

GAHC010118072023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP(IO)/177/2023

EMPLOYEES STATE INSURANCE CORPORATION AND 3 ORS
NORTH EAST REGIONAL OFFICE, BAMUNIMAIDAM, GUWAHATI, DIST.
KAMRUP, ASSAM

2: THE REGIONAL DIRECTOR

EMPLOYEES STATE INSURANCE CORPORATION
REGIONAL OFFICE
BAMUNIMAIDAM
GUWAHATI
DIST. KAMRUP
ASSAM

3: THE ASSISTANT DIRECTOR

EMPLOYEES STATE INSURANCE CORPORATION
REGIONAL OFFICE
BAMUNIMAIDAM
GUWAHATI
DIST. KAMRUP
ASSAM

4: THE RECOVERY OFFICER

EMPLOYEES STATE INSURANCE CORPORATION
REGIONAL OFFICE
BAMUNIMAIDAM
GUWAHATI
DIST. KAMRUP
ASSA

VERSUS

M/S HOTEL ORION

G.S. ROAD, PALTANBAZAR, GUWAHATI-08, DIST. KAMRUP(M), ASSAM,
REPRESENTED BY ONE OF ITS PARTNER SYED ZAHID AHMED.

For the Petitioner(s) : Mr. M. Smith, Advocate

For the Respondent(s) : Mr. S. Chakraborty, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 24.04.2024

1. This is an application filed under Article 227 of the Constitution challenging the order dated 27.04.2023 passed in ESI Case No.01/2019 whereby the learned Employees Insurance Court, Guwahati had expunged the evidence of the DW on the ground that the DW failed to appear for cross-examination on the date so fixed.
2. This Court had duly heard the learned counsel for the parties. Mr. M. Smith, the learned counsel appearing on behalf of the Petitioners submits that on account of official duties, the witness could not excuse himself on that date for which he was not in a position to appear before the said Court. However, the learned counsel submits that on such date the learned Court below fixes the matter, the witness shall be present without fail.
3. This Court having taken note of the said submission and also the materials on the basis of which the said submission have been made is of the opinion that for the ends of justice, the said order dated 27.04.2023 requires an interference. Accordingly, the order dated 27.04.2023 as well as any other consequential

orders (if any) is set aside and quashed thereby directing the learned Employees Insurance Court, Guwahati to permit the defendant witness to be present on such date as may be fixed by the said Court for facing the cross-examination, if any.

4. This Court vide an order dated 16.06.2023 had stayed the further proceedings of ESI Case No.01/2019. The said interim order dated 16.06.2023 stands vacated. As both the parties are represented before this Court, this Court fixes the matter before the learned Employees Insurance Court, Guwahati on 10.05.2024 on which date, both the parties shall appear and the learned Employees Insurance Court, Guwahati shall fix such date as per the business of the Court thereby fixing the matter for cross examination of the DW.

5. With above observations and directions, the instant petition stands disposed of.

JUDGE

Comparing Assistant