



CWP-15070-2000 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(217) CWP-15070-2000 (O&M)
Date of Decision : April 28, 2025

Haryana State Electricity Board, Shakti Bhawan, Sector-6,
Panchkula

.. Petitioner

Versus

Presiding Officer, Labour Court-II, Faridabad and another
.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Praveen Chander Goyal, Advocate, with
Mr. Amit Sharma, Advocate, for the petitioner.

Mr. T.P.S. Chawla, Sr. Deputy Advocate General, Punjab.

Mr. Ankit Chahal, Advocate, for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the impugned Award dated 06.10.1998 (Annexure P-1) by which, the termination of the services of the respondent No.2-workman were held to be bad and he was directed to be reinstated in service with full back wages.

2. Learned counsel for the petitioner argues that that the petitioner was never served and no one appeared on behalf of the petitioner hence, in the absence of the service, the passing of the ex parte Award is arbitrary and illegal.

3. Learned counsel appearing on behalf of respondent No.2-workman, on the other hand, submits that memorandum of appearance was



given on behalf of the petitioner by a counsel who never appeared thereafter hence, the assertion of the learned counsel for the petitioner that the petitioner was not served is incorrect and same is liable to be rejected.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. As per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.5650 of 2018 titled as M/s Haryana Suraj Malting Ltd vs. Phool Chand, decided on 18.05.2018***, the Labour Court has the power to set aside the ex parte Award in case a party files an application for setting aside the same by giving sufficient cause for non-appearance. In the present petition also, the ground of the petitioner for setting aside the Award dated 06.10.1998 (Annexure P-1) is that they were never served and therefore, the ex parte Award needs to be set aside. The relevant paragraph of the said judgment is as under:-

“ 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. Keeping in view the settled principle of law in ***Phool Chand’s case (supra)***, the petitioner should approach the Labour Court for setting aside the ex parte Award by filing due application with justification for non-appearance. In case, any such application is filed, the Labour Court will decide the same in accordance with law by passing an appropriate order.

7. As the impugned Award dated 06.10.1998 (Annexure P-1) was stayed, in case application for setting aside ex parte Award is filed within a period of eight weeks from today, the impugned Award will not be executed till the decision of the said application.

8. As the parties are litigating and unfortunately, the respondent No.2-workman has also died, in case any such application is filed, the same be decided within a period of three months from the date of receipt of copy of this order by passing an appropriate speaking order.

9. The present writ petition is disposed of in above terms.

10. Civil miscellaneous application pending if any, also stands disposed of.

April 28, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No