

एफ-19-75/2016/स्था./19

विषय: डब्ल्यू.पी.क्र.-452/2016 द्वारा श्री कमाल खॉ विरुद्ध प्रमुख सचिव, म0प्र0शासन, लो.नि.वि. एवं अन्य।

पंजी क्र.-1240/2016/स्था./19, दिनांक 22.02.2016

विचाराधीन पत्र का कृपया अवलोकन हो।

2/ श्री कमाल खॉ द्वारा माननीय उच्च न्यायालय खण्डपीठ, इन्दौर में डब्ल्यू.पी.क्र.-452/2016 दायर किया है, जिसमें शासन का पक्ष समर्थन करने हेतु प्रभारी अधिकारी नियुक्त किया जाना है।

अतः कार्यपालन यंत्री, लोक निर्माण संभाग, खरगोन को प्रभारी अधिकारी नियुक्त किया जाना उचित होगा।

आदेशार्थ प्रस्तुत।

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प्राहय मय लच्छा चरको के क्षुण्णसाध/ इल्लभारफ इल्लुट।

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मध्य प्रदेश शासन

लोक निर्माण विभाग

कार्य क्र. 1408-09/19

दिनांक 15/03/2016

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छब्बीस-२ सचिवालय

एफ-19-75/2016/स्था./19

विषय: डब्ल्यू.पी.क्र.-452/2016 द्वारा श्री कमाल खॉ विरुद्ध प्रमुख सचिव, म0प्र0शासन, लो.नि.वि. एवं अन्य।

पूर्व पृष्ठ से:-

प्रभारी अधिकारी श्री निरुद्धिन्द्रियकुल शासन के पक्ष समर्थन हेतु नूतन विभाग से अधिकार प्राप्त है।

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17/03/16

चन्द्र प्रकाश अग्रवाल
सचिव, म.प्र.शासन
लोक निर्माण विभाग

IN THE High Court of Judicature at Jabalpur: Bench at IndoreProcess Id: 3092/2016

WP/452/2016

From

Deputy Registrar,
High Court of Judicature
at IndoreAgainst Admission
Fixed for 18-04-2016
WP-DA-6
Respondent No. 1

To,

The State of M.P. Through,
Principal Secretary P.W.D.
Vallabh Bhawan, Bhopal,
District- Bhopal (MADHYA PRADESH),

Indore 21-01-2016

Sub: Notice to Respondent No. 1 in writ Petition(Mandamus/Prohibition/ Certiorari/Quo
Warranto) No. WP/ 452/ 2016

Sir/Madam,

I am directed to inform you that one **Kamal Kha** has filed a petition under Article
226 of the Constitution of India (Copy enclosed) in this Court, and the same is registered as Writ
Petition (Mandamus/ Prohibition/ Certiorari/ Quo Warranto) No. WP/452/2016Take notice that you are required to submit a return personally or through a duly engaged
Advocate on or before 18-04-2016. If no return is filed as aforesaid, the petition will be heard
and decided exparte.

Your's faithfully

DEPUTY REGISTRAR

**IN THE HON'BLE HIGH COURT OF MADHYA
PRADESH BENCH AT INDORE**

W.P.-452...../2016

Petitioner-- Kamal Kha S/o Samsher

V/s

Respondents-- The State of M.P. & others

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Place – Indore

Date -13-01-2016

Submitted by,

Rajendra
Counsel for Petitioner

**IN THE HON'BLE HIGH COURT OF MADHYA
PRADESH BENCH AT INDORE**

W.P.-452...../2016

Petitioner-- Kamal Kha S/o Samsher

V/s

Respondents-- The State of M.P. & others

CHRONOLOGICAL DATE AND EVENT

S.No.	Date	Event
1	1968, 31-12- 12 19-09-12	Copy of appointment, retirement and gratuity
2	08/12/2015	Copy of representation
3	09/12/2011 & 05-04-13	Copy of order in W.P. NO. 2726/11 & S.L.P. NO. 30782/12
4	12-10-15	Copy of order dt. 12/10/15

Place – Indore

Date -13-01-2016

Submitted by,

Rajendra
Counsel for Petitioner

**IN THE HON'BLE HIGH COURT OF MADHYA
PRADESH BENCH AT INDORE**

W.P.-452...../2016

Petitioner-- Kamal Kha S/o Samsher
Aged- 65 years, Occu- Retired Gang
Man, R/o Village Balkhad Post
Balkhad Tehsil Kasrawad
Distt. Khargone

V/s

Respondents-- 1- The State of M.P. Through
Principal Secretary P.W.D.
Vallabh Bhawan, Bhopal
2- The Chief Engineer
P.W.D. (West Zone)
Old Palasia Indore
3- The Executive Engineer
P.W.D. (B & R)
Khargone Division Khargone
4. The Sub- Divisional Officer
P.W.D.
Sub- Division Mandleshwar

**WRIT PETITION UNDER ARTICLE 226 OF
CONSTITUTION OF INDIA**

MAY IT PLEASE YOUR LORDSHIP

Non- payment of pension-

1. Subject Matter in Brief

The petitioner was appointed on the post of Gang man in P.W.D. and retired after completion of 62 years of age in the year 31/12/2012 but he has not paid the pension he made is representation on 08/12/2015. The petitioner has put total services of 44 years.

2. DECLARATION :- That the petitioner declares that on the same subject matter no writ petition or civil suit is pending before any court of law, authority or tribunal.

3. DETAILS OF REMEDIES EXHAUSTED :- That the petitioner declares that he had no equal efficacious remedy against the injustice being done to him.

4. DELAY IN FILING THE PETITION IF EXPLANATION FOR IT, IF ANY :-

No delay in filing this petition

5. FACTS OF THE CASE:

5.1 He was appointed on the post of Gang man in the year 1968 in the P.W.D. He has been given earned leave from time to time. That the petitioner was retired on 31/12/2012 on completion of 62 years of age. That the petitioner has put total services of 44 year in the P.W.D. there was no any interruption in the service of the petitioner and the payment of gratuity of Rs. 90,000/- paid on 19-09-12. The copy of the order is Annexure P/1.

5.2 That, the petitioner made his representation on 08/12/2015 . the copy of the representation is Annexure P/2.

5.3 That, this Hon'ble Court in the matter of Harinarayan Sharma in W.P. No. 2726/11 have been decided the same on 09/12/2011 and the state has filed SLP no. 30782/12 which was dismissed on 05/04/2013. The copy of order Annexure P/3.

5.4 That, Chainna S/o Bheraji filed W.P. No. 1004/14 which was decided on 07/02/2014 in which direction was given to respondent to pay the pension within three months. Then he filed contempt no. 502/14 in which 12/10/2015 the arrears of pension of Rs. 5,97,806/- deposited in the bank. The copy of the order is Annexure P/4.

6. GROUND:

6.1 Because the impugned action on the part of respondents are arbitrary, illegal, discriminatory and also against the Principle of Natural Justice.

6.2 Because, the case of the petitioner was required to be dealt with properly. He was appointed on 1968 and remained in the continuous service till his retirement i.e. 2012. In this total service comes to 44 years.

6.3 Because from the action of the respondent it is revealed that no rules were followed by the respondent. In such a case the whole accountability lies on the Head of Department.

6.4 Because the petitioner is a Class-IV employee and by caste Bhil. He is in irreparable financial loss due to non grant of pension.

6.5 Because the petitioner due to non consideration of the petitioner case and by delaying the finalization of his pension he is suffering great financial losses.

6.6 Because non consideration of the petitioner's case is totally against the principles of nature justice and violates Article 14 and 16 of the Constitution of India.

6.7 That, the other grounds shall be urged at the time of hearing.

7. RELIEF SOUGHT:

The petitioner is view of the fact and grounds stated above prays for the grant of the following relief of the matter :-

- (a) By way of appropriate writ, order or direction the Hon'ble Court may kindly be pleased to allow this petition and may kindly direct the respondents to pay full pension to the petitioner with interest at current market rate.
- (b) By way of appropriate writ, order or direction the Hon'ble Court may kindly be direct the respondents to provide the arrears of pension with interest till the date of actual payment.
- (c) Any other relief which this Hon'ble Court may found fit in the fact of the present case may kindly be awarded.
- (d) That, the Hon'ble Court may further pleased to award the cost of this petition to the petitioner.

8. INTERIM RELIEF :

Nil

9 DOCUMENT RELIED ON BUT NOT IN POSSESSION OF THE PETITIONER

NIL

10 DECLARATION

The copies as required by Rule 25 of Chapter X of the High Court of Madhya Pradesh Rules, 2008 have been served upon State of M.P. (The person upon whom the copies have been served) at 11-35 (Time) on 13-1-16 (Date) in Indore (place)

11 CAVEAT

That, no notice lodging a caveat by the opposite party is received.

Affidavit in support of this petition is also filed herewith.

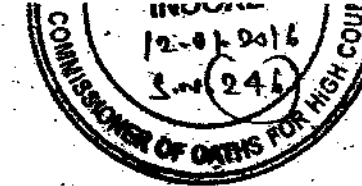
List of Annexure

As per Index

Place - Indore

Date - 13-01-2016

Submitted by,
Rajeev Kumar Jain
Counsel for Petitioner



S.No. 241
Date 12-01-2016

12 JAN 2016

IN THE HON'BLE THE HIGH COURT OF MADHYA PRADESH

BENCH AT INDORE

W.P. NO. 12016(S)

PETITIONER.

KAMAL KHA

V/s.

The State of M.P. & Others, RESPONDENTS.

AFFIDAVIT IN SUPPORT OF WRIT-PETITION

I, the deponent below described state on oath as under:-

My name : KAMAL KHA
Father/Husband's name : SAMSHER
Age : 65 YRS.
Occupation : RETIRED GANG MAN
Resident of : VILLAGE BALKHAD POST
BALKHAD TEHSIL KASABAWAD
DIST KHARGONE

I, further state on oath that:-

1. I am petitioner in this case. I am filing a petition for issue of a Writ against the Respondents.
2. I have read the petition being filed on behalf of the petitioner. I state on oath that the contents of this petition are true and correct to the best of my knowledge. Nothing stated in the petition, is false and truth has not been concealed in any manner.
3. This Affidavit is being sworn in, in support of the petition.

Indore

Dated: 12 JAN 2016

SWORN BEFORE ME

[Signature]
(Deponent)

VERIFICATION

I, the deponent above described state on oath that, the contents of this Affidavit in paragraphs 1 to above, are true and correct to the best of my knowledge and belief. Nothing stated here in above is false and truth has not been concealed in any manner. 12 JAN 2016

Signed and verified at Indore on

Identified by,

Rajeev Kumar Jain
RAJANA GAWADE

Sworn before me on the 12 day of Jan 2016 at Indore A.M./P.M. by Kamal Kha Son of Samsher who is personally known to me (or) who has been identified by Rajana Gawade who whose signature is /signatures are thereto appended.

RAJEEV KUMAR JAIN
COMMISSIONER OF OATHS FOR HIGH COURT

SWORN BEFORE ME

Deponent

[Signature]