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C.A.No. 4394 OF 2002

ITEM No.104

Court No.11

SECTION IV

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

Civil Appeal No.4394/2002

Harish Chander & Ors. Appellant (s)

vs.

State of Haryana & Ors. Respondent (s)

Date:25/11/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE BRIJESH KUMAR

HON'BLE MR. JUSTICE ARUN KUMAR

For Appellant (s)

Mr. Sudhir Nandrajog,Adv.

Ms. Suprita Chattopadhyay,Adv.

For Respondent (s)

Mr. Mahabir Singh,Adv.

Mr. Rakesh Dahiya,Adv.

Mr. Nikhil Jain,Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is dismissed in terms of the signed order.

(Sarojbala)(Promila Nagpal)

PA to Addl.Registrar

Court Master

(The signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4394 OF 2002

Harish Chander & Ors. Appellant(s)

Vs.

State of Haryana & Ors. Respondent(s)

O R D E R

So as to get the advantage of pay revision, as recommended by the Pay Commission appointed by the State of Haryana, the appellants filed a writ petition in the High Court. According to the recommendations the benefit of pay revision would be available but the units which have incurred losses for three consecutive years could be excluded. The recommendation for revision of pay was made in 1998 to be effective from 1.1.1996. There is no denial of the fact that the appellants who have been working with Respondent No.3 the Spinning Mill, Hansi has been incurring losses for last three years but the submission is that it could not be treated as a separate loss incurring unit since it is a subsidiary and a part of Haryana State Cooperative supplies and Marketing

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Federation Ltd. It is submitted that it was created by the said Federation and virtually it is run by it. The said Federation is not running in losses. It is a profit making establishment. It is further indicated that some of the units of the Federation, which have been incurring losses, have been allowed the benefit of revision of pay scale on the basis that they are units and subsidiaries of the Federation but the same standard has not been applied to the appellants. In certain correspondence it has been indicated that the Spinning Mill, Hansi is a subsidiary of the Federation. This fact, however, is vehemently denied by the Federation.

No Material has been placed on record to indicate the share capital of the Federation or the Spinning Mill Unit, Hansi. However, we also find no proper material to record such a finding of fact. Prima facie, what is evident is that, essentially the Spinning Mill, Hansi was created by means of registration of a cooperative society separately. It is also on record that in 1985 the Spinning Mill was leased out to the Federation for a period of 10 years. The above fact apparently leaves nothing to draw an inference that these are not separate entities/bodies, at least for the purpose of present claim of the appellants.

For taking a different view and or recording a finding, that Spinning Mill, Hansi, is a subsidiary of the Federation the learned counsel for the appellants wanted us to

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look into other details and allow the appellants to place further material on the record. We refrain from entering into that exercise. It was one of the conditions in the recommendation that loss making units may be excluded from pay revision. Apparently the Spinning Mill, Hansi established by a cooperative societies separately registered was leased out to the Federation. They don't seem to constitute one establishment.

We are not inclined to take a different view in the matter nor we find it a matter to be interfered with. The appeal is, therefore, dismissed. No order as to costs.

.....J.
(BRIJESH KUMAR)

.....J.
(ARUN KUMAR)

NEW DELHI
NOVEMBER 25, 2003.