

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2016

CORAM:

THE HON'BLE MR. JUSTICE R.SUDHAKAR
AND
THE HON'BLE MR. JUSTICE P.N. PRAKASH

H.C.P. No.3237 of 2013

U.Sumathi

Petitioner

vs.

1.The State of Tamil Nadu
Rep by The Secretary to Government
Home Department, Secretariat, Chennai 09.

2.The Additional Director General of Prisons
Gandhi Irwin Road, Egmore, Chennai - 08.

3.The Superintendent of Prison
Central Prison, Salem.

Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents to produce the petitioner's husband Udhayakumar aged 33 years, S/o K.M.Nagarathinam (Convict No.7026) detained as a Life Convict, now confined in the Central Prison, Salem as having become eligible for pre-mature release under G.O.(Ms).No.1155/Home (Prison-IV) Department dated 11.09.2008 and to consider him for premature release immediately.

For Petitioner Mr.Thangavadhana Balakrishnan
For Respondents Mr.A.N.Thambidurai
Additional Public Prosecutor

ORDER

(Order of the Court was made by P.N.PRAKASH, J.)

It is the case of the petitioner that, her husband Udhayakumar [C.T.No.7026] life convict prisoner, is entitled to be released in terms of G.O.(Ms) No.1155 Home (Prison-IV) Department dated 11.09.2008.

2. The Deputy Secretary to Government, Home, P & E Department, has filed a counter affidavit, wherein, in paragraph no.4 it is stated as follows:

"4. With reference to the averments made in paragraph (4) of the affidavit, it is submitted that on the occasion of the Birth Centenary of Peraringnar Anna, the Government issued Orders in G.O.(Ms)No.1155, Home (Prison-IV) Department, dated 11.09.2008, granting premature release to the life convict prisoners who had completed seven years of actual imprisonment as on 15.09.2008 and who were aged 60 years and above and had completed five years of actual imprisonment as on 15.09.2008 subject to the satisfaction of the certain conditions. It is submitted that as per the stipulations of the above said Government Order the life convict prisoners who had served seven years of actual imprisonment as on 15.09.2008 i.e. the birth centenary of Peraringnar Anna had been prematurely released only for the above special occasion under the provisions of Article 161 of the Constitution of India. But, the petitioner's husband life convict prisoner No.7026, Udayakumar, Son of K.M.Nagarathinam had served only 6 years and 3 days of actual imprisonment as on 15.09.2008 even after including his setoff period (Remand period) of 750 days and hence, he is not at all entitled to claim the benefits of the said Government Orders.

Calculation Table

Description	Days	Month	Year
Date taken for calculation	15	09	2008
Date of conviction	19	04	2004
	26	04	04
(Add) Remand Period	20	00	02
	16	05	06
(Less) Leave period	13	05	00
Total completion of actual sentence as on 15.09.2008	03	00	06

3. In view of the above, we find that the petitioner's husband will not be entitled to the benefits of G.O.(Ms) No.1155 Home (Prison-IV) Department dated 11.09.2008.

In the result, this Habeas Corpus Petition is devoid of merits and the same stands dismissed.

sd/-

Assistant Registrar (Cs-III)

/TRUE COPY/

Sub-Assistant Registrar

gms

To

1. The Secretary to Government
The State of Tamil Nadu
Home Department
Secretariat, Chennai 09.

2. The Additional Director General of Prisons
Gandhi Irwin Road, Egmore
Chennai - 08.

3. The Superintendent of Prison
Central Prison, Salem.

4. The Public Prosecutor
High Court of Madras

+1 CC to MR.Thangavadhana Balakrishnan Advocate. SR.NO.933

H.C.P.No.3237 of 2013

CO-SKV
JD 19/01/2016

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