



W.A.No.1948 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2024

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

W.A.No.1948 of 2021

K.Subramanian

Vs.

.. Appellant

1. The Director General of Police
Tamil Nadu, Chennai – 600 004.

2. Deputy Inspector General of Police
Villupuram Range, Villupuram District
Villupuram.

3. The Superintendent of Police
Cuddalore District, Cuddalore.

4. The Deputy Superintendent of Police
Armed Reserve, Cuddalore District
Cuddalore.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 15.04.2015 in W.P.No.10707 of 2015.

For the Appellant : Mr.K.V.Muthu Visakan

For the Respondents : Mr.John J. Rajasingh
Additional Government Pleader



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JUDGMENT

WEB COPY (Delivered by the Hon'ble Mr. Justice S.M.SUBRAMANIAM)

Restoration of dead cause of action is impermissible after a lapse of many years. Merely filing a mercy petition or a representation would not be a ground to restore the cause of action already lapsed. The growing trend of practice in High Courts is that representations are sent to various authorities after a lapse of many years from the date of cause of action and writ petitions are filed seeking disposal of the representations. The High Courts also issue directions to consider such representations. Pursuant to the directions, the authorities are issuing orders. The said orders are challenged by way of another writ petition, as if it is a fresh cause of action, arose for the purpose of adjudicating issues on merits. Such *modus operandi* of the litigation, at no circumstances, be encouraged by the High Courts. Once the cause of action is lapsed after long years, submission of a representation or a mercy petition would not be a ground to readjudicate the issues on merits.



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2. Mercy petitions that are filed before the Director General of Police are not entertainable under the Service Rules in force. When there is no provision under the Rules to entertain mercy petitions by the Director General of Police, such authority is not expected to entertain and pass orders on merits.

3. The legal position with reference to mercy petitions is settled by this Court in the judgment dated 01.11.2022 in W.P.No.2554 of 2017.

4. An aggrieved person has to approach the Court by challenging the orders passed by the authorities within a reasonable period of time. In the present case, admittedly, the order of punishment of reduction of time scale of pay by two stages for two years with cumulative effect was imposed upon the appellant by the order dated 13.11.1998. After a prolonged period, the appellant submitted a mercy petition before the Director General of Police on 27.08.2010. The said mercy petition was rejected by order dated 06.10.2014. The said order came to be challenged in a writ petition,



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which was dismissed. Against which, the present writ appeal is filed.

5. Firstly, the order passed in the mercy petition would not provide a cause to challenge the punishment originally imposed by the disciplinary authority through the order dated 13.11.1998. In the absence of challenging the original order of punishment, the order passed in the mercy petition, after a lapse of many years, would not be a ground to file a writ petition and such practice cannot be appreciated by this Court.

6. By challenging the order passed in the mercy petition, the original punishment imposed cannot be set aside. Therefore, we are not inclined to entertain the present writ appeal and consequently, the writ appeal stands dismissed. There shall be no order as to costs.

(S.M.S., J.)

(C.K., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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S.M.SUBRAMANIAM, J.

AND

C.KUMARAPPAN, J.

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