

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

376

FAO No.1450 of 1997 (O&M)

Date of decision: 13.02.2020

The Employees State Insurance Corp. and ors.

... Appellants

Versus

M/s Green Hotel Beer Bar and Restaurant and anr.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. HS Bhatia, Advocate for the appellants.

Mr. SS Chatrath, Advocate for respondent No.1.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against order dated 22.01.1997 passed by the Civil Judge (Sr. Div.), Gurdaspur (exercising powers of Employees State Insurance Court, Gurdaspur under the ESI Act) whereby application under Section 75 of the ESI Act, 1948 (in short 'the Act') filed by the respondents M/s Green Hotel Beer Bar and Restaurant through its proprietor Sh. Jasbir Singh has been allowed on the basis of findings recorded in para 7 under issue No.1.

The sole submission made by counsel for the appellants is that findings recorded by the Court below while deciding issue No.1 are bereft of reasoning, therefore, cannot be allowed to sustain.

Counsel for respondent No.1, on the contrary, has supported the impugned order with the submission that since respondent No.1 herein is not covered under the purview of the Act, application filed under Section 75 of the Act has rightly been allowed.

I have heard counsel for the parties, perused the paper book particularly the order impugned.

Before advertng to the submissions made by counsel for the parties, it is appropriate to extract para 7 of the order, reads thus:-

From the evidence led by the applicants, all the averments contained in the application have been proved on the file. Thus, from the oral as well as documentary evidence produced by the applicants, it has been proved that applicant No.1 is not covered under the Employees State Insurance Act, 1948, so this issue is decided in favour of the applicants and against their respondents.

Perusal of the aforesaid extract leaves no manner of doubt that the Court has not adverted to the evidence adduced by the respondents which can form the basis to accept their plea that respondent No.1 is not covered under the Act. As per the settled position in law, reasons are the lifeline and soul of a judicial order so that its correctness/validity can be examined by a superior Court, seized of an appeal or revision filed against the order impugned. In the instant case, findings recorded by the Court below noticed hereinbefore, reveal nothing as to what weighed in the mind of the Court to arrive at a conclusion that respondent No.1 is not covered under the Act. The order passed by the Court is sketchy and smacks of arbitrariness. In this view of the matter, I find merit in contention of the appellants that order impugned cannot be allowed to sustain and liable to be set aside.

In view of what has been discussed hereinbefore, the appeal is allowed. Order impugned is set aside and the matter is remitted to the ESI Court, Gurdaspur for decision of the case afresh. The Court shall dispose of the matter within a period of three months of the parties putting in appearance. Parties through their counsel are directed to appear before the ESI Court, Gurdaspur on 04.03.2020.

13.02.2020

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No