



IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SURESH KUMAR KAIT,  
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 17<sup>th</sup> OF APRIL, 2025

WRIT APPEAL No. 754 of 2025

*SHYAM KRISHNA CHAUDHARY*

*Versus*

*THE STATE OF MADHYA PRADESH AND OTHERS*

.....  
Appearance:

*Shri Sushant Ranjan - Advocate for appellant.*

*Shri Anubhav Jain - Government Advocate for respondents/State.*  
.....

ORDER

*Per. Hon'ble Shri Justice Suresh Kumar Kait, Chief Justice*

The present appeal is filed on various grounds, however, the maximum claim of the retiral dues, as stated by the writ petitioner, has already been paid. The case of the writ petitioner was that part of leave encashment and gratuity has not been paid.

2. The writ court has observed that the appellant was not unaware of his right at the time when he stood retired in the year 1995. Although he was given extension of one year in service, therefore, effective retirement was in the year 1996. By filing the writ petition in the year 2007, the appellant could have claimed the entire benefits but he withdrew the said writ petition in the year 2011 and again slept over his rights for a consideration period.

3. In view of the above, the writ court has observed that the delay has to be considered fatal in such matters.



4. It is not the case wherein the entire post retiral benefits have not been paid to the writ petitioner by the respondents. It is also not in dispute that W.P. No.15096/2007 was dismissed as withdrawn on 12.08.2011 for the reasons mentioned in the application for withdrawal of the writ petition. It was argued that writ petition was withdrawn because respondent no.2 had given assurance with regard to addressing the grievance of the writ petitioner whereas no such assurance was placed on record. Moreover, in the aforesaid writ petition, the reply was also filed by the respondents denying claim of the appellant stating that there is no gratuity or retirement dues pending of the appellant. It is also not in dispute that after withdrawal of the writ petition in the year 2011, appellant continued in slumber and only in the year 2024, the writ petition was filed. Though the counsel for the appellant vehemently relied on the case of Union of India Vs. Tarsen Singh, reported in 2008 (8) SCC 648 to submit that delay is not fatal in cases having recurring cause of action, however the said contention is utterly misplaced. This is a case where earlier a petition was filed in the year 2007 and was withdrawn in the year 2011, and again for same relief another petition has been filed in 2024. Therefore, the contention that delay is not fatal cannot be accepted.

5. In view of the above, the learned writ court has rightly dismissed the writ petition on the ground of delay as appellant has not timely approached the court for redressal of his grievances. Accordingly, the writ appeal is dismissed.

(SURESH KUMAR KAIT)  
CHIEF JUSTICE

(VIVEK JAIN)  
JUDGE