



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.652 of 2022

and

C.M.P.No.4630 of 2022

The Employees State Insurance Corporation,
Represented by its Deputy Director,
"Panchdeep Complex"
No.1897, Trichy Road, Ramanathapuram,
Coimbatore-641 045.

.. Appellant

Vs.

Dr.S.Kandasamy

.. Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 82 (2) of ESI Act, against the Order dated 05.01.2022 made in ESIOP.No.16 of 2018 on the file of the Employees State Insurance Court, Coimbatore, in allowing the Petition by setting aside the order passed under Section 45A of the ESI Act and remanding back to the authority for redetermination.

For Appellant : Mr.S.P.Srinivasan

For Respondent : Mr.A.Praveen Kumar

J U D G M E N T



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This Civil Miscellaneous Appeal has been filed challenging the order passed by the Employees State Insurance Court, Coimbatore, in allowing the Petition by setting aside the order passed under Section 45A of the Employees State Insurance Act, 1948 (for brevity 'the ESI Act') and remanding the matter back to the authority for redetermination.

2.The main contention of the learned counsel for the Appellant is that totally 11 employees are working in the Respondent-Hospital and the same has been recorded in the Visit Note which has also been signed by the official of the Respondent, but without taking into consideration of the same, the order of the Appellant dated 01.08.2018 was set aside by the Employees State Insurance Court, Coimbatore (in short 'the ESI Court') and remanded back to the Appellant for re-consideration. He further submitted that the ESI Court supposed to have perused the Visit Note before setting aside the order of the Appellant.

3. On the other hand, the learned counsel for the Respondent submitted that only 9 employees are working in the Respondent-Hospital and in the Visit Note, the name of Mrs.J.Sheeja was entered twice and one Priya, whose

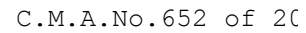


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name was entered in the Visit Note is not at all a regular employee in the hospital and that apart without recording any statement from all these employees, the Appellant passed an order on 01.08.2018, demanding the Respondent to pay the ESI contribution under Section 45A of the ESI Act, as the Respondent -Hospital was covered under the ESI Act and all these aspects have been well considered by the ESI Court and the order of the Appellant was dated 01.08.2018 was rightly set aside remanded back for re-consideration. He further submitted that though the Attendance Register mentioning the names of 9 employees, was produced at the time of inspection by the Respondent-Hospital, the Appellant without considering the same, has wrongly passed an order dated 01.08.2018, which was rightly set aside by the ESI Court and therefore the same does not warrant any interference

4. In reply, the learned counsel for the Appellant contended that even if the name of Ms.Sheela was mentioned twice in the Visit Note, the number of employees would be 10 and in which case also the Respondent-Hospital is covered under ESI Act.

5. Heard the learned counsel appearing for the Appellant as well as the learned counsel appearing for the Respondent and perused the entire materials



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ESI Court on considering all these aspects have rightly set aside the order of the Appellant dated 01.08.2018 and remit the matter back for reconsideration.

Therefore, we do not find any infirmity or illegality in the order passed by the ESI Court.

In view of the same, this Civil Miscellaneous Appeal stands dismissed, confirming the order dated 05.01.2022 of the Employees State Insurance Court, Coimbatore. No costs. Consequently, connected Miscellaneous Petition is closed.

05.01.2024

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Index : Yes / No

Internet : Yes / No

To

1. The Employees State Insurance Court, Coimbatore.

2. The Section Officer,
VR Section,
High Court,
Madras.

KRISHNAN RAMASAMY, J.

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