the petitioner was not entitled to any benefit or concession granted by the 1965 Rules.

(11) In view of the reasons stated above, the finding of the learned Single Judge to the effect that Sukhdev Singh Gill was entitled to the benefit of service rendered by him in the GREF and that the service is to be treated as a military service cannot be sustained. The benefits and concessions granted by the Punjab Government National Emergency (Concession) Rules, 1965 cannot be extended to him.

(12) Instructions issued, in view of the pronouncement of the Supreme Court to the effect that service of GREF should be treated integral part of the Armed Forces for the purposes of Article 33 shall not convert the services as military service as defined by the Emergency (Concession) Rules.

(13) For the reasons recorded above, the appeal is allowed, the impugned judgment of the learned Single Judge is set aside and the Writ Petition is dismissed, with no order as to costs.

R.N.R.

Before : J. V. Gupta, A.C.J.

K. L. GARG,—*Petitioner.*

versus

THE NEW INDIA ASSURANCE CO. LTD., ABOHAR AND OTHERS,—*Respondents.*

Civil Revision No. 224 *of* 1990.

15th May, 1990.

Payment of Wages Act, 1936—*Ss.* 2(*ii*), 2(*h*) & 15(2)—*Insurance Companies do not fall within the definition of 'Industrial or other Establishment'—Employees of Insurance Company cannot invoke jurisdiction of authority.*

Held, that the provisions of the Act were not applicable to the insurance company as it does not fall within the definition of industrial or other establishments as given in S. 2 thereof. It is not the case of either of the parties that any such notification as contemplated

in clause (h) of S. 2 has been issued by either the Central Government or the State Government. In the absence of any such notification no application as such was maintainable under the Act against the insurance company.

(Para 5)

Petition under article 227 of the Constitution of India, praying that the petition be accepted, records be summoned and after a perusal of the same, the impugned order (Annexure P-2) *be set aside and order* (Annexure P-1) *may be restored.*

S. P. Jain, Advocate, *for the Petitioner.*

N. K. Sodhi, Sr. Advocate with R. S. Khosla, Advocate, *for the Respondents.*

JUDGMENT

J. V. Gupta, A.C.J.

(1) This order will also dispose of Civil Revision Petition No. 2512 of 1989, as the question involved is common in both the cases.

(2) The facts giving rise to Civil Revision Petition No. 224 of 1990 are that Shri K. L. Garg, petitioner, filed an application under section 15(2) of the Payment of Wages Act (hereinafter called the Act), for the recovery of Rs. 1,350 as an *ex gratia* in lieu of bonus for the year 1983 along with interest for four years at the rate of 18 per cent per annum amounting to Rs. 1,267; total Rs. 2,617. He also claimed compensation at ten times the wages deducted amounting to Rs. 26,170. However, the said application was contested *inter alia* on the ground that the Act is not applicable to the respondent-insurance company; the nature of the claim did not fall under section 15(2) of the Act; the applicant having been dismissed from service was not entitled to come to the Court by virtue of section 16 of the Act and that the Court had no jurisdiction to entertain the application. The Sub-Divisional Magistrate, Abohar, exercising the powers of the authority under the Act, came to the conclusion that the petitioner was entitled to the relief prayed for; the application was maintainable and that the Court had the jurisdiction to decide the same. Ultimately, he directed the payment of Rs. 16,667 to the petitioner. An appeal was filed on behalf of the New India Assurance Co. against the said order of the Sub-Divisional Magistrate. There, the sole argument raised was that the authority under the Act did not

possess jurisdiction to hear an application made against an insurance company by one of its employees because the provisions of the Act do not extend to the insurance companies. This argument found favour with the learned Additional District Judge as it was found that the workman had failed to show as to how the provisions of the Act were applicable to his case. Consequently, the appeal was accepted.

(3) The learned counsel for the petitioner submitted that the New India Assurance Co. was an "industry" and, therefore, the Act was applicable to it. Reference was made to sub-section (4) of section 1 of the Act, to contend that this Act applies to the persons employed in any industrial or other establishment specified in sub-clauses (a) to (g) of clause (ii) of section 2. Reference was also made to the definition of "industry or other establishment", as contained therein. According to the learned counsel, an insurance company was an "industry" and, therefore, the provisions of the Act, were applicable to the petitioner. Reference in this behalf was made to *S. K. Verma* v. *Mahesh Chandra* (1). On the other hand, the learned counsel for the respondent submitted that the definition of "industrial or other establishment", in the Act, does not include the insurance companies and, therefore, the Act, as such was not applicable to them. The learned counsel further submitted that in the said definition in clause (h), it has been provided that an industrial or other establishment shall mean any other establishment or class of establishments which the Central Government or a State Government may, having regard to the nature thereof, the need for protection of persons employed therein and other relevant circumstances specify, by notification in the official gazette, but no such notification has been issued by either the Central Government or the State Government in this behalf.

(4) After hearing the learned counsel for the parties, I find no merit in this revision petition.

(5) The provisions of the Act were not applicable to the insurance company as it does not fall within the definition of industrial or other establishments as given in section 2 thereof. It is not the case of either of the parties that any such notification as contemplated in clause (h) of section 2 has been issued by either the Central Government or the State Government. In the absence of any such

(1) A.I.R. 1984 S.C. 1462.

notification no application as such was maintainable under the Act against the insurance company.

(6) "Industrial or other establishments", have been enumerated in section 2 and it could not be disputed that the insurance company is not one of them. That being so, it has been rightly held by the learned Additional District Judge that the provisions of the Act were not applicable to this case. Consequently, this revision petition fails and is dismissed.

(7) As regards Civil Revision Petition No. 2512 of 1989, Shri K. L. Garg, filed an application under section 15(2) of the Act, for the recovery of Rs. 22,000, as the non-refundable loan from his provident fund along with a compensation of Rs. 2,00,000 under section 15(3) of the Act. That application was also contested on the ground that the Act was not applicable and that the nature of the claim did not fall under section 15(2) of the Act. However, the learned Sub-Divisional Magistrate, Abohar, exercising the powers of the authority under the Act, allowed the application and directed the respondents to pay a total sum of Rs. 2,22,550, i.e., Rs. 22,000 as the non-refundable loan; Rs. 2,00,000 as the compensation and Rs. 550 as costs. The petitioner insurance company could file an appeal against the said order, but since it had become barred by time, they filed the present revision petition under Article 227 of the Constitution.

(8) A preliminary objection has been made on behalf of the respondent-workman that since no appeal was filed against the impugned order, no revision petition was competent. Reference in this behalf was made to *V. K. Press* v. *Authority etc. Act* (2).

(9) On the other hand, the learned counsel for the petitioner cited *Walaiti Ram* v. *Siri Krishan Kapoor* (3), and *S. G. Paper Mills* v. *Ram Labhaya Mal* (4). In the latter case, it was held that apart from section 115 of the Code of Civil Procedure, the High Court has power to examine the legality of an order under Art. 227 of the Constitution of India and that it was competent to interfere if the order could not have been legally made and was outside the jurisdiction of the authority concerned. Since it has already been held in the earlier case that the Act was not applicable to the insurance companies, the impugned order was without jurisdiction and, therefore,

(2) A.I.R. 1955 Allahabad 702.
(3) A.I.R. 1976 Delhi 50.
(4) A.I.R. 1960 Punjab 375.

could not be sustained. Under the circumstances, the preliminary objection has no force.

(10) The learned counsel for the petitioner further submitted that the authority under the Act has relied upon a notification dated December 23, 1969, to come to the conclusion that the Act was applicable to the insurance companies. A copy of the said notification was produced in this Court which reads as under :

> "In exercise of the powers conferred by clause (b) of sub-section (3) of section 1 of the Employees Provident Fund Act, 1952 (19 of 1952), the Central Government hereby specifies every establishment which is exclusively or principally engaged in general insurance business, employing 20 or more persons as a class of establishments to which the said Act shall apply with effect from the 31st January, 1970."

From the said notification, it is quite evident that it was issued under the Employees' Provident Funds Act, 1952 and not under the Payment of Wages Act. That being so, the learned authority wrongly relied on the said notification to come to the conclusion that the insurance business was an industry under the Act. No such notification has been produced in this Court as contemplated under section 2(h) of the Act. In these circumstances, the authority under the Act had no jurisdiction to entertain the application and the impugned order is liable to be quashed on this ground alone. However, in order to be fair to the learned counsel for the petitioner, he also submitted that even if we assume that the Act was applicable, even then, the application for recovery of loan was not maintainable as that did not fall within the definition of wages under section 2(vi) of the Act, nor the amount claimed could be said to be a deduction as provided under section 7 of the Act. Moreover, argued the learned counsel, the workman was a dismissed employee and, therefore, had no *locus standi* to file the present application. As observed earlier, since it has been held that the Act was not applicable to the insurance companies, the impugned order was without jurisdiction and, therefore, the other contentions raised on behalf of the petitioner need not be gone into.

(11) The net result of the above discussion is that Civil Revision Petition No. 224 of 1990 fails and is dismissed whereas Civil Revision Petition No. 2512 of 1989 is allowed and the impugned order is set aside with no order as to costs.

R.N.R.