



**CWP-16062-2016 with
CWP-16063-2016**

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

(225)

Date of Decision : 10.12.2025

1. CWP-16062-2016

M/s Deutsche Motoren Pvt. Ltd.

...Petitioner

Versus

Presiding Officer, Industrial Tribunal cum
Labour Court Circle-I, Faridabad and another

...Respondents

2. CWP-16063-2016

M/s Deutsche Motoren Ltd.

...Petitioner

Versus

Presiding Officer, Industrial Tribunal cum
Labour Court Circle-I, Faridabad and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Vikas Mohan Gupta, Advocate
for the petitioner(s) in both the cases.

Mr. Jai Bhagwan, Advocate
for respondent No.2, in both the cases.

KULDEEP TIWARI, J.(ORAL)

1. Both the instant writ petition(s) are amenable to be decided together, therefore, with the consent of learned counsel for the parties concerned, the same are taken up together for adjudication.

2. Through the instant writ petition(s), the petitioner/Management has sought to challenge to the *exparte* award dated 04.09.2015



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(Annexure P-1), as well as, the order dated 06.04.2016 (Annexure P-10), passed by the learned Industrial Tribunal concerned, wherethrough, an application for setting aside the *exparte* award was dismissed by the learned Tribunal concerned, on the ground, that it has become *functus officio* after the expiry of 30 days, from the date of publication of the award.

3. At the very outset, learned counsel for the petitioner(s) submits that at this stage, he does not wish to join the issue regarding the validity of the impugned award. However, he submits that the order dated 06.04.2016 (Annexure P-10), is *per se* illegal. He submitted that the learned Tribunal concerned was well within its power to examine, as to whether, the petitioner/Management was prevented from causing appearance, on the grounds which are beyond its control. He placed reliance upon the judgment rendered by the Hon'ble Supreme Court in '***M/s Haryana Suraj Malting Ltd. versus Phool Chand' 2018 (16) SCC 567.***

4. Learned counsel who has caused appearance on behalf of the respondent No.2/workman, has strongly opposed the prayer made by the learned counsel for the petitioner and submits that the entire efforts of the petitioner is to frustrate the impugned award, which was passed in favour of the workman. Furthermore, a dilatory tactic has been evolved by the petitioner/Management, as despite having the knowledge, the petitioner/Management did not cause appearance before the learned Tribunal concerned, and after passing of the award (supra), an application for setting it aside has been filed. He further submits that the workman has been unnecessarily dragged upto this Court, and had to spend hefty amounts to defend him. Finally, he submits that in case, the instant writ petition is



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5. This Court has considered the submissions made by the learned counsels for the parties concerned, and has also gone through the impugned order dated 06.04.2016 (Annexure P-10) as well.

6. Learned Industrial Tribunal concerned, dismissed the application seeking setting aside *ex parte* award, merely, on the ground, that it has become *functus officio* after expiry of 30 days from the date of publication of the award. The relevant is extracted hereinafter:

“5. Moreover, the award was passed on 04-09-15 and published on 15-10-15. The application was filed on 23-11-15 i.e. beyond the 30 days of publication of the award. An award becomes enforceable under Section 17 (A) of the Act on expiry of 30 days from the date of its publication. Once award becomes enforceable labour court becomes functus officio and the court cannot set aside the award. Reference can be made to M/s Sangam Tape Company V/s Hans Raj 2004 LLR 1098.”

7. The above observation is clearly hit by the judgment passed by the Hon’ble Supreme Court in ***Phool Chand (supra)***. The relevant is extracted hereinafter :-

“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



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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.”

8. In view of the settled propositions of law, this Court is of the considered opinion that order dated 06.04.2016 (Annexure P-10), requires interference of this Court. Accordingly, the order dated 06.04.2016 (Annexure P-10), passed by the learned Industrial Tribunal concerned, is hereby **set aside**, and the matter is **remanded back** to the learned Tribunal concerned, to decide the application afresh.

9. The reference is pending since the year 2014, therefore, a *mandamus* is passed upon the learned Tribunal concerned, to decide the application most expeditiously, preferably within a period of three months, from the date of receipt of certified copy of this order.

10. On 05.07.2018, the petitioner/company has offered Rs.3,00,000/-, to the respondent No.2/workman, for settling the dispute, once and for all, and therefore, the Coordinate Bench of this Court, directed the petitioner/company to deposit Rs.1,50,000/-, with this Court. Since the matter could not be settled between the parties concerned, therefore, the petitioner/company, by moving



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apt application before the Registrar General of this Court, can withdraw the above said amount.

11. Since the respondent No.2/workman has to defend himself before different forums, therefore, the petitioner/Management, is directed to pay an amount of Rs.35,000/- to the respondent No.2/workman, within a period of four weeks, from the date of passing of this order, which shall be deposited before the learned Tribunal concerned. The respondent No.2/workman, by moving an apt application before the learned Tribunal concerned, can withdraw the above said amount.

12. **Ordered accordingly.**

13. Photocopy of this order be placed on the connected case file, as numbered above.

(KULDEEP TIWARI)
JUDGE

December 10, 2025
Manpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No