

28.04.2026
Item No. 1
Ct. No. 30
Aloke

WPA 8654 of 2026

**Tapasi Ghosh
Vs.
Employees' State Insurance Corporation & Ors.**

Mr. Soumya Majumder, Id. Sr. Adv.
Ms. Jyoti Rauth
...for the petitioner

Mr. Shivshankar Banerjee
Ms. Arijita Ghosh
Mr. Siddhart Chamria
... for the ESIC

1. The writ application has been preferred challenging an order dated 16th November, 2022 along with notices dated 11th March, 2026.

2. It appears that the order dated 16.11.2022 is an order under Section 45A of the ESI Act. The petitioner being aggrieved with the order under Section 45A of the ESI Act and as per the provision of the ESI Act, has deposited 25% of the amount which has been adjudicated as due by the order under Section 45A of the Act towards preferring an appeal. **The deposit has been made on 12.01.2023, that is within the period of 60 days permitted for preferring an appeal.**

3. Document at page 77 being Annexure-P-5 shows that the deposit has been duly made and received by the EPF Department. Along with the said deposit, the petitioner also made an application to the appellate authority on 13.01.2023, stating that she has deposited 25% of the amount as shown due in the order under

Section 45A of the ESI Act and prayed for a personal hearing by the appellate authority.

4. The petitioner submits that the petitioner was not aware that an extensive formal application was required to be filed in the form of appeal before the authority and, as such, on depositing the said amount, prayed for a personal hearing.

5. The petitioner then waited for a notice for hearing of the appeal. Admittedly, no hearing under Section 45AA of the ESI Act was granted to the petitioner **nor was the petitioner intimated that the deposit as made, had to be accompanied by a proper application in appeal.** The petitioner being unaware of any such procedure, was finally served with notices issued by the Recovery Officer on 11.03.2026.

6. On receiving the said notices, the petitioner on 30th March, 2026 prayed before the respondent authority including the appellate authority under the ESI Act, by filing an extensive application (appeal) stating the grounds of appeal.

7. Learned counsel for the respondent/ESI submits that the petitioner cannot get advantage of her ignorance and, as such, cannot be granted an opportunity to prefer an appeal.

8. On hearing the learned counsels for the parties and on perusal of the materials on record, it appears that the petitioner has admittedly complied with the provisions of Section 45AA of the ESI Act to the extend of deposit and

admittedly was never given a hearing under Section 45AA in spite of having deposited the said amount with the ESI Corporation. The said receipt accepting the said 25% amount also notes the petitioner's employer's code and also the challan period. **As such, the respondent authorities were aware that the said amount has been deposited towards appeal.**

9. No instruction was either given to the petitioner nor any notice under Section 45AA of the ESI Act for hearing was served in spite of accepting the said amount.

10. This Court finds that the petitioner herein showed her ***bona fide*** by making the deposit within the statutory period for preferring an appeal and **in the interest of justice**, an opportunity is to be provided to the petitioner for being given a hearing in appeal.

11. Considering the said facts, the writ application is disposed of with the direction that the respondent/ESI/Appellate Authority, shall consider the representation dated 30th March, 2026 filed by the petitioner as a petition of appeal and give a hearing to the petitioner/parties by considering the grounds of appeal as made out in the said application.

12. The appellate authority shall conduct the proceedings as per the provision of Section 45AA of the ESI Act and decide the same, in accordance with law, by passing a reasoned order.

13. WPA 8654 of 2026 stands disposed of.

8. Connected application, if any, stands disposed of.

9. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Shampa Dutt (Paul), J.)