



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

CWP-12205-2019 (O&M)

Date of decision: 19.05.2026

The Executive Engineer, Uttar Haryana Bijli Vitran Nigam Ltd. and
anotherPetitioners

Versus

Sonu and anotherRespondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Rajesh Bansal Advocate, and
Mr. Anuj Mahla, Advocate,
for the petitioner.

Mr. Dharamveer Phour, Advocate,
for respondent No.1.

KULDEEP TIWARI, J. (Oral)

CM-14794-CWP-2025

Application is allowed, subject to just exceptions.

Accordingly, Annexure P-4/1 is taken on record.

Main case

1. The petitioner-Management, through the instant writ petition, as cast under Articles 226/227 of the Constitution of India, has approached this Court against the *ex parte* award dated 28.07.2016 (Annexure P-1), vide which, the respondent-workman was held entitled for reinstatement with continuity of service and 50% back wages. Further, an order dated 17.08.2017 (Annexure P-4), is also impugned, vide which, an application for setting aside the orders dated 24.09.2015 and 16.11.2015, proceeding the petitioners against *ex parte*, and also the award, has been dismissed by the learned Industrial Tribunal.



2. Learned counsel for the petitioner submits that the application (supra), was dismissed solely on the ground that, post 30 days of the publication of the award, learned Industrial Tribunal had become a *functus officio*. He submits that the said ground is apparently unsustainable, as the learned Tribunal, even after 30 days, can decide the application. In this regard, he places reliance upon a decision of the Hon'ble Supreme Court in **M/s Haryana Suraj Malting Ltd. Vs. Phool Chand, 2018 (16) SCC 567.**

3. *Per contra*, learned counsel for the respondent-workman, while vehemently opposing the claim of the petitioners, submits that officials of the Management had been summoned by the workman as witnesses, who even caused appearance, along with records. However, thereafter, the Management intentionally opted not to appear, whenever the matter was taken up. Thus, it is apparent that the Management is intentionally trying to deprive the workman from the benefits, as granted vide impugned award. So much so, no plausible reason was spelt out in the application to justify non-appearance on behalf of the Management, therefore, the same was rightly dismissed.

4. This Court has heard the submissions advanced on behalf of the rival parties, and has also gone through the record.

5. *Ex facie*, learned Industrial Tribunal did not adjudicate the application on merits, rather, by referring to the decision of the Hon'ble Supreme Court in **Sangham Tape Company Vs. Hans Raj, 2004 III CLR 776,** dismissed the same merely on the ground that it became a *functus officio*, after expiry of 30 days from the date of publication of the award. The learned Tribunal has grossly erred in law, as it does not



become a *functus officio*, as far as the application for setting aside an *ex parte* award is concerned. In the event, the affected party is able to demonstrate sufficient cause for its non-appearance, the learned Tribunal is well within its jurisdiction to adjudicate the application on merits. In this regard, this Court relies upon the following observations made in

Phool Chand (supra):-

“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.”

6. In the wake of the abovesaid settled position of law, this Court is of the considered opinion that the impugned order dated



17.08.2017, vide which, the application in question was dismissed, is untenable, and the same is set aside. Consequently, the matter is remitted to the learned Tribunal concerned to decide the application on merits, as expeditiously as possible, preferably within three months from the date of receipt of certified copy of this order. Further, the respondent-workman is at liberty to file response to the application.

7. However, it is deemed apt to clarify that this Court has not expressed any opinion on the merits of the case of either party.

8. With the abovesaid observations, the instant writ petition is **disposed of.**

(KULDEEP TIWARI)
JUDGE

19.05.2026
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No