
(2010) 04 PAT CK 0013
In the Patna High Court

Employees State Insurance Corporation	APPELLANT
Vs	
Rajendra Nagar Service Station	RESPONDENT

Date of Decision : 13-04-2010

Acts Referred:

Employees State Insurance Act, 1948 — Section 75

Citation : (2010) 04 PAT CK 0013

Hon'ble Judges : Mungeshwar Sahoo, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mungeshwar Sahoo, J.—Heard the learned Counsel for the parties under Order 41 Rule 11 C.P.C.

2. The Employees State Insurance Corporation, Patna has filed this appeal against the order dated 24.5.2006 passed by the Employees' State Insurance Court, Patna in E.S.I. Case No. 3 of 2006. The learned court below by this impugned order allowed the waiver application filed by the respondents in exercise of power under proviso to Section 75(2B) of the Employees' State Insurance Act, 1948.

3. The learned Counsel for the appellants submitted that while waiving the deposit of 50% of the total amount the court has to pass a reasoned order. By the impugned order, the learned court below has waived the deposit of 50% of the total amount without giving reasonable grounds for the same.

4. It may be mentioned here that the Corporation had issued notice to the respondents for recovering the amount of Rs. 8311/- on the ground that the respondent firm engaged more than ten employees. The respondent firm then filed E.S.I. Case No. 3 of 2006 challenging the order for recovering Rs. 8311/-. The appellant Corporation raised a question before the learned court below that E.S.I. Case No. 3/06 is not maintainable unless 50% of the dues is deposited by the respondent firm. By the impugned order the learned court below after

recording reasons waived the deposit of 50% of the total amount.

5. The learned Counsel for the appellants submitted that the reasoning assigned by the court below is not sound and, therefore, is liable to be set aside.

6. On the other hand, the learned Counsel for the respondents submitted that the order passed by the lower court is within the jurisdiction of the court which is provided u/s 75(2B) of the Act. The learned court below further submitted that since in this case the court below has exercised a jurisdiction vested in it by the statute no substantial question is involved. This Court cannot exercise appellate jurisdiction to examine the satisfactory or otherwise of the reasons assigned by the court below. The learned Counsel further submitted that after the impugned order the parties have closed their evidence and the case is pending for final hearing and the same is being adjourned on the ground of the appellants. The learned Counsel further submitted that it is yet to be decided by the court below that whether the Act itself is applicable on the firm of the respondents or not.

7. From perusal of the impugned order it appears that in exercise of power u/s 75(2B) of the E.S.I. Act the court below has waived the deposit of 50% of the total amount to be recovered. It may be mentioned here that the total amount of recovery is Rs. 8311/- only. It is not the case that the court below has not recorded any reason but the argument advanced is that no reasonable ground has been recorded. In other words according to the appellants the reason assigned by the court below is not sufficient and not satisfactory.

8. In my opinion, this is not a substantial question of law.

9. From the counter affidavit filed by the respondents it appears that the case is in the final stage of hearing and it can be decided within a short period. It further appears that time is being taken by the appellant and, therefore, the case is pending.

10. In view of the above facts and circumstances of the case, no substantial question of law is involved in this appeal. Accordingly this Misc. appeal is dismissed.