

(1966) 03 P&H CK 0053
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. 71 of 1962

Dharam Paul Aggarwal and Another

APPELLANT

Vs

The Regional Director, Employees' State Insurance
Corporation

RESPONDENT

Date of Decision : 23-03-1966

Acts Referred:

Employees State Insurance (Central) Rules, 1950 — Rule 13(3), 13.4
Employees State Insurance Act, 1948 — Section 2(12), 40(1), 5, 75(2)
Revenue Recovery Act, 1890 — Section 5

Citation : (1967) 1 ILR (P&H) 355

Hon'ble Judges : P.D. Sharma, J

Bench : Single Bench

Advocate : J.S. Chawla, for the Appellant; K.L. Kapur, for the Respondent

Final Decision : Dismissed

Judgement

P.D. Sharma, J.—This judgment will dispose of two F.A.O. Nos. 71 and 72 of 1962 which have arisen out of the following circumstances.

2. The Regional Director, Employees' State Insurance Corporation, hereinafter referred to as the Corporation, applied u/s 75(2) of the Employees' State Insurance Act, 1948, hereinafter referred to as the Act,—vide application No. 14 of 1961 for the recovery of Rs. 1,659, as employees' contribution for the period from 1st April, 1956, to 30th June, 1961, the details of which were given in Schedule "A", against Dharam Paul Aggarwal, Manager and Principal Employer of Messrs Paradise (India) Corporation, Ambala Cantonment and Messrs Paradise (India), Corporation, It was alleged that Respondent No. 2 was a factory as defined in Sub-section (12) of Section 2 of the Act and was liable to pay employees' contribution as provided in Section 40(1) of the Act. Rs. 1,659 are said to have been due from the Respondents as employees' contribution for the period 1st April, 1959 to 30th June, 1961. The Respondents resisted the above application on the grounds that the Regional Director was not competent to

institute the proceedings, that the application did not contain all the particulars required under Rule 13(3) of the rules framed under the Act, that Respondent No. 2 was not a factory and that the application was barred by time. The Employees Insurance Court, Ambala, framed the following issues:

- (1) Whether the application is maintainable in the present form?
- (2) Whether full particulars as required under Rule 13(3) have not been given, thus application is liable to be dismissed under Rule 13.4?
- (3) Whether Respondent No. 2 is a factory under the Employees' State Insurance Act and is thus liable to pay the contribution claimed?
- (4) Whether the application is within time?
- (5) Whether there are sufficient reasons for condition of delay?
- (6) Relief.

3. The Corporation in addition applied to the Collector, District Ambala, for realisation of Rs. 829 as employer's special contribution for the period from 30th June, 1959 to 30th June, 1961, along with Rs. 13 as interest accrued thereon as arrears of land revenue. This was done u/s 5 of the Revenue Recovery Act 1890. Thereupon the two Respondents applied to the same Court for a declaration that they were not liable to pay the sum of Rs. 842 because Respondent No. 2 was not a factory as defined in Section 2(12) of the Act. The Corporation maintained that Respondent No. 2 was a factory. Proceedings in both these applications were consolidated.

4. The Insurance Court decided issue Nos. 1, 3 and 4 in favour of the Applicant, the Corporation and issue No. 2 against the Respondents. Issue No. 5 did not arise. In the result the application filed by the Regional Director of the Corporation was allowed to the extent of Rs. 1,332 while the application filed by Dharam Pal Aggarwal and Messrs Paradise Corporation was allowed to the extent that Rs. 666 only were found recoverable from them as employer's special contribution. These two appeals have been preferred by Dharam Pal Aggarwal and Messrs Paradise Corporation against the above orders.

5. The only point agitated by the Appellants before me was that Appellant No. 2 was not a factory as this term is defined in the Act. It is common ground that work of the factory is being carried on in three houses Nos. 6268/1, 5514-15/1 and 5493 situate at Ambala and that in none of these separate houses the number of workers exceeded 20 at any time but the number of employees working in these three houses collectively exceeded 20. A road only separate houses Nos. 5514-15/1 and 5493 while house No. 6268/1 is about half a furlong away from them. The Insurance Court also found that science instruments of bakelite were prepared by the Appellants, that bakelite was boiled in house No. 5514-15/1 with the help of a stove where 10 or 11 persons worked while the articles were stored in house No. 6268/1 and in the third house those articles

were cleaned with the help of "rayti". It meant that in all the three different houses process connected with the manufacture of Science Instruments was being conducted. The learned Counsel for the Appellants contended that since the three houses were not situate within the same compound and the number of employees in any one of them did not exceed 20, therefore, Appellant No. 2 could not be styled as factory. The term "factory" has been defined in Sub-section (12) of Section 2 of the Act as follows:

Factory means any premises including the precincts thereof whereon twenty or more persons are working or were working on any day of the preceding twelve months and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on but does not include a mine subject to the operation of the Indian Mines Act, 1923 or a railway running shed.

6. The word "premises" has not been defined in the Act, but meaning of it has been given at page 322 of Words and Phrases (Judicial by Defined) Volume IV, 1944 edition as under:

The word "premises" includes at common law houses or lands, the definition being probably derived from reference to lands or houses, or both, recited in deeds and grants as being sold or conveyed and afterwards referred to in the conveyance or deed of grant as premises.

In view of the above definition it is not necessary that all the buildings including the precincts in which manufacturing process of a factory is being carried on should be contiguous or should be located in the same compound. What is necessary is that the work carried on in different buildings including the precincts should be interconnected and conducted by the same concern. In the present case, as has been indicated above, Appellant No. 2 is carrying on the process connected with the manufacture of Science Instruments of bakelite in the three different buildings. This fact has not been controverted by the Appellants. The learned Counsel for the Appellants, however, in support of his argument relied on *Metro Motors Private Ltd. v. The Regional Provident Fund Commissioner, Punjab* 1959 P.L.R. 160, the facts of which are distinguishable from the facts of the instant case. In the cited cases an employer carried on the business of selling cars and a service-station in one premises and made bodies for buses and tracks in another premises. It was held that the employees working in both the premises could not be counted together to make twenty in order to make it a factory because it was not proved that there was any connection between the two premises except that of ownership. The work carried on at the two places was independent of each other. In the present case the work carried on in the three buildings was inter-connected as it related to the manufacture of Science Instruments. The other case, *Employees State Insurance Corporation, Madras Vs. S.M. Sriramulu Naidu*, referred to by the learned Counsel for the Appellants was overruled by a Bench decision of the same Court in *Employees State Insurance Corporation, Madras Vs. S.M. Sriramulu Naidu*. There the question was whether employees working in various departments of the same concern and connected,

with the same work in buildings situate within the same compound could collectively be taken into consideration while deciding whether the concern was a factory as defined in the Act. The answer was in the affirmative or the reason that it was not necessary that all the 20 persons should be working in the same section or department. What was deemed essential was that efforts of all the departments should be co-ordinated to achieve the main object of the factory, that is, the manufacture. In the present case what requires, determination is whether the employees working in three separate buildings, two of which are situate across the road and the third at a small distance could collectively be taken it a consideration for classifying the employer-Appellant No. 2 as a factory under the Act. The work conducted in all the three buildings unmistakably was directed towards the same object, namely, the manufacture of Science Instruments. In the circumstances, the Insurance Court correctly held that Appellant No. 2 was a factory under the Act.

7. The question of limitation covering cases of the present category has recently been decided by a Full Bench of this Court in Messrs United Indian Timber Works v. Employee State Insurance and Ors. ILR (1966) 2 P&H 291, in according to which the application preferred by the Regional Director of the Corporation u/s 75(2) of the Act is well in time.

8. The learned Counsel for the Appellants has not been able to make out any substantial question of law which could justify interference in the orders passed by the Court below in the two applications. Both the appeals fail. The parties are left to bear their own costs.