FULL BENCH

Before D. Falshaw, C.J., Inder Dev Dua and D. K. Mahajan, JJ.

M/S. UNITED INDIA TIMBER WORKS AND ANOTHER,—*Appellants.*

versus

EMPLOYEES STATE INSURANCE CORPORATION,—*Respondent.*

First Appeal From Order No. 74 of 1963.

1966

January, 31st

Employees' State Insurance Act (XXXIV of 1948)—S. 96—Rules framed under, by the Punjab Government—Rule 17—Whether ultra vires*—Interpretation of Statutes—Purpose and aim of the Act—How far to be considered.*

Held, that rule 17 of the Rules framed by the Punjab State Government under section 96 of the Employees' State Insurance Act, 1948, is *ultra vires* the Act and must be struck down as invalid. Section 96(1)(b) does not empower the Punjab State Government to make a rule on the subject of prescribing a period of limitation for presenting applications to the Insurance Court. Considering the entire scheme of the Act, it is quite clear that fixation of any period of limitation for the Corporation to realise the contributions from the employer may tend seriously to obstruct the effective working and enforcement of the scheme of insurance and the omission of a provision on this point in the Act has been with a purpose.

Held, that while interpreting a statute it should be borne in mind that what is necessarily or clearly implied in a statute is as much a part of it and is as effectual as that which is expressed because it often speaks as plainly by necessary inference as in any other manner. The purpose and aims of an Act as discernible from its statutory scheme are accordingly important guide-posts in discovering the true legislative intent. One who considers only the letter of an enactment goes but skin deep into its true meaning: to be able to fathom the real statutory intent it is always helpful to inquire into the object intended to be accomplished. The precedent of statutory drafting affords a fairly useful aid in construing the phraseology of legislative intent.

Case referred by the Hon'ble Mr. Justice Inder Dev Dua on 28th November, 1963, to a larger Bench for decision of the important question of law involved in the case. The case was finally decided by a Full Bench, consisting of Hon'ble the Chief Justice Mr. D. Falshaw, the Hon'ble Mr. Justice Inder Dev Dua and the Hon'ble Mr. Justice D. K. Mahajan, on 31st January, 1966.

First Appeal from the order of Shri Salig Ram Seth, Judge, Employees Insurance Court, Ambala, dated the 8th January, 1963, accepting the application under section 75(2) of the Employees State Insurance Act, 1948, for the recovery of Rs. 2,316.46 nP: as employees contribution for the period, October, 1957 to 30th June, 1960, with costs.

TIRATH SINGH MUNJRAL, WITH S. S. DHINGRA AND MAHARAJ BAKHSH SINGH, ADVOCATES, for the Appellants.

J. N. KAUSHAL, ADVOCATE-GENERAL, WITH M: R: AGNIHOTRI, K. L. KAPUR, RAJINDER KUMAR AGGARWAL, V. K. SURI, ADVOCATES, for the Respondents.

JUDGMENT OF THE FULL BENCH

Dua, J.

DUA, J.—The short question canvassed before us relates to the *vires* of Rule 17 framed by the Punjab State Government under Section 96(1)(b) of the Employees' State Insurance Act, 1948 (hereinafter described as the Act) fixing a period of one year as the period of limitation for an application under section 75 of the Act. The appeal has been referred to a Full Bench because the correctness of a Bench decision of this Court in *Chanan Singh* v. *Regional Director, Employees State Insurance Corporation* (1), is being challenged by the Employees State Insurance Corporation, respondent before us.

It is unnecessary to state the facts in detail. Suffice it to say that the Employees State Insurance Corporation (respondent in this Court) through its Regional Director submitted an application under section 75(2) of the Act to the Employees Insurance Court for the recovery of Rs. 2,316.46 nP. as employees' contribution from M/S United India Timber Works, Yamuna Nagar. Shri Kartar Singh, Manager and Principal employer, was also made a party in addition to the United India Timber Works. The amount claimed related to the period from 31st December, 1957 to 30th September, 1958 and from 1st October, 1958 to 30th June, 1960. The factory in question was inspected on 25th July, 1960 and the application was made on 6th January, 1962. Among other defences, this claim was resisted by the present appellant on the plea of time-bar and Rule 17 was relied upon in support of this objection. Support for this objection was also sought from a Bench decision of this Court in *M/S R. K. Beri and Co.* v. *Employees State Insurance Corporation* (2). The Employees Insurance Court took the view that Rule 17 was beyond the powers of the State Government and on this view repelled the objection founded on the plea of time-bar. The decision in the case of *M/s R. K. Beri* was not considered to be of any help because the question of *vires* of Rule 17 having not been canvassed in that case, there was no decision on this point and no opinion was expressed on it.

On appeal in this Court, which came up before me sitting in Single Bench, reliance on behalf of the respondent was placed on a Bench decision of the Madhya Pradesh

(1) I.L.R. (1963) 2 Punj. 11.
(2) A.I.R. 1962 Punj. 308.

High Court in *Employees' State Insurance Corporation* v. *Madhya Pradesh Government* (3), and it was submitted that the various aspects which call for consideration for determining the *vires* of Rule 17 were not canvassed before the Bench of this Court in *Chanan Singh's case* and, therefore, that decision may be re-examined by a larger Bench. In pursuance of this suggestion, this appeal was on 1st November, 1965, placed before a Full Bench consisting of my Lord the Chief Justice, Khanna J. and myself when it was considered proper to give notice to the Advocate-General because the constitutionality of Rule 17 made by the State Government was being questioned. It is in these circumstances that this appeal has now been placed before us for disposal, and, as observed earlier, the only question relates to the *vires* of Rule 17.

I may here appropriately reproduce the relevant portion of section 96 of the Act and Rule 17 made by the State Government thereunder :—

Power of State Government to make rules.

96. (1) The State Government may, subject to the condition of previous publication, make rules not inconsistent with this Act in regard to all or any of the following matters, namely:—

* * * * * * * *

(b) the procedure to be followed in proceedings before such Courts and the execution of orders made by such Courts.

* * * * * * * *

(h) any other matter which is required or allowed by this Act to be prescribed by the State Government.

(2) Rules made under this section shall be published in the Official Gazette and thereupon shall have effect as if enacted in this Act."

"Rule 17(1) *Limitation.*—Every application to the Court shall be brought within twelve months from the date on which the cause of action arose or as the case may be the claim became due:

(3) A.I.R. 1964 M.P. 75.

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Provided that the Court may entertain an application after the said period of twelve months if it is satisfied that the applicant had sufficient reasons for not making the application within the said period.

(2) Subject as aforesaid the provisions of Parts II and III of the Indian Limitation Act, 1908 (IX of 1908) shall, so far as may be, apply to every such application."

The short question which requires our determination is if Rule 17 falls within the rule-making power delegated to the State Government by section 96. I have also reproduced clause (h) of section 96(1) because in the course of his arguments, the learned Advocate for the appellant at one stage sought, though somewhat faintly, to sustain the State Government's power to make Rule 17 on the basis of this clause. But this contention was not seriously persisted in and, in my opinion, rightly. For one thing, the Rules themselves expressly purport to be made by the State Government in exercise of the powers conferred by clauses (a) to (e) of section 96(1) and not in exercise of the power conferred by clause (h). It is undoubtedly true that mere recitation of wrong source of power may not necessarily vitiate the rule, but in the instant case, the language of clause (h) itself excludes its applicability. This clause extends the power of making rules to those matters which are required or allowed by the Act to be prescribed by the State Government and it is not shown that the matter of prescribing a period of limitation has otherwise been required or allowed by the Act to be prescribed by the State Government. Clause (h) is thus clearly inapplicable and the question has only to be considered on the language of clause (b), to which aspect I now turn.

Shri Tirath Singh Munjral, learned Advocate, for the appellant, has place his reliance in support of the constitutionality of Rule 17 on the Bench decision of this Court in *Chanan Singh's case* (1) and on a Bench decision of the Allahabad High Court in *M/s A. K. Brothers* v. *Employees' State Insurance Corporation* (4). Emphasis has very strongly been laid by the counsel on the fact that in the Allahabad decision the view taken by the Madhya Pradesh High Court in *Employees State Insurance Corporation* v. *Madhya Pradesh Government* (3), has been fully

(4) A.I.R. 1965 All. 410.

examined and disapproved. The Punjab decision in *Chanan Singh's case* (1) was not brought to the notice of the Allahabad High Court and stress is laid on the point that the Allahabad High Court also independently came to a conclusion contrary to that of the Madhya Pradesh High Court and in conformity with that taken by this Court in *Chanan Singh's case.* It may be observed that the decision proceeded principally on the view that the fixing of a period of limitation being a matter of procedure, the State Government was competent and within its power under section 96(1) (b) to frame Rule 17 which is not inconsistent with any provision of the Act. The argument of inconsistancy, it appears, was founded on the fact that the Act contains sections 80 and 82 which provide for a period of limitation for certain matters but this argument was repelled with the observation that Rule 17 could only be inconsistent if the Act had fixed a different period of limitation for an application by an employee governed by section 80 : it was added that the period of one year fixed in section 80 had been adopted in Rule 17 within evidently applies equally to applications of employees and by the Corporation. In the Allahabad decision, reference was also made to Rule 16 made by the State Government fixing the place of suing : this matter having been conceded at the bar to be one of procedure, the Court felt little difficulty in holding the rule as regards limitation also to be a matter of procedure. The ratio of this case is clear from the head-note which had better be read :—

> "Rule 17 of the U.P. Employees Insurance Court Rules (1952) prescribing period of limitation for an application under S. 75(2) of the Act is a matter of procedure and is covered by the rule-making power conferred on the State Government under S. 96(1) (b) of the Act. The rule is not *ultra vires* of the Act :
>
> It is not correct to say that if a claim of the Corporation under S. 75(2) of the Act is allowed to be defeated by a rule of limitation, an employer can defeat the Act simply by refusing to furnish return in time. It is always open to the Corporation to collect the necessary information from other sources and to take action under S. 85 of the Act against such employer.

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Assuming that the proceedings under sections 68 and 94 of the Act do not contemplate any rule of limitation, it does not follow that there cannot be any limitation for proceedings under S. 75 of the Act. If there are two alternative remedies, it is conceivable that there is some limitation as regards one remedy but no limitation as regards the alternative remedy.

The mere fact that Parliament thought it fit to lay down two specific periods of limitation, for two types of proceedings under sections 80 and 82 of the Act does not lead to the conclusion that it is impossible for some appropriate authority to lay down a period of limitation for some other proceeding under the rule-making power."

Shri Tirath Singh has also drawn our attention to Article 145 of the Constitution which empowers the Supreme Court to make rules for regulating generally its practice and procedure. Particular stress has been laid on clause (b) of sub-article (1) which specifically provides for rules as to "procedure for hearing appeals and other matters pertaining to appeals including the time within which appeals to the Court are to be entered". It is sought to be inferred from this that fixing of period of limitation pertains to the domain of procedure for the purpose of delegation of rule-making power. Reference has next been made to the *Union of India* v. *Ram Kanwar* (5), in which Rule 4 made by this Court under Clause 27 of the Letters Patent fixing a period of limitation of 30 days for preferring appeals under Clause 10 of the Letters Pattent has been upheld. The expression "practice of the Court", according to the counsel, includes the provision as regards limitation for approaching the Court. Support for this submission is also sought from Words And Phrases (Permanent Edition) Vol. 34, p. 78, Column II, where the word "Procedure" is stated to include in its meaning whatever is embraced by the terms "pleadings", "evidence" and "practice", and "practice" in this sense means those legal rules which direct the course of proceedings to bring parties into Court and the course of the Court after they are brought in. The word "practice" is, according to this passage, also defined the form, manner and order of conducting and carrying on suit or prosecutions in the Courts through their various

(5) A.I.R. 1962 S.C. 247.

stages, according to the principles of law and rules laid down by the respective Courts. For this observation, reference has been made to a decision of the Supreme Court of Illinois in *Hunt* v. *Rosenbaum Grain Corporation* (6). According to the counsel, in face of clear language of section 96(1) (b), the scheme of the Act can have no relevancy because it is not permissible for the Court to restrict or narrow down a clear provision in a statute by reference to what the Court may otherwise consider to be the statutory scheme. The section, so argues the counsel, is also a material part of the statutory scheme.

The learned Advocate-General appearing in pursuance of our notice has drawn our attention to a recent Bench decision of the Madras High Court in *M/s Solar Works* v. *Employees' State Insurance Corporation* (7), in which overruling an earlier decision of a learned Single Judge of that Court, Rule 17 has been held to be *ultra vires* the Act. The counsel commends to us the reasoning of this decision describing the discussion contained therein to be exhaustive and the conclusion arrived at in accordance with the scheme of the Act construed as a whole including section 96. The head-note of this Bench decision may now appropriately be read :—

> "Where an Act itself does not provide for limitation with reference to a particular matter and the delegation of power to make rules is conferred by a section of the Act which does not, expressly or impliedly, relate to the power to prescribe time, the authority to which the power is delegated (the State in this case) cannot make a rule prescribing limitation. Where the rule-making power is conferred by a section of the Act, and it is contemplated that the rule making authority might also prescribe limitation, there is a specific reference to the power to prescribe time, in some form or another, in the section concerned.
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> Section 96(b) of the Employees' State Insurance Act does not refer, in any sense to a power to prescribe time, or to lay down any rule of limitation. In the light of the tendency shown in recent times, not to consider the power to prescribe limitation as merely a part of procedural

(6) 189 M.E. 907.
(7) A.I.R. 1964 Mad. 376.

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provisions, at least so far as legislative competence is concerned, Sec. 96(b) does not authorise the State Government to make a rule for limitation. Consequently R. 17, of the Madras Employees' Insurance Court Rules, 1951, laying down limitation for application to recover employer's contribution as it stands is *ultra vires* of the rule-making power of the State.

The liability under the Act to make the relevant contributions, the failure to make which leads to an application under Section 75 for recovering the same by the employees of the Corporation is primarily that of the employer. Actually, the default in this respect might be brought to the notice of the Corporation only if an individual case arose, and if there is to be a strict rule of limitation in this behalf as envisaged by R. 17, the result may constitute very great hardship to the employees and their organisation and deprivation of the benefits.

The Madras High Court, it may be pointed out, came to its conclusion independently without its attention having been drawn to the decision of the Madhya Pradesh High Court. According to the learned Advocate-General, Rule 17 seems to be inconsistent with the Act as it has the effect of depriving the Corporation of its dues under the Act in the form of contribution which every employer is under an obligation to pay. The right of the Corporation to realise the contributions from the employer should not get lost by virtue of a rule framed by the State Government when the Act does not so contemplate. Shri Kaushal has tried to re-inforce himself by referring us to item No. 13 in List III of Schedule VII of the Constitution and to entry No. 4 in List III of Schedule VII of the Government of India Act, 1935 in support of the view adopted by the Madras High Court that according to the recent prevailing practice in regard to legislative competence, "limitation" is treated as a separate subject distinct from "procedure".

Shri K. L. Kapur, learned Advocate, for the Corporation has taken us through the referring order of the learned Single Judge of the Madras High Court *in the case of M/s Solar Works*, which, according to the counsel, is more

detailed and which has, by a comparatively less detailed order, been approved by the Division Bench. He has in addition placed reliance on section 40(4) of the Act, according to which any sum deducted by the principal employer from the wages of employees under the Act are to be deemed to have been entrusted to him by the employees for the purpose of paying the contribution in respect of which it is deducted. The argument proceeds thus : this amount becomes a trust property : according to the general law relating to trusts, a trustee cannot set up a title to trust property adverse to the interest of the beneficiary : nor can a trustee use or deal with the trust property for his own profit or for any purpose unconnected with the trust : indeed, the Limitation Act grants a total exemption from the bar of limitation in regard to the suits for the purpose of following the trust property or the proceeds thereof in the hands of the trustees : the Legislature should, therefore, not be presumed to have intended to prescribe any period of limitation for proceedings to realise this sum. This is, according to the submission, an additional reason for adopting the view taken by the Madras High Court. Shri Kapur has also taken pains to bring to our notice a list of some of the statutes enacted by the Union Parliament and by the Punjab Legislature in which, when conferring rule-making power on a delegate, the subject of 'limitation' has been treated as distinct and separate from that of 'procedure'. Those statutes may appropriately be mentioned here :—

Statutes enacted by the Union Parliament.

1. Sections 17 and 48 (2) (f) of the Life Insurance Act 31 of 1956.
2. Section 68(2) (b) and (j) of the Motor Vehicles Act IV of 1939.
3. Section 56(2) (r), Administration of Evacuee Property Act 31 of 1950, and
4. Section 28(2) (c) of the Representation of the People Act 43 of 1950.

Statutes enacted by the Punjab State Legislature.

1. Section 27(2)(r) of the East Punjab General Sales Tax Act 46 of 1948.
2. Section 22(2) (1) of the Punjab Forward Contracts Tax Act VII of 1951.

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3. Section 19(2) (f) of the Punjab Betterment Charges and Acreage Rates Act, II of 1953.
4. Section 3(h) of the Punjab Professions, Trades, Callings and Employments Taxation (Amendment) Act 10 of 1962, amending section 11 of the Punjab Act 7 of 1956, and
5. Section 9(c) of the Punjab Cinemas (Regulation) Act XI of 1952.

Shri Tirath Singh has in reply criticised the Madras decision by submitting that the Court in that case did not take into consideration the provisions of section 76 of the Act which expressly accede to the rules made under the Act a controlling power in regard to the institution of proceedings. He has also relied on the *New Piece Goods Bazaar Co. Ltd.*, v. *Commissioner of Income-tax* (8), for the argument that the elementary and primary duty of a Court is to give effect to the intention of the Legislature as expressed in the words used by it and no outside consideration can be called in aid to find that intention. According to the counsel, the Madras view is unsound and should not be preferred to the view of this Court and of the Allahabad High Court.

I have devoted by most anxious thought to the arguments addressed at the bar and have also accordingly considered the views contained in the decisions to which our attention has been drawn. I am inclined to think that the approach, reasoning and the conclusion of the Madras High Court *in the case of M/s Solar Works* (7) is unexceptionable, and indeed it also finds clear support from section 40(4) of the Act: the general statutory scheme of the Act, which, in my opinion, is relevant and helpful in discovering the true meaning of section 96, would also seem to favour this view. It is true that in the case of *M/s R. K. Beri and Co.* (2) an application by the Corporation was held to be barred by limitation on the basis of Rule 17, but in that case the *vires* of the rule was not questioned before us. The argument mainly centred round the question of sufficient cause for the delay in presenting the application. The case was referred to a larger Bench by my learned brother D. K. Mahajan, J. and the judgment of the Bench was prepared by me, Mahajan J. agreeing. Coming to the decision in *Chanan Singh's case* (1), it is obvious that the arguments addressed to the Court did not

(8) A.I.R. 1950 S.C. 165.

advert to the various aspects placed before us on the present occasion, not even those that were placed before the Madras High Court. The decision in that case, therefore, cannot be considered to conclude the matter. The view taken by the Allahabad Court in the case of *M/s A. K. Brothers* (4) is for similar reasons equally inconclusive. The reasoning of the Madras High Court appears to be quite rational with which no serious fault can be found, and indeed no valid and convincing criticism has been levelled against it on behalf of the appellant.

The scheme of the Act, as I have been able to understand it, may broadly be stated. This Act was enacted to provide for certain benefits to the employees as defined in the Act in case of sickness, maternity and employment injury, as also for certain other matters in relation thereto. The Employees State Insurance Corporation, a body corporate having perpetual succession and a common seal, is established under section 3 for the administration of the scheme of Employees' State Insurance. All employees in factories and establishments covered by the Act are to be insured and they are all entitled to the various benefits provided therein. The employers are under a mandatory obligation initially to pay to the Corporation even the employees' contribution in addition to their own : they are, however, entitled to deduct the employees' contribution from their wages for the relevant period. The sum so deducted by the employers from the employees' wages is to be deemed to be trust property in the hands of the employers for the purpose of paying the contribution for which it is deducted. The Insurance Court established under the Act has an exclusive jurisdiction to enforce realisation of contributions and the civil Courts' jurisdiction is expressly barred and excluded in such matters. This scheme prominently brings out the fact that the employers' obligation to pay the employees contribution is founded on a basic public purpose for which the Act is enacted. In order, therefore, to effectuate and accomplish this purpose, the realisation of the contributions from the employers is essential and of paramount importance; any obstruction in the way of its realisation seems to me to be calculated very seriously to obstruct, if not to completely defect, the basic purpose for bringing this Act on the statute book. At this stage, I consider it appropriate to point out, what is fairly well-recognised, that what is necessarily or clearly implied

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in a statute is as much a part of it and is as effectual as that which is expressed because it often speaks as plainly by necessary inference as in any other manner. The purposes and aims of an Act as discernible from its statutory scheme are accordingly important guide-posts in discovering the true legislative intent. One who considers only the letter of an enactment goes but skin deep into its true meaning : to be able to fathom the real statutory intent it is always helpful to inquire into the objection intended to be accomplished. Considering the entire scheme of the Act before us, it is quite clear that fixation of any period of limitation for the Corporation to realise the contributions from the employer may tend seriously to obstruct the effective working and enforcement of the scheme of insurance. It appears to me that omission of a provision on this point in the Act itself has been with a purpose. When the Legislature inserted a provision in regard to limitation under sections 80 and 82, it could easily have also inserted a similar provision in section 76. The purpose for leaving this matter of vital importance to the State Government to be provided in the rules, which are not required to be placed before the Parliament, as some statutes do in respect of important rules framed by the delegate, is not easy to appreciate. And then in case it was really intended to be left to the State Government, the question arises why was this power not delegated in the rules in express words, and why was it left to be merely inferred from the use of the somewhat ambiguous expression "procedure to be followed in proceedings before such Courts". This expression does seem to be capable of being construed so as to convey an impression that procedure mentioned therein refers only to the procedure to be followed by the Court in the proceedings before it and not the procedure which affects a step prior to that stage. It is true that the law of limitation has been described as a law relating to procedure in *pari materia* with the Code of Civil Procedure, but such observations are usually—If not almost invariably—made while considering the question of retrospective operation of a law prescribing a period of limitation for instituting legal proceedings. Such a law is usually taken to come into force immediately and it controls all proceedings initiated thereafter, even though the cause of action may have arisen earlier. Another consideration which usually supports the procedural character of the law of limitation is that rules of limitation merely effect the remedy and do not destroy the right.

It is perhaps in this sense that law of limitation is considered as law relating to a matter of producer. There are, however, exceptions to this rule, as for example in the Limitation Act, at the determination of the period limited to any person for instituting a suit for possession of any property, his right to such property gets extinguished. Similarly, in the present case, as provided by section 75(3), no civil Court can have jurisdiction to decide or deal with or to adjudicate on any question, dispute or liability which the Employees Insurance Court is empowered to decide, deal with, or adjudicate on. On the expiry of the prescribed period of limitation, the right to realise contribution from the employer must, for all practical purposes, be considered to be extinguished or lost. This right is created by the statute which also prescribes the method of enforcing it, at the same time excluding recourse to the civil Court for its enforcement. When the prescribed method is lost, the right itself would also seem apparently to be lost, because there is no other method of enforcing it. In such a contingency, in my view, to prescribe a period of limitation may not be said to be concerned merely with a matter of procedure. The expression "procedure to be followed in proceedings before such Courts" used in section 96(1) (b) also appears to me to be of a somewhat narrower import than the expression "procedure and practice of the Court". The appellant's submission would, therefore, seem to me to be somewhat inapt when applied to section 96(1) (b) of the Act. Finally, the practice of legislative drafting, as disclosed in various enactments, to which our attention has been drawn by Shri K. L. Kapur, seems to land further support to the view that if the rule-making power had been intended to extend to the framing of a rule prescribing a period of limitation, then such intention would, and perhaps should, have been more clearly expressed by using precise words rather than by using general expressions like those actually used in clause (b). The precedent of statutory drafting, in my opinion, affords a fairly useful aid in construing the phraseology of legislative enactments and in discovering the true legislative intent. The construction of section 96(1) (b) suggested by the respondent seems to me to be clearly permissible on the language and scheme of the Act and is calculated to promote and effectuate the aim, object and purpose of enacting it. This construction has for this among other reasons commended itself to me in preference to the rival construction suggested on behalf of

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the appellant. Section 96(1)(b) accordingly does not empower the Punjab State Government to make a rule on the subject of prescribing a period of limitation for presenting applications to the Insurance Court.

For all these reasons, in my opinion, Rule 17 is clearly *ultra vires* the Act and must be struck down as invalid. There being no other point left in the case, this appeal must fail but in view of the circumstances, there would be no order as to costs.

D. FALSHAW, C.J.—I have had the advantage of reading the judgment of my learned brother Dua J. and have no hesitation in agreeing with his view that rule 17 framed by the Punjab Government is *ultra vires*. The judgment in *Chanan Singh's case*, (1) for the delivery of which I was responsible, proceeded entirely on the basis that limitation was purely a matter of procedure, but I now realise that this is an over-simplification and I have been convinced on this matter by the reasons given by the learned Judges of the Madras and Madhya Pradesh High Courts, which carry the matter a step further. I, therefore, agree that the appeal should be dismissed with the parties bearing their own costs.

D. K. MAHAJAN, J.—I agree.

B.R.T.

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