



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

CWP-36705-2025 (O&M)

Date of decision: 06.03.2026

M/s Kids Clinic India Limited

....Petitioner

Versus

The Ld. Presiding Officer, Industrial Tribunal-cum-Labour Court-1,
Gurugram, Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Ajiteshwar Singh, Advocate,
for the petitioner.

Mr. Amitabh Tewari, Advocate,
for respondent No.3.

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 order dated 01.09.2025 (Annexure P-1), vide which, an application for setting aside the *ex parte* award dated 10.10.2023 (Annexure P-2), and also the order dated 04.05.2022 (Annexure P-3), whereby, it was proceeded against *ex parte*, has been dismissed by the learned Industrial Tribunal.

2. Learned counsel for the petitioner submits that the learned Industrial Tribunal has dismissed the application (supra), vide impugned order, solely on the ground that, post thirty days of publication of the award, it becomes a *functus officio*, and thus, cannot entertain any such application, which is apparently unsustainable. 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.** Therefore, he submits that the impugned order is liable to be set aside.

3. *Per contra*, learned counsel for the respondent-workman, while vehemently opposing the abovesaid claim, submits that, in fact, the petitioner 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, 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. Finally, it is urged that in the event, the instant writ petition is allowed, the basic object of the Industrial Disputes Act, 1947, would be defeated.

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 dismissed the application merely, on the ground that it has become a *functus officio*, after expiry of 30 days from the date of publication of the award:-

“7. Keeping in view the fact that the Labour Court becomes functus officio after the expiry of thirty days of publication of award, the application is held not maintainable. Accordingly, the application in hand is hereby dismissed.”



6. Indisputably, the abovesaid observations are in the teeth of the decision rendered in ***Phool Chand (supra)***, and the relevant part thereof, 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 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 settled position of law, as referred to above, this Court is of the considered opinion that the impugned order dated 01.09.2025 (Annexure P-1), is unsustainable, and therefore, the same is set aside. Consequently, the matter is remitted to the learned Tribunal concerned to decide the application afresh, as expeditiously as



possible, preferably within three months from the date of receipt of certified copy of this order.

8. However, this Court is equally sensitive that, in view of the abovesaid conclusion, the respondent-workman is again required to contest the proceedings before different forums. 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.**

(KULDEEP TIWARI)
JUDGE

06.03.2026
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No