

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

Rev. Appl.No.104 of 2021
and
W.M.P.No.18069 of 2021

Dr.Thenmozhi,
Director cum Managing Trustee,
Srishti Special School for Mental Retarded,
B-4 J.J Nagar, Valayapathi salai,
Mugappair East,
Chennai- 600 037.

...Petitioner/Petitioner

..VS..

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Labour and Employment Department,
Fort St.George,
Chennai- 600 009.

2. The Deputy Commissioner,
ESI Corporation, Panchdeep Bhavan,
No. 143 Sterling Road, Nungarnbakkam,
Chennai- 600 034.

3. The Recovery Officer,
ESI Corporation,
Panchdeep Bhavan,
No. 143, Sterling Road,
Nungambakkam,
Chennai- 600 034.

...Respondents/Respondents

Prayer: Review Application filed under Order 47 Rule 1 read with Section 114 of C.P.C praying to review the order dated 09.04.2018 passed in W.P. No. 29280 of 2017.

Prayer in W.P. No. 29280 of 2017: Petition filed under Article 226 of the Constitution of India praying for the issue of a writ of Certiorari calling for the records of the impugned order vide TN/RECY/45(G) - 51000922570001301 dated 23.6.2017 under section 45-G of the Employees State Insurance Act 1948 passed by the 3rd respondent quash the same.

For Petitioner : Mr.Rajnish Pathiyil
For Respondents : Mr.V.Veluchamy
Government Advocate for R1
Mr.S.P.Srinivasan
Standing Counsel for R2 and R3

O R D E R

The Review Application is filed to review the order dated 09.04.2018 passed in W.P. No. 29280 of 2017.

2. The learned counsel for the review petitioner mainly contended that the order sought to be reviewed was passed along with the batch of Writ Petitions and it was mistakenly added along with the batch and similar order was passed. However, the petitioner filed Writ Petition challenging the notice issued under Section 45-G of the Employees' State Insurance Act dated 23.06.2017. Therefore, the error occurred is to be reviewed in the present petition.

3. The learned counsel for the respondents has reiterated that even in the Writ Petition the petitioner has challenged the notice issued under Section 45-G of the Act and therefore, the petitioner has got an appellate remedy under the provisions of the Act and accordingly, he has approached the ESI Court for the purpose of redressal of the grievances.

4. The learned counsel for the petitioner states that the petitioner is also ready and willing to approach the ESI Court for the redressal of the grievances in the manner known to law.

5. In view of the said submission, the order passed by this court on 09.04.2018 in W.P. No. 29280 of 2017 stands reviewed and accordingly, the following orders are passed:

"The petitioner is at liberty to approach the jurisdictional ESI Court challenging the notice issued under section 45-G of the Employees' State Insurance Act. In the event of filing of any such appeal before the ESI Court the delay if any shall be condoned. Taking into consideration, the period of pendency of the Writ Petition before the Hon'ble High Court of Madras, the ESI appeal is to be decided on merits and in accordance with law. The ESI Court is bound to consider the merits independently."

6. Accordingly the Review Application stands allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

vji / nti

To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Labour and Employment Department,
Fort St.George,
Chennai- 600 009.
2. The Deputy Commissioner,
ESI Corporation, Panchdeep Bhavan,
No.143 Sterling Road, Nungarnbakkam,
Chennai- 600 034.
3. The Recovery Officer,
ESI Corporation,
Panchdeep Bhavan,
No.143, Sterling Road,
Nungambakkam, Chennai- 600 034.

+1cc to Mr.Rajnish Pathiyil, Advocate, S.R.No.44684

+1cc to Mr.S.P.Srinivasan, Advocate, S.R.No.44853

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and
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SSI(CO)
RGA(27/09/2021)