IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.722 of 1991 (O&M)
Date of Decision:04.02.2015

Pepsu Road Transport Corporation, Patiala

….Appellant

Versus

Employees State Insurance Corporation and others

….Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Raman Mahajan, Advocate for the appellant.

Mr. Vivek Suri, Sr. Standing Counsel for respondent No.1-Employees State Insurance Corporation.

NAVITA SINGH, J.

1. The appeal is preferred against the judgment dated 2.2.1991 passed by Employees Insurance Court, Patiala (the Court for short), whereby application under Section 75 of the Employees State Insurance Act (Act for short) filed by the appellant was dismissed.

2. The appellant had applied for a declaration that the corporation was not liable to pay any contribution under the Act from 10.4.1976 to 31.1.1983 and the demand made by the respondents in that regard was illegal. The appellant had represented to the Government for exemption and vide notification dated 22.3.1984, exemption was granted under Section 90 of the Act for the period mentioned above. To the utter surprise of the appellant, a demand notice was still sent by the respondent.

3. Counsel for the appellant argued that the running staff of the appellant-Corporation was in any case exempted and the employees in the work shop were also covered under the exemption because superior facilities/benefits

were given to them by the appellant, which included medical and other benefits. It was also argued on behalf of the appellant that opportunity of hearing was sought to show cause that the demand was illegal. Even now the counsel requested that an opportunity of hearing should be given to explain as to how the Corporation was not liable. On query, no valid reason was given by the counsel for the appellant as to why no such explanations were given before the Court where the appellant had ample opportunity. It is not understandable as to what new revelations are to be made by the appellant at the time of personal hearing. The contention that personal hearing may be given for whatever worth, is not convincing.

4. Counsel for the respondents showed the notification Ex.P3 which was issued on 22.3.1984 granting exemption to the PRTC, Patiala i.e. the appellant. The period surely was 10.4.1976 to 31.1.1983 but the exemption was granted subject to certain conditions, which admittedly were not fulfilled. The exemption was also only regarding the running staff. The employees in the work shop of the Corporation were not exempted and also the exemption did not come into play as the pre-requisites were not complied with.

5. Section 90 of the Act contemplates the situation for exemption where the employees are getting equivalent or superior benefits but still the exemption is to be granted by the Government by way of a notification. Here the notification was only with regard to the running staff and for no other employees and may say on repetition that the conditions in the notification were required to be fulfilled by the appellant.

6. No fault, therefore, can be found with the impugned order. Revised history sheet was given by the respondents but no reply was sent by the appellant giving the details of exempted employees indicating their salaries etc.; and so condition No.1 itself as given in the notification Ex.P3 was not complied

with. Any amount of oral evidence led by the appellant cannot be accepted in the absence of proof of facts in relation to which documentary evidence was available.

7. The appeal is dismissed.

(NAVITA SINGH)
JUDGE

04.02.2015
Ishwar

Whether to be referred to reporter: Yes