

19th Sept, 2024

Syed Noman Ali Bukhari, Advocate for the deceased appellant present. Mr. Sohrab Khan, Lecturer alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.


Learned counsel for the deceased appellant stated that the appellant has been died, therefore, he has already submitted an application for impleadment of legal heirs of the deceased appellant. He further stated that Supreme Court of Pakistan in its order dated 23.12.2020 passed in C.P2717-L of 2015 held that service benefits may be enjoyed by the successors of the deceased civil servant, therefore, legal heirs of the deceased appellant are entitled to be impleaded as appellants in the instant appeal.

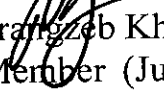
On the other hand, learned Deputy District Attorney for the respondents stated that as the appellant has been died, therefore, the instant appeal is abated.

The question of whether proceedings would abate following the death of the civil servant hinges on the specific nature of the cause of action and the relief sought, alongside the unique circumstances of each case. In scenarios involving civil servants, certain service benefits may be inheritable and thus form part of the deceased's estate, while others may be distributed among family members per legal stipulations. In the instant appeal, legal heirs of the deceased civil servant may pursue claims for benefits that do not cease with the death of the civil servant. Specifically, Rule 33 of Order XLI of CPC grants appellate courts the authority to issue decrees or orders that should have been made, benefiting

any concerned parties, irrespective of whether they have lodged an appeal. Furthermore, Rule 1 of Order XXII CPC establishes that a suit does not abate upon the death of a party if the right to sue persists. Thus, the proceedings related to claims can continue in favor of the successors, safeguarding their rights to pursue justice.

In view of the above, the application for impleadment of legal heirs of the deceased appellant is accepted subject to all the legal objections of respondents and also subject to verification of the legal heirs through office of Senior Civil Judge, Haripur and the local police. The office is directed to implead Kanwal Nisar, Daughter and Saeed Akhtar, Son, as appellants in the instant appeal as well as in the relevant register. File to come up for arguments on the maintainability of the appeal on 28/10/2024 before the D.B. Parcha Peshi given to the parties.


(Fareeha Paul)
Member (Executive)


(Aurangzeb Khattak)
Member (Judicial)