



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

CWP-8862-2018 (O&M)

Date of decision: 12.05.2026

Zila Parishad Muktsar

....Petitioner

Versus

Presiding Officer, Industrial Tribunal, Bathinda and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Mandeep K. Sajjan, Advocate, and
Mr. Vikram K. Bishnoi, Advocate,
for the petitioner.

Mr. Sukhdev Raj Kamboj, Advocate,
for respondent No.2.

KULDEEP TIWARI, J. (Oral)

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 impugned *ex parte* award dated 03.10.2016 (Annexure P-8), and also order dated 05.02.2018 (Annexure P-12), vide which, an application for setting aside the abovesaid *ex parte* 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 abovesaid 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 aforesaid submissions, submits that, in fact, the Management is trying to frustrate the impugned award, which has been passed in favour of the workman. So much so, a dilatory tactic has been evolved by the petitioner-Management, as despite having the knowledge of the proceedings, it did not cause appearance before the learned Tribunal concerned. However, post passing of the impugned award, an application was filed for setting aside the same. He asserts that the workman has been unnecessarily dragged up to this Court, thereby, constraining to spend hefty amount to contest the proceedings.

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 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:-

“In the case in hand, award was published on 17.11.2016 vide endorsement No.1927-1933 dated 17.11.2016 by Assistant Labour Commissioner, Moga, and the present application has been moved much after the publication of the award i.e. after the expiry of more than 30 days. Accordingly, the application for setting aside the exparte award is dismissed but with no order as to costs.”

6. 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.”

7. In the wake of the abovesaid settled position of law, this Court is of the considered opinion that the impugned order dated 05.02.2018 (Annexure P-12), 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 four 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.

8. However, this Court is equally sensitive that despite getting the relief vide award dated 03.10.2016, the workman is unable to fructify the same even after about a decade. Not just that, in view of the abovesaid conclusion, he is again required to contest the proceedings. Therefore, the petitioner-Management is directed to remit an amount of Rs.35,000/-, as litigation expenses, with the learned Tribunal concerned, within a period of four weeks from the date of passing of this order, which shall be withdrawn by respondent-workman, by moving an apt application before the learned Tribunal itself.

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

10. Pending application, if any, also stands disposed of.

(KULDEEP TIWARI)
JUDGE

12.05.2026
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No