

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.12588 of 2019

Date of Decision : 14.05.2019.

Punjab Water Supply and Sewerage Board

...Petitioner

Versus

Raj Kumar and others

....Respondents

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Vijay Kumar Kaushal, Advocate for the petitioner.

B.S.WALIA, J. (Oral)

1. Challenge in the writ petition is to ex-parte award dated 16.01.2017 (Annexure P-1), passed by the learned Industrial Tribunal, Bathinda on the ground that the same was without effecting proper service on the petitioner and was passed at the back of the petitioner.

2. After arguing for some time, learned counsel for the petitioner prays for permission to withdraw the writ petition with liberty to file an application for setting aside ex-parte award before the learned Industrial Tribunal, Bathinda in the light of decision of Hon'ble the Supreme Court in Haryana Suraj Malting Ltd. vs. Phool Chand 2018 (16) SCC 567. Relevant extract of the decision in Haryana Suraj Malting Ltd.'s case (supra) is reproduced as under:-

“35. Merely because an award has become enforceable, does not necessarily mean that it has become binding. For an award to become binding, it should be passed in compliance with the principles of natural justice. An award passed denying an

opportunity of hearing when there was a sufficient cause for non-appearance can be challenged on the ground of it being nullity. An award which is a nullity cannot be and shall not be a binding award. In case a party is able to show sufficient cause within a reasonable time for its non-appearance in the Labour Court/Tribunal when it was set ex parte, the Labour Court/Tribunal is bound to consider such an application and the application cannot be rejected on the ground that it was filed after the award had become enforceable. The Labour Court/Tribunal is not functus officio after the award has become enforceable as far as setting aside an ex parte award is concerned. It is within its powers to entertain an application as per the scheme of the Act and in terms of the rules of natural justice. It needs to be restated that the [Industrial Disputes Act](#), 1947 is a welfare legislation intended to maintain industrial peace. In that view of the matter, certain powers to do justice have to be conceded to the Labour Court/Tribunal, whether we call it ancillary, incidental or inherent.”

3. In view of the statement of learned counsel for the petitioner, the writ petition is dismissed as withdrawn with the liberty as prayed for.

(B.S.WALIA)
JUDGE

14.05.2019

rajesh.k.khurana

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No