

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No. 203 of 2005**

- Ramlal Sonkar, S/o Derha Sonkar, Aged about 50 years, village Medesara, P.S. Nandani Nagar, Tahsil Dhamdha, District Durg, Chhattisgarh.

---- Petitioner

Versus

1. Smt. Sonapuhle Salma, W/o Late Jitendra Salma, Aged about 25 years, R/o Rajubadi, Village Post Karanja Bhilai, District Durg, Chhattisgarh.
2. Kumari Panchali, Aged about 10 years, through their guardian mother Smt. Sonapuhle Salma, Respondent No.1, R/o Rajubadi, Village Post Karanja Bhilai, District Durg, Chhattisgarh.
3. Kumari Panchmi, Aged about 8 years, through their guardian mother Smt. Sonapuhle Salma, Respondent No.1, R/o Rajubadi, Village Post Karanja Bhilai, District Durg, Chhattisgarh.
4. Soisal, Aged about 2 years, through their guardian mother Smt. Sonapuhle Salma, Respondent No.1, R/o Rajubadi, Village Post Karanja Bhilai, District Durg, Chhattisgarh.
5. State of Chhattisgarh, Through the Secretary, General Administration Department, D.K.S. Bhawan, Raipur, Chhattisgarh.
6. The Additional Tahsildar, Dhamda, District Durg, Chhattisgarh.

7. The Presiding Officer, Labour Court, Durg, Acting as Commissioner for Workmen, Durg, District Durg, Chhattisgarh.

---- Respondents

For Petitioner	:-	None
For Respondent/State	:-	Ms. Fouzia Mirza, Additional A.G.

Order On Board

By

Shri Prashant Kumar Mishra, J.

18/07/2019

1. None appears for the petitioner in both the rounds, therefore, this Court proceeded to decide the matter upon perusal and scrutinizing the record and hearing learned Additional Advocate General.
2. In this writ petition, challenge is to the order passed on 05.06.2004 by the Labour Judge, Durg acting as Workmen's Compensation Commissioner, thereby rejecting the petitioner's application for setting aside the *ex-parte* award dated 14.05.2002.
3. Perusal of the impugned order Annexure P-8 would reveal that in the original proceedings the petitioner was duly noticed and had appointed a counsel who failed to present himself at the time of hearing before the Commissioner Workmen's Compensation, therefore, he was proceeded *ex-*

parte on 07.07.2002. The Labour Court has observed that neither the petitioner nor his counsel appeared before Labour Court on different dates, therefore, he was not sincere and diligent in participating in the proceedings and defending the action brought against him. It is also noticed that the application for setting aside *ex-parte* award has been preferred after receipt of notice of execution proceedings. Considering all the relevant aspects of the matter the Labour Court has observed that the petitioner has failed to demonstrate reasonable and sufficient cause for his non-appearance on 02.02.2002 and 19.02.2002 as also on 14.05.200, therefore, his application for setting aside the *ex-parte* award does not appear to be sustainable. The Labour Court's reasoning for rejecting the prayer for setting aside *ex-parte* award does not suffer from any infirmity.

4. Challenge to the order is thrown on another legal/technical ground that the Labour Court at Durg was not notified as the Authority to deal with the case under the Workmen's Compensation Act, 1923, therefore, the order is without jurisdiction or authority.
5. In the reply filed by the respondent reference is made to the Adaptation of Laws Order, 2001 by a notification issued by the State Government in exercise of powers under Section 79 of the MP Re-Organization Act, 2000 issued on 25th

October, 2002, notifying that the laws as amended from time to time, specified in the Schedule to this order which were enforced in the State of Madhya Pradesh immediately before the formation of the State of Chhattisgarh, are hereby extended and shall be enforced in the State of Chhattisgarh until repealed or amended. Subject to the modification that in the laws, for the word "**Madhya Pradesh**" wherever they occurred word "**Chhattisgarh**" shall be substituted. The Schedule refers to the **Madhya Pradesh Industrial Relations Act, 1960** and the rule 61 framed thereunder. It is under this provision Labour Court/Labour Judge are appointed in the State of Madhya Pradesh or in the state of Chhattisgarh, as the case may be. By another Notification dated 28.08.1964 filed by the State as Annexure R-1 in WP No.1790 of 2005 along with its additional return, all the Presiding Officer and Additional Presiding Officer of the Labour Courts constituted under the Madhya Pradesh Industrial Relations Act, 1960 have been notified to be the Commissioner for Workmen's Compensation for their respective areas of jurisdiction under the said Act. Thus this notification being covered within the definition of the term 'law' as notified by the State Government in the Adaptation of Laws Order, 2001, it will hold good for conferring jurisdiction on the Labour Court in the State of Chhattisgarh to function as Commissioner for Workmen's Compensation.

The ground to the contrary raised in the writ petition is, therefore, not sustainable in view of the State Govt.'s notifications.

6. In view of the above, the writ petition has no substance. it deserves to be and hereby dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Ankit