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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 25th July, 2019

+ W.P.(C) 3608/2019 and CM APPL.16541/2019

ANKIT GUPTA

..... Petitioner

Through: Mr. Puneet Maheshwari,
Mr.Dharmender Sharma, Advocates

versus

RAJESH AND ORS.

..... Respondents

Through: Mr.Naman Jain, Advocate for
Mr.Sanjoy Ghose, ASC for GNCTD
Inspector B.S. Gulia, P.S. Moti Nagar
Mr.Kaushik Sadhukan, Inspector
under the Factories Act
Mr.A.K. Jaiswal, Asst. Regn. Officer,
Delhi Fire Service
Mr.Anuj Aggarwal, Advocate as
amicus curiae.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The petitioner has challenged the order dated 18th January, 2019 whereby the Commissioner, Employees' Compensation directed the petitioner to deposit Rs.45,74,240/- as compensation in respect of death of seven persons in the incident dated 03rd January, 2019.
2. The petitioner has challenged the impugned order on the ground that the same has been passed without issuing any show cause notice or affording an opportunity to the petitioner. According to the petitioner, no enquiry

whatsoever has been conducted by the Commissioner, Employees' Compensation before passing the impugned order. The petitioner also disputes the relationship of employment with the persons who died in the alleged accident.

3. Vide order dated 12th April, 2019, this Court directed the Investigating Officer of FIR No.5/2019, P.S. Moti Nagar to investigate the matter and submit a report as to whether the persons, who died in the incident dated 03rd January, 2019, were the employees of the petitioner. The SHO, P.S. Moti Nagar has filed the status report according to which seven persons died and nine persons, including the petitioner, were injured in the incident dated 03rd January, 2019 in respect of which FIR No.5/2019 under Sections 287/288/337/304A IPC was registered by the Police. The Investigating Officer, B.S. Gulia present in Court submits that the investigation has concluded and the chargesheet is being filed by the Police. It is further submitted that four injured persons namely, Gangesh, Munna, Manju and Ashok and three deceased persons namely, Ajay, Ajay Bahadur and Sanjay Prasad were the employees of the petitioner and the Employees Accident Report in the prescribed format along with the documents have been filed with the Commissioner, Employees' Compensation.

4. Learned counsel for Govt. of NCT of Delhi as well as learned amicus curiae submit that the Commissioner, Employees' Compensation be directed to treat the Employees Accident Reports as an information under Section 10A of Employee's Compensation Act and to conduct an enquiry into the matter in accordance with law.

5. Learned counsel for the petitioner submits that the impugned orders dated 04th and 09th January, 2019 be set aside. Learned counsel for the

petitioner has no objection to the Employees Accident Reports being treated as an information under Section 10A of Employee's Compensation Act and the same be adjudicated in accordance with law.

6. The writ petition is allowed and the impugned orders dated 04th and 09th January, 2019 are set aside. The Commissioner, Employees' Compensation is directed to treat the Employees Accident Reports as an application for compensation and the same be adjudicated in accordance with law.

7. The petitioner shall appear before the Commissioner, Employees' Compensation on 27th August, 2019.

8. The Investigating Officer shall intimate the next date of hearing to the claimants and shall ensure their appearance before the Commissioner, Employees' Compensation on 27th August, 2019.

9. Learned counsel for the petitioner submits that he has received the copies of the Employees Accident Reports and he shall file the written statement along with all relevant documents relating to these cases within their power and possession before the Commissioner, Employees' Compensation on 27th August, 2019.

10. After filing the rejoinder by the claimants, the Commissioner, Employees' Compensation shall record the evidence of the claimants and thereafter, afford an opportunity to lead evidence to the petitioner.

11. Learned counsel for the petitioner submits that he shall not take any unnecessary adjournment before the Commissioner, Employees' Compensation.

12. The Commissioner, Employees' Compensation shall expedite the adjudication of these cases and endeavour to decide the same within a period

of three months from 27th August, 2019.

13. The pending application is disposed of.

14. Copy of this judgment be sent to the Commissioner, Employees' Compensation.

15. Copy of this judgment be given *dasti* to counsel for the parties as well as learned amicus curiae under the signature of the Court Master.

JULY 25, 2019

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J.R. MIDHA, J.

