

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP No.1337 of 2014 (O&M)
Date of decision: December 09, 2015

Pawan Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Deepak Bhardwaj, Advocate
for the petitioner.

Ms.Simsi Dhir Malhotra, Deputy Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this criminal writ petition under Article 226 of the Constitution of India for quashing of order dated 07.01.2013 whereby case of the petitioner for pre-mature release had been returned and further for issuance of directions to respondents to re-consider the pre-mature release case of the petitioner in terms of police/instructions dated 08.07.1991 applicable at the time of conviction as held by the Hon'ble Supreme Court of India and not as per instructions dated 08.08.2011 as framed by Govt. of Punjab as the petitioner has already undergone more than the requisite period required under policy.

Notice of motion was issued and learned State counsel appeared and contested the petition and also filed the reply.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Annexure P-1 is the policy/instructions dated 08.07.1991 of the Government of Punjab. It is held in these instructions that the cases of premature release will only be considered provided the convict has maintained good conduct in jail. For this purpose, good conduct means that he has not committed any jail offence for a period of 5 years prior to the date of his eligibility for consideration for release as per para 1.1 of above policy. As per Annexure P-2, Addl. Director of Police (Jails) Punjab, Chandigarh vide letter dated 07.01.2013 to Superintendent, District Jail, Rupnagar, stated that convict Pawan Kumar had committed jail offence by indulging into fight with other inmates and the prisoner had foregone his good conduct on commission of fight and now the case of the convict could be considered after examining Jail Conduct for 5 years. Therefore, whenever the case of the convict is covered by the policy of Govt. dated 08.08.2011, then the case of the prisoner be sent and the case of prisoner is returned.

After going through the reply, I find that as mentioned in para No.3, the petitioner had committed jail offence on 16.08.2011 by fighting with fellow inmates. It is in the reply itself that the petitioner's case for premature release was moved vide letter No.2789-90 dated 08.08.2011 after his serving a custody period of 9 years 7 months and

1 day.

As the petitioner has been convicted on 28.04.2001, at that time, the case of the petitioner is to be considered as per the instructions which was applicable at that time. Secondly, as already discussed, in view of the instructions (Annexure P-1), the jail offence should have been committed by a convict earlier to his eligibility whereas as per the reply, the case of the petitioner was already sent on 08.08.2011 and the jail offence has been committed afterwards. Therefore, the order/letter dated 07.01.2013 passed by ADGP (Jails) Punjab, returning the case of the petitioner, is not as per law and the same is set aside.

Finding merit in the present petition, the same is allowed. The respondents are directed to re-consider the case of the petitioner for his premature release preferably within six weeks, as per law and as per the instructions applicable in the present case.

December 09, 2015
Vgulati

(INDERJIT SINGH)
JUDGE