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

CWP-8837-2018

Date of Decision:03.09.2025

**M/S I.L. & F.S. ENGINEERING AND CONSTRUCTION
COMPANY LTD.**

-PETITIONER

V/S

**PRESIDING OFFICER, INDUSTRIAL-CUM-LABOUR COURT-II,
GURUGRAM AND ANOTHER**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Bhisham Kumar Majoka, Advocate with
Ms. Mansi, Advocate,
for the petitioner.

Mr. Sukhdev Singh, Advocate,
for respondent no.2 (through V.C.)

KULDEEP TIWARI, J.(ORAL)

1. The reference, made under the provisions Section 10(1)(c) of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act of 1947'), was answered in favour of respondent no.2-workman vide Award dated 01.12.2017 (Annexure P-7) of the Industrial Tribunal-cum-Labour Court-II, Gurugram (respondent no.1), in an *ex parte* proceedings, which has been put to challenge by the petitioner-management through the instant petition cast under Article 226/227 of the Constitution of India, wherethrough, respondent no.2-workman was held entitled for reinstatement in services with continuity in service with full back wages



from the date of his termination, i.e. 20.09.2012 till his reinstatement in job alongwith consequential benefits.

2. Learned counsel for the petitioner-management submits that the impugned Award has been passed in *ex parte* proceedings initiated against the petitioner-management. He further submits that the said *ex parte* proceedings were not a result of any willful or deliberate lapse on the part of the petitioner-management, rather, the non-appearance of the management during the proceedings before the learned Tribunal was occasioned due to the inadvertence and negligence of the Authorized Representative (AR), who failed to inform the petitioner-management about the dates of hearing and the status of the proceedings pending before the learned Tribunal. He further submits that the *ex parte* Award came to their knowledge only upon receipt of the Labour Inspector's execution notice dated 30.01.2018.

3. To lend vigor to his arguments, learned counsel placed reliance upon the judgment of the Hon'ble Supreme Court in **M/s Haryana Suraj Malting Ltd. vs. Phool Chand, AIR 2018 SC 2670**, to submit that in similar circumstances, the Award warrants interference, and the matter ought to be remanded to the learned Tribunal concerned for a fresh decision on merits.

4. On the other hand, learned counsel for respondent no.2-workman reiterated the contents of his written statement and prayed for dismissal of the instant petition, being devoid of any merits.



5. Succinctly stated, the facts, as culled out from the impugned order, are that the workman was appointed by the management as a Traffic Marshal on 03.05.2011. However, no formal appointment letter was issued to him. On 20.09.2012, the services of the workman were terminated without the issuance of any notice, payment of notice pay or retrenchment compensation, or the conduct of any domestic enquiry. It is further stated that the workman had rendered continuous service with the management for more than 240 days, and his last drawn salary was Rs10,148/- per month. The gratuity payable to the workman was also withheld by the management. On the other hand, the management took the plea that the workman had voluntarily left the job.

6. This Court has examined the submissions, as made by learned counsel for the parties, as well as the impugned order.

7. From the record, it transpires that the petitioner-management not only caused appearance before the learned Tribunal concerned, but also filed its written statement in response to the claim statement through its Authorised Representative (AR). Furthermore, in support of its case, the petitioner-management produced one Neel Kumar, Supervisor, who stepped into the witness box as RW1, and recorded his examination-in-chief. However, his cross-examination, initially was fixed for 20.07.2006, which was subsequently, deferred. Thereafter, neither the said witness, nor the Authorised Representative (AR) of the petitioner-management, appeared before the learned Tribunal concerned. Consequently, the



learned Tribunal proceeded against the petitioner-management *ex parte* on dated 04.09.2017.

8. After hearing rival contentions and examining the evidence on record, the learned Tribunal concerned held that the reference deserved to be answered in favour of the workman. It was found that the workman joined as a Traffic Marshal on 03.05.2011, and was illegally terminated on 20.09.2012, without complying with Section 25-F of the ID Act. Although, the management initially filed a written statement admitting the employer-employee relationship, and the period of service, however, it later claimed that the workman had voluntarily abandoned his job, which was denied by the workman in his replication. The management examined RW-1, Neel Kamal (Supervisor), but his cross-examination was deferred, and never completed due to non-appearance, and as a result thereof, his examination-in-chief was discarded, and the proceedings were set *ex parte*. With no admissible evidence from the management, their plea of absenteeism remained unproved. On the other hand, the workman's testimony remained unrebutted on material aspects. Accordingly, the Tribunal concerned concluded that the termination was illegal due to non-compliance with statutory requirements.

9. This Court has considered the submissions advanced by learned counsel for the petitioner-management, and finds no merit therein. The mere fact that the Authorized Representative (AR) failed to inform the petitioner-management, cannot, by itself, constitute sufficient



ground for setting aside the impugned Award, which was passed way back on dated 01.12.2017. The record clearly reflects that the petitioner-management was well aware about the pendency of the proceedings, as it not only filed a written statement, but also produced a witness, Neel Kumar (RW-1), who stepped into the witness box on its behalf. Therefore, the plea that the management was unaware of the proceedings due to the AR's omission is not sustainable. It is the primary responsibility of the litigant, in this case, the petitioner-management, to diligently follow up on its case.

10. Furthermore, RW-1, Neel Kumar, being a Supervisor employed by the petitioner-management, cannot be considered an external or unrelated witness. Hence, the petitioner-management cannot claim ignorance of the proceedings before the learned Tribunal concerned. Finally, the contention that the *ex parte* Award came to their knowledge only upon receipt of the Labour Inspector's execution notice dated 30.01.2018, is also not persuasive to this Court..

11. In view of the above, this Court finds no justifiable ground to interfere with the impugned Award.

12. Accordingly, the petition stands **dismissed**.

September 03, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No