

C.A.No. 7893 OF 2002

ITEM No.114

Court No. 1

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. 7893 of 2002

Motia Devi and Ors.Appellant (s)

VERSUS

Municipal Corporation, FaridabadRespondent (s)

(With office report)

Date : 31-03-2004 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE S.B. SINHA  
HON'BLE MR. JUSTICE S.H. KAPADIA

For Appellant (s)Mr. Sundeep Srivastava, Adv.  
for Mr. S.K. Sabharwal, Adv.

For Respondent (s)Mr. Praveen Kumar Rai, Adv.  
for Mr. J.P. Dhanda, Adv.

UPON hearing counsel the Court made the following  
O R D E R

The appeal is dismissed. There shall be no order as to costs.

[ Alka Dudeja ] [ Janki Bhatia ]  
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7893 OF 2002

Motia Devi & Ors.?Appellants

Vs.

Municipal Corporation, Faridabad.?Respondent

O R D E R

One Shri K.L. Gulati, the husband of appellant no.1, was an employee of the Faridabad Notified Area Committee. Subsequently, the Faridabad Notified Area Committee was renamed as 'Faridabad Complex Administration' for short 'the Administration'). The Administration has since been re-named as 'the Municipal Corporation'. On 31st October, 1984, Shri K.L. Gulati retired from the service and on 3rd June, 1992, he died. It is not disputed that on retirement, Shri K.L. Gulati opted for Provident Fund, which scheme was applicable to the employees of the Administration. The State of Haryana, by a Notification dated 5th March, 1993, provided for pension scheme to the employees of the Municipal Corporation. The scheme provided that it shall come into force with effect from 16th April, 1992. The appellants herein, who are the wife and children of Shri K.L. Gulati, filed a suit for mandatory injunction for the grant of pensionary benefits to them. The trial Court decreed the suit and the appeal preferred against the said judgment before the First Appellate Court was dismissed. Aggrieved, the defendant-respondent preferred a second appeal before the High Court, which was allowed and the suit was dismissed. It is against the said judgment, the plaintiff-appellants are in appeal before us. Learned counsel urged that the High Court fell in error in holding that the Notification dated 15th April, 1992 was not applicable to the employees, who retired prior to 16th April, 1992. We do not find any merit in the arguments. The scheme itself provided that it shall come into force with effect from 16th April, 1992 and will apply to those who were appointed on or before 16th April, 1992 on full time regular basis or were working immediately before 16th April, 1992 and opted for those rules. It is not disputed that Shri K.L. Gulati had already retired in 1984 and was not working on the relevant date, i.e., 16th April, 1992. Under such circumstances, we are in agreement with the view taken by the High Court. It was then urged that in any case by virtue of Notification dated 13th January, 1975, the appellants were entitled to pensionary benefits. We also do not find any merit in this argument. Note 1 of Rule 3.16 of the Punjab Civil Service Rules excluded the application of pension schemes to the employees of the Municipalities. For the aforesaid reasons, we do not find any merit in this appeal. It fails and is, accordingly, dismissed. There shall be no order as to costs. ??????CJI.

???????..J.  
(S.B. Sinha)

???????..J.  
(S.H. Kapadia)

New Delhi,  
March 31, 2004.

