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SLP(C)No. 5448 OF 2003
ITEM No.34

Court No.10

SECTION XV
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.5448/2003
(From the judgement and order dated 21/11/2002 in DBCSA 942/01
of The HIGH COURT OF RAJASTHAN AT JAIPUR)

CENTRAL COUNCIL, RESEARCH IN AYUR.&SIDDHA Petitioner (s)

VERSUS

BRAJESH KUMAR SHARMA Respondent (s)

(With Appln(s). for directions and with prayer for interim relief and office report)

Date : 16/01/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE P.VENKATARAMA REDDI
HON'BLE MR. JUSTICE B.P. SINGH

For Petitioner (s)

Mr. Tara Chandra Sharma, Adv.

Ms. Neelam Sharma, Adv.

For Respondent (s)

Mr. Ashok Sharma, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

Appeal is disposed of in terms of the signed order. There shall be no order as to costs.

(Vijay Kumar Sharma) (Prem Prakash)
AR cum PS to Hon. Judge Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIAN
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.311/2004
(Arising out of SLP (C) No.5448/2003

CENTRAL COUNCIL FOR RESEARCH IN AYURVEDA AND SIDHA .. Appellant

Versus

BRAJESH KUMAR SHARMA .. Respondent

O R D E R

Leave granted.

The point raised before the Division Bench in the Special Appeal was that the appellant is not an 'industry' within the meaning of Industrial Disputes Act, 1947. This contention was raised before the learned single Judge who rejected the same with a cryptic observation "it is too late in the day to argue that petitioner is not an industry." On appeal, the Division Bench dismissed the appeal in limine with an observation that "the appellant has failed to satisfy the Court that the appellant is not an industry within the meaning of the Industrial Disputes Act."

We are of the view that the important question raised by the appellant is at least a debatable point and it should have been duly considered and conclusion reached on merits after admitting the matter. The summary rejection of this contention is not warranted. We, therefore, set aside the impugned order and remit the matter to the High Court. The High Court shall now take up the hearing of the special appeal

at an early date and after hearing both the counsel, decide the point whether the appellant is an industry. In the meanwhile, the respondent shall be reinstated in service within a period of one month from today or in the alternative if the appellant does not want to take him back on duty, then the provisions of Section 17-B of the Industrial Disputes Act shall be complied with. Payment of back wages shall remain stayed till the disposal of the appeal. The appeal is disposed of accordingly. There shall be no order as to costs.

.....J
(P.Venkatarama Reddi)

.....J
(B.P. Singh)

New Delhi,
January 16, 2004