

ORDERS ON I.A.III

I.A. No.III filed by the applicant under Order VI Rule 17 R/w Section 151 of CPC and Section 75 of ESI Act, 1948 to amend the Application/Petition as follows;

To delete prayer column in the Application as mentioned below;

- 1) Annexure-C dated 20.01.2021,
- 2) Garnishee order dated 08.02.2021 at Annexure E
- 3) Order u/s 85-B dated 10.08.2021 at Annexure-F1

To Add into prayer column:

- 1) Order u/s 45-A dated 08.02.2016 at Annexure B
- 2) Notice u/s C-19 dated 11.07.2016 at Annexure-C
- 3) Demand to defaulter in Form No.ESI CP2 dated 22.07.2016
- 4) Garnishee order u/s 45-G of ESI Act dated 08.05.2018 at Annexure E
- 5) Order under Section 85-B of ESI Act dated 10.08.2021 levying damages as per Annexure F1.
- 6) Garnishee order under Section 45-G of ESI Act, dated 19.03.2021 as per Annexure-H
- 7) Notice to Show cause why warrant should not be issued dated 25.03.2021 as per Annexure-I.

2. In the accompanying Affidavit, the applicant has stated that, applicant has filed interlocutory applications for stay and another application u/s 75(2-B) of ESI Act to waive off the amount to be deposited by the applicant. The applicant has deposited Rs.2,50,000/- as per the order of this court. While complying the order of the Court, the applicant came to know that the ESI code number mentioned in the application does not belong to the applicant's institution and this mistake has crept in due to typographical error at the time of drafting the ESI Application and it is not intentional. The proposed amendment will not change the nature of the case. If the amendment application is not allowed, the applicant will suffer great hardship and loss. Hence, prayed that IA No.1II may be allowed.

3. Heard arguments.

4. The Points that arise for consideration are:-

1. Whether the applicant has made out grounds to allow IA-III?

2. What Order?

5. My findings on the above Points are:

Point No.1 : In the **Affirmative**,

Point No.2 : As per Final Order,

for the following,

REASONS

Point No.1

6. The Advocate for the applicant argued that, due to typographical error ESI code is wrongly mentioned and it is just and necessary to rectify the ESI code and the said mistake is not intentional and no hardship will be caused to the other side, if the amendment Application is allowed and prayed that amendment Application may be allowed.

7. The respondent has not yet appeared before this Court. The amendment sought by the applicant is due to typographical error. The amendment is just and necessary for adjudication of the above case. Rectification of ESI code will not cause any prejudice to the respondent. If amendment is not allowed it will lead to multiplicity of proceedings. The proposed amendment will not take away any rights accrued to the respondent. The proposed amendment does not introduce any new facts. In the light of the above discussion, I answer Point-1 in the **Affirmative.**

Point No.2:-

8. In the result, I proceed to pass the following,

ORDER

I.A. No.III filed by the applicant under Order VI Rule 17 R/w Section 151 of CPC and Section 75 of ESI Act, 1948 is hereby allowed. No costs.

The applicant is directed to amend the Application/Petition.

For amendment and to file Amended Application.

Call on 30.09.2022.

**Judge,
Employees state Insurance Court,
Mysuru.**