

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.27149 of 2009

Vasuki,
W/o.Williams Soudararajan,
Old No.2/22, New No.3/6, Kalaignar Nagar,
Kattupakkam, Chennai - 600 056. ... Petitioner

Vs

- 1.State of Tamil Nadu,
Represented by the
Principal Secretary to Government,
Labour & Employment Department,
Secretariat, Chennai - 600 009.
- 2.The Chief Inspector of Factories,
Chennai - 18.
- 3.The Managing Director
India Shoes Exports Pvt. Ltd.,
151/4, Mount Poonamallee Road,
Ramapuram, Chennai - 600 089.
- 4.The Manager (Personnel),
India Shoes Exports Pvt. Ltd.,
151/4, Mount Poonamallee Road,
Ramapuram, Chennai - 600 089.
- 5.Employees State Insurance Corporation
Represented by the
Regional Director (Tamil Nadu), ESIC,
143, Sterling Road, Chennai - 600 034. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing respondent 2 to initiate action against respondents 3 and 4 under Section 92 of the Factories Act, 1948 for their contravention of several provisions of the said Act, and further directing the respondents to pay the petitioner adequate compensation for her physical and mental suffering from 12.11.2007 until now and also for the loss of her livelihood as may be determined by the Hon'ble Court.

For Petitioner : Mr.M.Gnanasekar
For Respondents 1 & 2 : Mr.R.Rajeswaran
Special Government Pleader
For Respondent 3 : Mr.Margandeyan
For Respondent 4 : No Appearance
For Respondent 5 : Ms.S.Jothivani

ORDER

Heard Mr.M.Gnanasekar, learned counsel appearing for the petitioner, Mr.R.Rajeswaran, Special Government Pleader appearing for the respondents 1 & 2; Mr.Margandeyan, learned counsel appearing for the third respondent and Ms.S.Jothivani, learned counsel appearing for the fifth respondent and by their consent, the Writ Petition is taken up for final disposal.

2. The petitioner has filed the Writ Petition seeking for issuance of a Writ of Mandamus to direct the second respondent to initiate action against the respondents 3 and 4 and also for claiming compensation for the physical and mental suffering she has undergone during the course of employment.

3. The learned counsel appearing for the fifth respondent-Corporation submitted that while the petitioner was working in the factory, she appears to have met with an accident; and she did not immediately go to the ESI Hospital, but, subsequently, after about couple of days, she came to Hospital and was given treatment. As there was no external injury, the petitioner was advised by the Medical Officer, ESI Hospital to report back in three days, but, she failed to do so.

4. It is seen that the claim made by the petitioner is as against the respondents 3 and 4, which is a Private Limited Company. If there is any violation of the terms and conditions of the employment or if the petitioner, as a worker, is entitled for compensation, then the remedy of the petitioner lies elsewhere and not before this Court by way of this Writ Petition. Hence the prayer sought for by the petitioner cannot be granted and the Writ Petition is dismissed. However, this will not prevent the petitioner from working out her remedies before the appropriate forum in the manner known to law. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To:

1.State of Tamil Nadu,
Represented by the
Principal Secretary to Government,
Labour & Employment Department,
Secretariat, Chennai - 600 009.

2.The Chief Inspector of Factories,
Chennai - 18.

3.Employees State Insurance Corporation
Represented by the
Regional Director (Tamil Nadu), ESIC,
143, Sterling Road, Chennai - 600 034.

+1cc to Mr.M.Gnanasekar, Advocate, S.R.No.69378

+1cc to Mr.S.Jothivani, Advocate, S.R.No.68918

+1cc to the Government Pleader, S.R.No.68809

W.P.No.27149 of 2009

sk(CO)
srg(12/01/2016)



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