

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 47 of 1996 (O/M)
Date of decision : 24.4.2015

M/s Sham Steel

..... Appellant

Versus

Employees State Insurance Corporation

..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Anil Shukla, Advocate, for the appellant.

Mr. B.S. Bhatia, Advocate, for respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

The appellant has challenged the order dated 1.6.1995, passed by the Employees Insurance Court, Chandigarh, (in short 'the ESI Court'), vide which the application filed by the appellant under Section 75 of the Employees State Insurance Act, 1948 (in short 'the ESI Act') for quashing the impugned order dated 31.3.1993, making the provisions of ESI Act applicable to the factory of the appellant, was dismissed.

Brief facts of the case are that on 24.3.1993, a joint survey was conducted by a team of the officials of respondent- Corporation, consisting of Insurance Inspector, Local Office

Manager and another Insurance Inspector. The appellant did not produce any record before the said team of officials. The list of employees, who were present there and were found working in the factory premises on that day, was prepared and it was noticed that 16 persons were found working in the factory premises. It was also found that the factory was carrying on manufacturing process with the help of power and as the number of employees was more than 10. It was held that the appellant-factory is covered under the ESI Act. The challenge to the said order was dismissed by the ESI Court, Chandigarh.

I have heard learned counsel for the parties and have also carefully gone through the file.

Learned counsel for the appellant has argued that in this case, parentage and address of those employees was not given nor the list was got countersigned from the proprietor of the firm. Therefore, the list prepared by the team of official of respondent-Corporation cannot be relied upon. It has been further argued as per the wage register of the appellant, only three employees were working in the factory.

I am not impressed with the argument of the learned counsel for the appellant. At the time of joint inspection, appellant refused to hand over the record to the team of officials of the respondent-Corporation. 16 persons were found present in the factory premises, who were working there and their names were

noted down by the team of officials of respondent-Corporation. The mere fact that the appellant had not countersigned the list does not mean that the list prepared by the team of officials of respondent-Corporation is not trustworthy. There was no ill-will and adverse motive on the part of respondent-Corporation. The fact that 16 persons were found working in the factory premises goes to show that they were the employees of the appellant. It was for the appellant to rebut the said presumption. It being so, no fault can be found with the order dated 1.6.1995, passed by the ESI Court, Chandigarh.

The present appeal is accordingly dismissed.

(KULDIP SINGH)
JUDGE

24.4.2015
sjks