

**CWP-7860-2001 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH****110****CM-8713-CWP-2025 in/&  
CWP-7860-2001(O&M)  
Date of Decision :07.07.2025****Prema Devi****...Petitioner****Versus****The Presiding Officer, Labour Court, Bathinda  
and another****...Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. S.K. Sharma, Advocate for the applicant-petitioner.

None for respondent No.2.

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**Harsimran Singh Sethi, J. (Oral)****CM-8713-CWP-2025**

Present application has been filed seeking restoration of the main writ petition, which was dismissed for non-prosecution vide order dated 05.05.2025 passed by this Court.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed. Order dated 05.05.2025 passed by this Court is recalled and the main writ petition is ordered to be restored to its original number and status and is taken up for hearing today itself.

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1. In the present petition, the challenge is to award dated



18.08.2000 (Annexure P/4) passed by the Presiding officer, Labour Court, Bathinda vide which the petitioner-workman despite being granted the benefit of reinstatement in service but the benefit of back wages has not been granted to the petitioner-workman, which is arbitrary and illegal.

2. It may be noticed that the petitioner-workman was working as Winder with the respondent No.2-Mill and was getting salary on daily wage basis. As per the learned counsel for the petitioner-workman, at the time of termination of service of the petitioner-workman i.e. 01.07.1993, she was getting salary to the tune of Rs.12,00/- per month. In her testimony, the petitioner conceded the fact that during the period she remained out of service, she was earning by discharging the domestic duties in the houses and keeping in view the said fact, the benefit of back wages has been denied to her by the Labour Court, while passing the award dated 18.08.2000 (P/4).

3. Learned counsel for the petitioner-workman conceded that the respondent No.2-Mill had already gone into liquidation and is no longer in existence.

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

5. It may be noticed that the present writ petition was filed in the year 2001. A period of 24 years has elapsed. The management of the respondent No.2-Mill is no longer in existence.

6. Further, qua the claim of the petitioner-workman for the grant of benefit of back wages, it may be noticed that once, the petitioner-workman had conceded before the Labour Court that during the period she remained out of service, she was working as domestic help and was earning



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though, it was stated that the said earning was only for subsistence, the Labour Court vide order dated 18.08.2000 (Annexure P/4) has rightly declined the benefit of back wages to the petitioner-workman. Nothing evident has been brought on record to show as to how much amount the petitioner-workman was earning during the period she remained out of service and was working as house help so as to adjudge whether the same was only for subsistence or the said amount was equivalent to the amount, which the petitioner-workman was earning while working with the respondent No.2-Mill on daily wages.

7. Keeping in view the totality of the facts and circumstances of the present case, where no material evidence has been brought on record to show that during the period, the petitioner-workman remained out of service, her earning was only for subsistence and she was not gainfully employed hence, the benefit of back wages cannot be granted to her.

8. The reliance is being placed upon the judgment of the Hon'ble Supreme Court of India in *Civil Appeal No.830-1986 titled as S.G. Chemicals and Dyes Trading Employee's Union vs. S.G. Chemicals and Dyes Trading Ltd. And another decided on 03.04.1986* to contend that the benefit of back wages is to be granted in case, the workman was not gainfully employed.

9. It may be noticed that in the present case, the petitioner-workman was employed after the termination of her service but nothing evident has come on record to show that as to what amount was she earning while working as a house help. In order to get the benefit of back wages, the workman has to prove that he/she was not gainfully employed, which the



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petitioner-workman has failed to do hence, the judgment in **S.G. Chemicals (supra)** will not be applicable in the facts and circumstances of the present case.

10. Qua the reliance being placed upon the judgment of Hon'ble Supreme Court of India in **Civil Appeal No.364-1981 titled as Mohan Lal vs. Management of M/s Bharat Electronics Ltd. decided on 12.02.1982**, it may be noticed that the entitlement of back wages upon reinstatement is dependent upon certain facts to be proved by the workman in evidence. In the present case, no evidence has been brought on record to show that the petitioner-workman was not gainfully employed while she remained out of service.

11. Keeping in view the facts and circumstances of the present case, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

12. Civil miscellaneous application pending, if any, is also disposed of.

**July 07, 2025**  
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**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

*Whether speaking/reasoned : Yes*

*Whether reportable : No*