

HDFC ERGO General Insurance Company Limited Vs Akbar Singh and others

Court: High Court Of Himachal Pradesh

Date of Decision: June 25, 2024

Acts Referred: Constitution of India, 1950 " Article 227

Hon'ble Judges: Ajay Mohan Goel, J

Bench: Single Bench

Advocate: Arvind Sharma, Nemo

Final Decision: Disposed Off

Judgement

Ajay Mohan Goel, J

By way of this petition filed under Article under 227 of the Constitution of India, the petitioner is praying for setting aside of order dated 4th May, 2024

passed by the Court of learned Senior Civil Judge, Court No.1, Rohru in Case No. 2 of 2023 under the Employees Compensation Act, 1923. In terms

thereof, the right of the petitioner to file response to the claim petition has been closed.

2. Having heard learned counsel for the petitioner, the petition is disposed of without issuance of notice to the respondents as the Court intends to

grant one opportunity to the petitioner to file response to the claim petition but by adequately compensating the claim petitioner by way of cost.

3. A perusal of the documents appended with the petition demonstrates that the petitioner was served for 3rd of November, 2023 and the petitioner

appeared before the learned Commissioner as respondent No.2 on 03.11.2023. Thereafter, despite four opportunities having been granted, no reply to

the claim petition was filed. In these circumstances, the impugned order was passed by the learned Commissioner closing the right of the present

petitioner to file response to the claim petition.

4. Primarily, this Court does not find any infirmity in the order so passed by the learned Commissioner because reasonable number of opportunities

were granted by the learned Commissioner to the party to file reply and if the party was not coming forth with the reply then the learned

Commissioner was not obliged to grant any further opportunity to the party to file reply. However, in the interest of justice, as prayed for by Mr. Hem

Singh Thakur, Advocate, the impugned order is hereby modified with the direction that the Court grants hereby one opportunity to the petitioner to file

response to claim petition subject to payment of cost of Rs.20,000/-to the claim petitioner by way of bank draft drawn in the name of the claim

petitioner. It is made clear that payment of the cost to the claim petitioner shall be condition precedent for filing of the reply and in case, this amount is

paid by the petitioner herein to the claim petitioner on the next date of hearing, which is 1st of July, 2024, then on the said date, the petitioner shall be

allowed to file its reply also. It is clarified that if the respondents failed to file reply on 1st of July, 2024, then the liberty that has been granted by this

Court to the petitioner shall cease to operate and the order passed by the learned Court below shall come into force for all intents and purposes.

Accordingly, the petition is disposed of, so also, the pending miscellaneous applications, if any.