

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

**CWP No. 27275 of 2017
DECIDED ON: DECEMBER 14, 2017**

KULWANT SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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

JASPAL SINGH, J

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought a writ in the nature of mandamus directing the respondents No.1 to 3 to grant him the benefit of two increments, which were illegally stopped by the department and were subsequently restored vide judgment dated September 18, 1986 passed by Senior Sub Judge, Hoshiarpur exercising the Power of Authorities Under the Payment of Wages Act, 1936, which has attained finality by way of dismissal of appeal filed by respondent-State by the District Judge, Hoshiarpur.

2. At the very outset of preliminary hearings, the question arose with regard to the maintainability of the instant petition under Articles 226/227 of the Constitution of India and issuance of a writ in the nature of mandamus. As per

the facts unfolded by the petitioner in the instant writ petition, he preferred an application before the Civil Court bearing PWA No. 222 of August 12, 1986, under Section 15 of the Payment of Wages Act, 1936 against the General Manager, Punjab Roadways, Depot Hoshiarpur-respondent No.3 (Annexure P-1) challenging the order No. 95038, dated July 24, 1981 whereby, his two annual increments were stopped with cumulative effect. The said application was allowed vide order dated September 18, 1986 passed by Senior Sub Judge, Hoshiarpur exercising the Power of Authorities Under the Payment of Wages Act, 1936.

3. Being aggrieved qua the afore-said order, Respondent No.3 preferred a statutory appeal but that stood dismissed vide judgment/order dated January 03, 1987 passed by District Judge, Hoshiarpur. Meaning thereby, order dated July 24, 1981 was set aside and increments were restored. Thereafter, petitioner was obliged to prefer an execution application for getting the afore-said order(s) implemented but no action was taken. Now, after a lapse of about three decades, he has approached this Court by way of filing of instant petition. On account of non-execution of the order(s) referred to above, the same have rendered unenforceable and lost their sanctity.

3. Even, otherwise petitioner stood retired from service on March 31, 2011 and there is no explanation as to why he slept over the matter till date. As such, petition also suffers from delay and laches. Moreover, once a civil court has already decided the matter in his favour, a writ of mandamus under Articles 226/227 of the Constitution of India, is not legally maintainable.

4. In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such, it stands dismissed being not maintainable.

DECEMBER 14, 2017
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(JASPAL SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>