

The High Court Of Madhya Pradesh

WP-2193-2017

(THE STATE OF MADHYA PRADESH Vs SUNIL SIRSIYA (DECD.) THRU. SMT. RADHA BAI SIRSIYA)

Indore, Dated : 29-09-2018

Shri Aditya Garg, learned Govt. Advocate for the petitioner/State.

Shri S.K. Chourasia, learned counsel for the respondent.

Petitioner/State by challenging the award dated 23.09.2016 passed in Case No.52/Ref.I.D.2011 has preferred this writ petition under Article 227 of Constitution of India in our supervisory jurisdiction raising a solitary contention that despite death of the petitioner Sunil Sirsiya, the labour Court proceeded with the adjudication and awarded monetary benefits to the legal representatives of late Sunil Sirsiya from the date of termination of the employment till the date of death on 31.10.2013.

Shri Aditya Grag, learned G.A. for the petitioner/State submits the judgment passed by the labour Court either in favour or against dead person is nullity; the settle legal position. As such the labour Court committed a grave illegality while passing the award. He relies upon the judgment of the Hon'ble Supreme Court in the case of **Gurnam Singh (D) Thr. LRs and others V. Gurbachan Kaur (D) by LRs and others 2017 (2) JLJ 166.**

Per contra, learned counsel for the respondent does not dispute that the deceased Sunil Sirsiya had died during pendency of reference case. He also does not dispute that no efforts were made to substitute the LRs.

Under such circumstances, the impugned order, in the considered opinion of this Court, cannot be sustained accordingly set aside. However, in the fitness of things, it is considered apposite to remand the case to the trial Court with liberty to the respondents herein to file an application for substitution of LRs of late Sunil Sirsiya. The trial Court shall consider the application in accordance with law. However, delay caused shall be condoned, provided the application is filed within 15 days. Thereafter, trial Court shall proceed and decide the dispute on merits within six months from the date of receipt of certified copy of this order.

With the aforesaid observation and direction, writ petition stands disposed of.

**(ROHIT ARYA)
JUDGE**