

Before: I. S. Tiwana, J.

EMPLOYEES' STATE INSURANCE CORPORATION,—Petitioner.

*versus*

WESTERN ELECTRIC AND SCIENTIFIC WORKS,—Respondent.

Civil Revision No. 1 of 1986

April 30, 1986.

*Employees' State Insurance Act (XXXIV of 1948)—Section 75—Employer filing civil suit against the corporation for permanent injunction—Employer claiming relief on the ground that the factory not covered under the Act and as such not required to pay any contribution—Section 75 of the Act—Whether bars the jurisdiction of the Civil Court.*

*Held, that a bare reading of the provisions of Section 75 of the Employees, State Insurance Act, 1948, indicates that the Employees Insurance Court has the jurisdiction to settle a dispute between a person and the Corporation in respect of any contribution or benefit or other dues payable or recoverable under the Act and subsection (3) clearly injuncts the Civil Court to refrain from deciding the dispute as aforesaid. As such section 75 of the Act bars the jurisdiction of the civil Court.*

(Para 4)

*PETITION UNDER SECTION 115 C.P.C. and Art. 227 of Constitution read with Section 75 Employees, State Insurance Act against the order of Shri Rajinder Kumar Bishnoi, HCS Sub-Judge, 1st Class, Ambala Cantt. dated 16th October, 1985, holding that the Civil Court has the jurisdiction to try the dispute.*

K. L. Kapur, Advocate, for the Petitioner.

M. P. Anand, Advocate, for the Respondent.

#### JUDGMENT

I. S. Tiwana, J. (Oral).

(1) The contention raised here in this petition relates to the jurisdiction of the trial Court i.e. Subordinate Judge 1st Class, Ambala Cantt. His order, dated October 16, 1985, holding that the Civil Court

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has the jurisdiction to try the dispute i.e. as to whether the plaintiff-concern (now respondent) is covered by the Employees, State Insurance Act, 1948, (for short, the Act), is in question.

(2) Having heard the learned counsel for the parties at some length, I find that the impugned order is patently illegal and deserves to be set aside.

(3) The facts relevant to the controversy are that the respondent filed a suit for permanent injunction to restrain the petitioner-Corporation from recovering Rs. 20,972 or any other amount under the Act on the plea that its factory was not covered by the Act. As against this, the plea of the petitioner was that the amount sought to be recovered from the respondent was duly processed in accordance with the procedure prescribed under the Act and the concern of the respondent was squarely covered under the Act. It was also maintained on behalf of the petitioner that the civil court had no jurisdiction to try the suit in view of sub-section (3) of section 75 of the Act. In the light of the pleadings of the parties, the trial Court framed a number of issues, including the one as to "Whether this Court has no jurisdiction to try this case, as alleged? OPD". This later issue has been disposed of as a preliminary issue with the conclusion already noticed above.

(4) As pointed out earlier, I am of the opinion that the issue as to whether the factory of the respondent is covered by the Act falls squarely within the competence of the Employees Insurance Court under the Act and the civil court has no jurisdiction to try the same in the light of the provisions of section 75(1)(g) and sub-section (3) of the same. These latter-mentioned provisions read :

"(1) If any question or dispute arises as to—

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(g) any other matter which is in dispute between a principal employer and the Corporation or between a principal employer and an immediate employer, or *between a person and the Corporation* or between an employee and a principal or immediate employer, in respect of any contribution or benefit or other dues

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payable or recoverable under this Act, or any other matter required to be or which may be decided by the Employees' Insurance Court under this Act.

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(3) No Civil Court shall have jurisdiction to decide or deal with any question or *dispute as aforesaid* or to adjudicate on any liability which by or under this Act is to be decided by a medical board, or by a medical appeal tribunal or by the Employees Insurance Court."

(emphasis added).

(5) A bare reading of these provisions indicates that the Employees Insurance Court has the jurisdiction to settle a dispute between a person and the Corporation in respect of any contribution or benefit or other dues payable or recoverable under the Act and if that is so, as to my mind it is, then sub-section (3) clearly injuncts the civil court to refrain from deciding the "dispute as aforesaid". For this conclusion of mine, I also seek support from *Employees, State Insurance Corporation, Bombay v. R. P. Gundu*, (1), wherein a similar opinion has been expressed.

(6) Thus, I allow this petition and set aside the impugned order. I, however, pass no order as to costs.

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H.S.B.

Before: S. S. Sodhi, J.

TEK SINGH,—Petitioner.

versus

PARAMJIT SINGH AND OTHERS,—Respondents.

Civil Revision No. 3450 of 1985.

May 1, 1986.

*Arbitration Act (X of 1940)—Section 34—Dispute between parties leading to dissolution of partnership—One set of partners*

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(1) (1984) 64 F.J.R. 120.