

(2009) 12 KAR CK 0011

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 1652 of 2007

The Regional Director Employees" State Insurance
Corporation

APPELLANT

Vs

Gopalakrishna Textiles Mills Private Limited and Another

RESPONDENT

Date of Decision : 01-12-2009

Acts Referred:

Employees State Insurance Act, 1948 — Section 45 A

Citation : (2010) 1 KarLJ 271 : (2010) 2 LLJ 369

Hon'ble Judges : V. Jagannathan, J

Bench : Single Bench

Advocate : V. Narasimha Holla, for the Appellant; Sheela Krishna, for the Respondent

Judgement

V. Jagannathan, J.—This appeal by the Regional Director, ESI Corporation is directed against the order passed by the ESI Court on ESI Application No. 37 of 2005 by which order the application filed by the respondent-applicant challenging the order passed by the Corporation u/s 45-A of the Employees" State Insurance Act, 1948 demanding contribution from the respondent was set aside and the application was allowed.

2. Learned Counsel appearing for the appellant-Corporation argued that the coverage that was sought by passing an order dated 31-3-2005 u/s 45-A of the ESI Act was for the period from April 1997 to March 1998 in a sum of Rs. 11,336/- in respect of the security guards who are deputed to work in the establishment of the respondent-applicant. The Court below, without there being any evidence placed in proof of contribution in respect of security guards having already been paid by the employer concerned, allowed the application and as such the impugned order is perverse one. Merely because the 1st respondent took up the stand that the security guards were covered under the ESI by their employer viz., M/s. Eagle Hunters without there being any document produced in proof of contribution being paid in respect of the security guards in question, the

Court below could not have allowed the application filed by the respondent.

3. Having thus heard the submission of the appellant Counsel with regard to the above contention and also hearing the learned Counsel for the respondent, I find the impugned order is not indicating any evidence being placed in proof of security guards being covered on contribution for having been paid under their coverage by their employer. The ESI Court could not have, on the basis of mere pleadings without any evidence, accepted the case of the respondent.

4. Therefore, impugned order is set aside.

Appeal is allowed. Matter stands remitted to the ESI Court so that the respondent-applicant produces evidence to establish that, in respect of security guards ESI contribution had been paid by their employers and in this connection, both parties are at liberty to produce necessary documents.

The Court below shall dispose of the matter within three months from the date of receipt of a copy of this order.

Lower Court records shall be sent back to the ESI Court.