

ORDER SHEET

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL – Cum – LABOUR COURT,
JABALPUR (M.P.)

Date of Order of Proceeding	Order Or Proceeding with Signature of Presiding Officer	Remark
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Case No. CGIT/LC/M/06/2024

Chief Executive Officer, Cantonment Board V/S. Ram Prasad Patel

26.06.2025	<p>Matter taken up.</p> <p>Learned Counsel Shri Neeraj Kewat present for Applicant Management. Workman Ram Prasad Patel present in person. I have heard argument of Learned Counsel for Applicant as well the Workman in person who has opposed the petition filed by the Applicant management to set aside the Award dated 30.02.2024 passed by this Tribunal in case R/114/2018 between the Workman and the Management and application for condonation of delay filed under Section 5 of the Limitation Act, 1961 in filing petition for setting aside the Award. These applications have been supported by respective affidavits. I have gone through the record, including the record of reference case.</p> <p>Facts connected, in brief, are mainly that reference case R/114/2018 proceeded between the parties on the basis of reference, sent to this Tribunal by the Central Government. Notices were issued to the parties in the case. The Workman appeared and filed his statement of claim. Notices were sufficiently served on Management also but none appeared from their behalf. They did not file any written statement of defense. Hence, the case was ordered to proceed ex-parte against them vide order dated 29.11.2021. The Workman produced evidences, and after hearing his side, Award ex-parte was passed on 23.02.2024 and was sent to ministry for publication. The publication notification</p>	
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	<p>was received by this Tribunal on 03.05.2024. According to the notification, the said Award was published in the Gazette on 19.03.2024.</p> <p>It is thereafter that, the Management filed an application on 24.07.2023 for setting-aside the Award with an application under Section 5 of Indian Limitation Act, 1961 seeking condonation of delay in filing the application for setting-aside the Award.</p> <p>Grounds taken are that, the Award was received by Office of Management on 22.04.2024 thereafter they sought a legal opinion and sent the opinion for approval of the Board and it is after getting the approval of Board, they filed this restoration application and delay condonation application.</p> <p>Learned Counsel for the Applicant has submitted that, notification was received by this Tribunal only on 03.05.2024, according to the record. Thereafter the copy of Award was sent to them by the Tribunal. They received a copy only on 13.05.2024 and rest of the time was taken in seeking necessary opinion and approvals in filing the petition, which requires to be contention. He further submits that, interest of justice requires that, the reference be decided on merits.</p> <p>Workman has opposed the petition and application for delay condonation early and has submitted that he has fighting this case since more than 7 to 8 years and Management wants to further delay the hearing, also that the Management has knowledge of the</p>	

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	<p>proceeding at every stage but they did not care to appear without any reason.</p> <p>I have gone through the record in the light of arguments.</p> <p>Reference on some provisions of the Industrial Disputes Act, 1947 and the Industrial Disputes (Central) Rules, 1957 (in short the ‘Act’ and ‘Rules’) requires to be taken here, they are being reproduced as follows:</p> <p><i>Section 17(A)(1)</i></p> <p>(1) <i>An award (including an arbitration award) shall become enforceable on the expiry of thirty days from the date of its publication under section 17:Provided that-</i></p> <p>(2) <i>(a) if the appropriate Government is of opinion, in any case where the award has been given by a Labour Court or Tribunal in relation to an industrial dispute to which it is a party; or</i></p> <p>(3) <i>b) if the Central Government is of opinion, in any case where the award has been given by a National Tribunal, that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or as the case may be, the Central Government may, by notification in the Official Gazette, declare that the award shall not become enforceable on the expiry of the said period of thirty days.</i></p> <p><i>Section 20(3)20.- Commencement and conclusion of proceedings.</i></p>	

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	<p><i>(1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out under section 22 is received by the conciliation officer or on the date of the order referring the dispute to a Board, as the case may be.</i></p> <p><i>(4) A conciliation proceeding shall be deemed to have concluded-</i></p> <p><i>(a) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute;</i></p> <p><i>(b) where no settlement is arrived at, when the report of the conciliation officer is received by the appropriate Government or when the report of the Board is published under section 17, as the case may be; or</i></p> <p><i>(c) when a reference is made to a Court, [Labour Court, Tribunal or National Tribunal under section 10 during the pendency of conciliation proceedings.</i></p> <p><i>(3) Proceedings before an arbitrator under section 10-A or before a Labour Court, Tribunal or National Tribunal shall be deemed to have commenced on the date of the reference of the dispute for arbitration or adjudication, as the case may be and such proceedings shall be deemed to have concluded [on the date on which the award becomes enforceable under section 17-A</i></p> <p>Rule 10(B)(9)industrial Disputes (Central)</p> <p>Rules 1957-</p> <p><i>“In case any party defaults or fails to appear at any stage the Labour Court, Tribunal or National Tribunal, as the case may be, may proceed with the reference ex parte and decide the reference application in the absence of the defaulting party: Provided that the Labour Court, Tribunal</i></p>	

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	<p><i>or National Tribunal, as the case may be, may on the application of either party filed before the submission of the award revoke the order that the case shall proceed ex parte , if it is satisfied that the absence of the party was on justifiable grounds.”</i></p> <p>Reference of judgment of Hon’ble the Apex Court in the case of 2018(16) SCC 567 Haryana Suraj Malti Limited Vs. Phool Chand may be taken in this respect. The relevant paras of the judgement are being reproduced as follows-</p> <p><i>“34. In case a party is in a position to show sufficient cause for its absence before the Labour Court/Tribunal when it was set ex parte, the Labour Court/Tribunal, in exercise of its ancillary or incidental powers, is competent to entertain such an application. That power cannot be circumscribed by limitation. What is the sufficient cause and whether its jurisdiction is invoked within a reasonable time should be left to the judicious discretion of the Labour Court/Tribunal.</i></p> <p><i>35. It is a matter of natural justice that any party to the judicial proceedings should get an opportunity of being heard, and if such an opportunity has been denied for want of sufficient reason, the Labour Court/Tribunal which denied such an opportunity, being satisfied of the sufficient cause and within a reasonable time, should be in a position to set right its own procedure. Otherwise, as held in Grindlays [Grindlays Bank Ltd. v. Central Govt. Industrial Tribunal, 1980 Supp SCC 420 : 1981 SCC (L&S) 309] , an award which may be a nullity will have to be technically enforced. It is difficult to comprehend such a situation under law.</i></p> <p><i>37. 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</i></p>	


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	<p><i>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.”</i></p> <p>As propounded the Hon’ble Apex Court in the above referred case, the law is now settled on this point that this Tribunal does not become <i>functus officio</i> at all and powerless in considering the prayer for setting-aside a ex-parte Award for justifiable reasons. Hence, in this case also this Tribunal is well within its powers to consider such an application but there has to be a reasonable time limit of filing of application.</p> <p>In the case in hand, the Applicant Management came to known about the Award for the first time on 22.05.2024 even if the period of 30 days for filing an application for setting aside the Award is taken from date of receiving of the Award by the Applicant Management it expires on 22.06.2024. Whereas the Petition has been filed on 19.07.2024. Though there is no provisions provided application of Limitation Act, with regards to proceeding in the Industrial disputes Act, even if we assume that the application for setting aside the Award beyond 30 days from the date of engaged, which completely vague. Secondly, the ground taken by the applicant side that they could not appear on dates due to Covid is also incorrect because record of the case shows that the Award was passed on 30.02.2024 and case proceeded much after Covid.</p>	

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	<p><i>Hence, holding the grounds for delay in filing the petition for setting aside the Award within 30 days from the date of publication of the Award by the Management and the delay condonation as well, not sufficient, the petitions deserve to be dismissed as groundless and are dismissed accordingly.</i></p> <p>Upload this order.</p> <div><div></div><div>Presiding Officer</div><div></div></div>	