

MC (WA) No. 60 of 2023

Date of order: 18.03.2024

1. Employees State Insurance Corporation (ESIC),
represented by the Deputy Director I/C,
NE Region, Guwahati, Assam.
2. The Recovery Officer.
3. The Authorised Officer.
4. The Branch Manager, State Bank of India,
Laitumkhrah (Shillong) Branch, Meghalaya, Shillong.

vs

Shri Ngaitlang Dhar

Coram:

Hon'ble Mr. Justice S. Vaidyanathan, Chief Justice
Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Applicants : Ms. B. Khongthaw, Adv.

For the Respondent : Mr S. Deb, Adv.
Mr N.D. Chullai, AAG with
Ms Z.E. Nongkynrih, GA

This application has been filed to condone the delay of 94 days in preferring the appeal against the judgment and order dated 17.08.2023.

Heard Ms B. Khongthaw, learned counsel for the applicants and Mr S. Deb, learned Adv. for the respondent. Learned counsel for the applicants submitted that her brother-in-law met with an accident which resulted her non-appearance on 06.03.2024.

Learned counsel appearing for the respondent has no objection for condoning the delay.

Being satisfied with the reasons assigned in the affidavit filed in support of the petition, MC (WA) No. 60 of 2023 is allowed and the delay of 94 days is condoned.

Registry is directed to diarize the appeal if it is otherwise in order.

After condoning the delay, this Court posted a question as to how this writ appeal is maintainable bypassing the remedy under Section 75(g), learned counsel for the respondent submitted that there is no ESI Court functioning and even the Civil Court has no jurisdiction to take up the matter in which there is no option except to approach this Court.

This Court ordered Mr N.D. Chullai, learned AAG assisted by Ms. Z.E. Nongkynrih, learned GA to take notice on behalf of the State Government and State is added/impleaded as suo motu respondent in this writ appeal. The Government is expected to inform this Court on the next date of hearing as to why there is no ESI court in this State. The respondent reiterated that a Judicial Officer/Magistrate by name was designated as ESI and not by office. After the transfer of the Judicial Officer there is no ESI court at all. The Government should think of designating a particular court instead naming a person to be a Presiding Officer which may create a lot of hurdles for disposal of ESI cases as the benefits will have to reach the employees and their family members, if otherwise they are eligible.

The apex Court has categorically observed that the High Court must be slow in asking the officers to appear before the Court and that they must be given an opportunity of appearing through virtual mode initially and thereafter depending upon the progress, the Court can take a decision. In this case, this Court has posted the matter for dismissal

and in order to have the assistance of the Deputy Director, who is the appellant, we expect him to appear before this Court virtually.

List the appeal for admission on 08.04.2024.

(B. Bhattacharjee)
Judge

(S. Vaidyanathan)
Chief Justice

Meghalaya
18.03.2024
"Sylvana PS"