

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No. 44374 of 2016

ORDER: (*Per VRS,J*)

Aggrieved by the dismissal of her original application, challenging an order of penalty imposed upon her deceased husband, the petitioner is before us.

2. Heard Mr. G. Venkata Krishnaiah, learned counsel for the petitioner.

3. The petitioner's husband was employed as a Police Constable in the Armed Reserve from 1982. He retired from service voluntarily on 31.10.2007 and also died on 10.07.2008.

4. It appears that pursuant to disciplinary proceedings initiated against him, the petitioner's husband was imposed with a penalty of reduction of pay by two stages, by an order, dated 06.04.1991. The appeal filed by him was rejected on 07.12.1994, the revision was rejected on 30.10.1996, and the mercy petition was rejected on 10.07.2000.

5. Contending that the rejection of the mercy petition, by an order, dated 10.07.2000, came to light, only in a counter affidavit filed by the respondents in a previous application filed by her in O.A.No.6296 of 2006, the petitioner filed O.A.No.9063 of 2012, challenging the penalty imposed way back in April, 1991. The Tribunal dismissed the said application, on the ground of delay and laches.

6. The contention of the learned counsel for the petitioner is that the delay in filing the application, O.A.No.9063 of 2012, was already condoned by the Tribunal, and that, therefore, the Tribunal could not have rejected the original application, on the ground of delay.

7. But unfortunately, both the Tribunal as well as the petitioner have overlooked one important aspect. The petitioner's husband died after 8 years of the rejection of the mercy petition. During his lifetime of eight years, he did not challenge the order of penalty. Therefore, the cause did not survive for the petitioner to take it up. As a matter of fact, the law is well settled that the rejection of a mercy petition does not give rise to a cause of action. It is only the rejection of the alternative remedies provided by statute, that the petitioner's husband would have a cause of action. Hence, the dismissal of the original application by the Tribunal was perfectly in order. Therefore, the Writ Petition is dismissed.

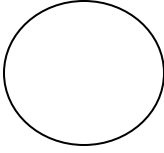
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

20th December, 2016
cbs





THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN ✓
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD



Writ Petition No. 44374 of 2016
(dismissed)

20th December, 2016

cbs