
(1990) 12 P&H CK 0058
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 3705 of 1989

Harmon and Sons

APPELLANT

Vs

Regional Director, E.S.I. Corporation and Others

RESPONDENT

Date of Decision : 07-12-1990

Acts Referred:

Constitution of India, 1950 — Article 227
Employees State Insurance Act, 1948 — Section 2B

Citation : (1999) 3 LLJ 179

Hon'ble Judges : J.V. Gupta, C.J

Bench : Single Bench

Advocate : Vinod Sharma, for the Appellant; K.L. Kapur, for the Respondent

Judgement

J.V. Gupta, C.J.—This petition under Article 227 of the Constitution of India is directed against the order of the Employees' Insurance Court, Chandigarh, declining ad interim injunction in favour of the petitioner.

2. The petitioner has filed a petition u/s 75 of the Employees' State Insurance, Act, 1948, to the effect that the impugned orders dated November 13/16, 1987 declaring the petitioner's factory to be covered under the purview of Section 2(12), 1(5) of the Act, w.e.f. October 26, 1985 etc. are illegal, null and void and without jurisdiction, whereby, the amount of Rs. 22079/- is being recovered from him. Along with the petition he also moved an application for ad interim injunction, which has been declined by the Employees' Insurance Court, vide its order dated November 29, 1989, on the ground that there was no force in the application wherein a temporary stay for the realisation of the amount in question has been sought.

3. The learned counsel for the respondents submitted that it is the requirement of the Statute that unless fifty per cent of the amount claimed is not deposited, the petition as such is not maintainable. The relevant provisions of Section 2B inserted by Act No. 29 of 1989 read as under:

"2-B No matter which is in dispute between a principal employer and the Corporation in respect of any contribution or any other dues shall be raised by the principal employer in the Employees' Insurance Court unless he has deposited with the Court fifty percent of the amount due from him claimed by the Corporation.

Provided that the Court may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this sub-section."

4. That being so, the petitioner will deposit 50 percent of the amount due from him within one month, failing which this petition shall stand dismissed. As regards the balance amount the petitioner will furnish adequate security to the satisfaction of the Court which will be accepted after notice to the respondents. He will also file an undertaking along with security that in case the petition fails, the balance amount will be paid with 12 percent interest from the date it fell due till it is paid.

The petition stands disposed of accordingly.