

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.18854 of 2019
Date of decision: 15.07.2019

President/Vice Chancellor Board of Management,
Desh Bhagat University, Saunti and anotherPetitioner

Versus

Presiding Officer and anotherRespondents

Coram: Hon'ble Mr. Justice B.S. Walia

Present: Mr. P.S. Punia, Advocate for Mr. ABS Sidhu, Advocate
for the petitioner.

B.S. Walia, J. (Oral)

1. Challenge is to award Annexure P-5 dated 13.2.2019 passed by the Presiding Officer, Industrial Tribunal, SAS Nagar, Mohali (hereinafter referred to as 'the Tribunal') whereby Reference of the Industrial Dispute was allowed in favour of the respondent-Workman and the petitioner was directed to reinstate the respondent-Workman with continuity of service and compensation of ₹80,000/-
2. Learned counsel contends that the petitioner was proceeded ex parte vide order dated 19.12.2018 eventually leading to the passing of the ex parte award dated 13.2.2019.
3. After arguing for sometime, learned counsel for the petitioner prays for permission to withdraw the writ petition with liberty to file an appropriate application before the learned Tribunal, in the light of decision of Hon'ble the Supreme Court in M/s Haryana Suraj Malting Ltd versus Phool Chand 2018(16) SCC 567. Relevant extract of the same 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.”

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 In view of the statement of learned counsel for the petitioner, the writ petition is dismissed as withdrawn with the liberty as prayed for.

July 15, 2019

ps

**(B.S. WALIA)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No