



W.A.No.212 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Reserved on : 04.04.2024

Delivered on : 04.06.2024

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

and

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.A.No.212 of 2023

The Manager

Sungwoo Gestamp Hi Tech (Chennai) Ltd

(Presently known as Sungwoo Hitech India Pvt.Ltd)

Plot No.G-16-18, Sipcot Industrial Park

Irungattukottai Post, Via Sriperumbudur

Kancheepuram District 602 117

..Appellant/Petitioner

Vs.

1.S.Davan

2.Ethiraj

3.The Commissioner for Employees
Compensation/Joint Commission of Labour,

Vellore.



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4.The Regional Director

ESI Corporation, Sterling Road, Nungambakkam

Chennai-600 034

(Impleaded suo-moto vide order dated 18.04.2022)

..Respondents/Respondents

Prayer : Writ Appeal filed against the order passed in W.P.No.28576 of 2019 dated 25.04.2022.

For Appellant : Mr.S.Anbazhagan for M/s.P.V.S.Giridhar and Sai

For respondents : Mr.S.P.Srinivasan for R4

Mr.T.Chezhiyan, AGP for R3

R1- No appearance. R2-Unclaimed.

JUDGMENT

Per. J.NISHA BANU, J.

This Writ Appeal is filed as against order passed in W.P.No.28576 of 2019 dated 25.04.2022, whereby, the writ court dismissed the writ petition filed by the Petitioner-Company. The Petitioner-Company sought to quash the order passed in I.A.No.62 of 2018 in W.C.No.102 of 2017.



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2. The facts of the case is that the employee filed W.C.No.102 of 2017 before the Deputy Commissioner of Labour, Chennai, praying for compensation of Rs.3,00,000/- for the disability sustained by him. According to the employee, the accident took place on 10.06.2010 at 10.30 a.m and the accident was arising out of and in the course of employment. But the appellant/company has taken out an application in I.A.No.62 of 2018 seeking to dismiss the WC application filed by the employee mainly raising the plea that the employee resigned his employment on 04.06.2010 prior to the date of claimed injury.

3. According to the appellant-Company, the employee's claim was not covered under Employees State Insurance Act, 1948. When the ESI Act bearing ESI No.16376224 is statutorily covered to the employee, WC Act cannot call upon for the relief.

4. The Joint Commissioner for Labour, by his order dated 25th April 2019, held that the employee's submission is that he met with an accident on 10.06.2010 during the course of employment; however, the Company claims that the employee resigned his job on 04.06.2010; therefore, it is necessary to decide whether the employee was employed in the company on 10.06.2010 and for such enquiry, it is appropriate to give one opportunity to the employee to



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prove his case. The learned Joint Commissioner for Labour, on such findings,

dismissed the IA filed by the Company/appellant herein.

5. As against the dismissal order passed in I.A.No.62 of 2018 in W.C.No.102 of 2017 dated 25.04.2019, the Company filed W.P.No.28576 of 2019. The Writ Court, by citing the decision of the Honourable Supreme Court of India in the case of ***D.P.Maheshwari Vs. Delhi Administration [(1983) 4 SCC 293]***, pointed out that to conclusively ascertain as to whether the petitioner would be exempted from liability under the provisions of the E.C.Act, on account of the coverage claimed by the employee under the ESI Act, the Regional Director, Employees' State Insurance Corporation, was impleaded and further directed the appellant-Company and the other contesting respondents to file their counter statements raising their contentions. The Writ court further directed the Joint commissioner for Labour to pass reasoned orders in W.C.No.107 of 2017 dealing with each of the contentions raised by the respective parties on merits and in accordance with law. The Writ Court on such directions confirmed the impugned order.

6. As against the order passed in Writ Petition, confirming the IA passed by the Joint Commissioner for Labour, this intra court writ appeal is filed



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raising the ground that under Section 53 of the ESI Act there is a bar to proceed with W.C.No.102 of 2017 and the Joint Commissioner for Labour failed to consider the specific bar provided in Section 53 of ESI Act and that claim for compensation under the Employees Compensation Act is not maintainable.

7. Heard both sides and perused the records.

8. The various preliminary objections which would be raised by the Company will certainly result in delay in taking a decision to the real dispute for years. When the claim petition is filed before the Joint Commissioner for Labour, it is for the court concerned to adjudicate the labour dispute for the workman. Tribunals and courts who are requested to decide preliminary questions must therefore adjudicate the issue which is necessary for the expeditious disposal of the disputes raised before them. The Writ Court, taking note of the preliminary objection raised by the Company, directed the Joint Commissioner for Labour to adjudicate the issue and also directed the contesting parties to file their objections to the claim petition filed by the employee. In such circumstances, the order of the writ court is perfectly in order. We do not find any merit in this Writ Appeal. Accordingly, this writ appeal is dismissed. No costs. Interim stay stands vacated.



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(J.N.B, J.) (P.D.B, J.)

04.06.2024

Index : Yes /No

Speaking order : Yes /No

Neutral Citation Case : Yes /No

nvsri

To

1.The Commissioner for Employees Compensation/Joint Commissioner of
Labour,

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2.The Regional Director

ESI Corporation, Sterling Road, Nungambakkam

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**J. NISHA BANU, J.
and
P.DHANABAL,J.**

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Judgment in
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