

**R.S.E.B. Vs. E.S.i. Corporation**

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**Court :** Rajasthan

**Decided On :** Sep-15-1986

**Reported in :** 1987(2)WLN728

**Judge :** Guman Mal Lodha, J.

**Appeal No. :** S.B. Civil Misc. First Appeal No. 69 of 1979

**Appellant :** R.S.E.B.

**Respondent :** E.S.i. Corporation

**Disposition :** Appeal dismissed

**Judgement :**

**Guman Mal Lodha, J.**

1. This is an appeal under Section 482 of the Employees State Insurance Act, 1948 against the order of Shri M.D. Choudhary, Judge Employee State Insurance Court, Jaipur dated 12-4-1978.

2. Mr. Gupta has argued that there is an Executive Engineer for the city of Ajmer, who holds his office in the same building but his office is absolutely independent of the offices of the Assistant Engineers who are heads of their sub-divisions. The Executive Engineers office is a coordinating office and does not do any managerial or administrative work connected with the sub-divisions which is solely done by the

Assistant Engineers.

3. The dispute is about the office of the Executive Engineer. The learned Judge has held the Act to be applicable to the office of the Executive Engineer mainly on the ground that the office is situated in the same premises in which the office of Assistant Engineers are located. It is submitted that this can hardly be a consideration and the learned Judge has arrived at a wrong conclusion.

4. Mr. H.P. Gupta then further argued that the learned Judge should have considered the important facts that the receiving of the electricity at the Grid Sub-station and transmission through the various transformers are done at the several places in open air and people working on these, works are already covered by the Employees' State Insurance Act and so also the staff working in the Assistant Engineers offices which control, manage and administer the work of distribution.

5. Mr. Gupta then pointed out that the employees working in the office of the Executive Engineer do not even remotely work in the factory or are connected with the factory or with the administration of the factory, which is done by the people working in the field and sitting in the office of the Assistant Engineer who is the manager and head of the sub-division.

6. Mr. Gupta then argued that the office of the Executive Engineer is not a factory within the meaning of Section 2(12) of the Employees State Insurance Act even though it does not do anything connected with distribution of electricity in the town done by 4 sub-divisions each managed and headed by an Assistant Engineer separately.

7. Mr. J.P. Gupta has supported the judgment under appeal. He has repeated the same arguments which have been adopted by the Judge Employees Insurance Court.

8. On a serious and thoughtful consideration of the entire matter, I am of the opinion that after amendment of 1966 by Act, No. 44 of 1966, the definition of the employees under Section 2(9) has become very comprehensive. The employees working out side factory in Zonal Offices or Branch Offices and concerned with the

work of the administration are also covered.

9. In my opinion the decision of : (1978)ILLJ181SC is applicable in the present case. In it the following principle is laid down:

Employees State Insurance Act (1948) Sections 2(9) (as amended by the Act 44 of 1966. Sections 2(12) 38 and 39-Employees-Definition of-Employees, working in Zonal and Branch Offices of Factory covered by provisions of the Act.

10. The impugned judgment is further supported by the decision of the Apex Court Royal Talkies and Ors. v. Employees State Insurance Corporation : (1978)ILLJ390SC where in it has been held that the definition of Section 2(9) is apparently wide and deliberately transcends pure contractual relationships. The expression 'In connection with the work of an establishment, ropes in a wide variety of workmen who may not be employed in the establishment but may be engaged only in connection with the work of the establishment. Some nexus must exist between the establishment and the work of the employee but it may be a loose connection. 'In connection with the work of an establishment' only postulates some connection between what the employee does and the work of the establishment. He may not do anything directly for the establishment. He may not do any thing statutorily obligatory in the establishment. He may not do anything which is primary or necessary for the survival or smooth running of the establishment or integral to the adventure. It is enough if the employee does some work which is 'ancillary, incidental or has relevance to or link with the object of the establishment.'

11. It has been held that some connection is enough if the employee does some work which is ancillary, incidental or has relevance to or link with the object of the establishment. '

12. Earlier to it, the Supreme Court in Nagpur, Electricity Light and Power Co. Ltd. v. Regional Director of Employees State Insurance Corporation AIR 1969 SC 1364, held, as under:

Where the company maintains one establishment for its factory, the factory does the work of transforming transmitting, electrical energy, all employees, clerical or otherwise including administrative staff, are employed in connection with the work of the factory and none of them is employed in any separated establishment unconnected with the work of the factory all works of disputed categories whether they work in the factory or elsewhere, are employees within the meaning of Section 2(9)(i) of the Employees' State Insurance Act, 1948. Some of the employees are clerks, they are not engaged in manual labour. But a person doing non manual work can be an employee within the meaning of Section 2(9)(i) if he is employed.

13. The later two judgments mentioned above clinch the issue and the judgment of the Judge Employees Insurance Court is fully supported by them.

14. Consequently the appeal fails and it hereby dismissed.

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