit in the petition. The petition is liable to be dismissed.

7.Accordingly, this review application stands dismissed. No costs.

08.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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- 2.The Assistant Director,
Employees State Insurance Corporation,
4th Main Road, K.K.Nagar,
Madurai – 625 020.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN,J.

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