

THE HONOURABLE SRI JUSTICE RAJA ELANGO

Writ Petition No.27105 of 2016

ORDER

This writ petition is filed seeking to declare the action of respondents in incorporating para 4(xv) in G.O.Ms.No.16 dated 17.02.2016 of Home (Legal) Department, as arbitrary and illegal and consequently, direct the respondents to release petitioner S.M.Jakria @ Zakriah, Convict No.3893 by extending the benefit as per said G.O., by excluding the exceptions as incorporated in para 4(xv) of the said G.O.

2. Heard and perused the material available on record.

3. The case of petitioner is that he was convicted and sentenced to imprisonment for life in S.C.No.112 of 1997 on the file of IV Additional Metropolitan Sessions Judge, Hyderabad, on the ground that he along with other accused murdered one M.A. Khadeer, the then Deputy Secretary of A.P. State Wakf Board, on 09.11.1992 at 9.30 PM. The appeal preferred by petitioner along with others vide CrI.A.No.149 of 2003 was dismissed vide judgment, dated 17.10.2003, by this Court and since then, petitioner was imprisoned. It is stated that he had undergone imprisonment for 19 years including remissions. The Government of Telangana issued G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, and granted special remissions to various categories of prisoners, as per which life convicts who have undergone actual sentence of 7 years including remand period and total sentence of 10 years including remission as on 26.01.2016 are entitled to be released, but the petitioner's case was not considered for premature release in terms

of Para 5(iii)(a) of G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, since it was interpreted that he was involved in the case of murder of public servant while on duty. Aggrieved by the action of the respondents in not granting special remission to the petitioner as per G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, and incorporation of paragraph 4(xv) in the said G.O., the present writ petition is filed

4. Learned counsel for petitioner placed reliance on G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, more particularly, para 5(iii)(a) of the said G.O., which reads as follows:

“Life Convicts (male) convicted in murder of public servants while performing duty on completion of 18 years of actual sentence including remand period and 24 years of total sentence including remission.”

He further submitted that though the Government of Telangana had even made relaxation for the life convicts (Male) convicted in murder of public servant while performing duty on completion of 18 years of actual sentence including remand period and 24 years of total sentence including remission as entitled and eligible for premature release and the petitioner has completed 19 years including remission, but he was deprived of the said benefit of premature release in terms of para 5(iii)(a) of G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, on the ground that he was involved in murder of public servant while on duty.

5. On perusal of the entire record, it is evident that the learned counsel for the petitioner could not be able to substantiate the rejection and refusal of benefit of premature release of the petitioner

even after the issuance of G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016.

6. Considering the grievance of petitioner and the submissions of the learned counsel for petitioner, the Writ Petition is disposed of with the following direction:

The petitioner is directed to submit a representation to the 1st respondent by placing reliance on G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, informing that he is entitled for the benefit of premature release in terms of para 5(iii)(a) of G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, since he has completed 19 years including remission. On such representation, the 1st respondent is directed to dispose of the same, as expeditiously as possible, in accordance with law, within a period of one (1) month from the date of receipt of a copy of this order. If the petitioner is aggrieved by the order of the 1st respondent, he is at liberty to approach this Court.

7. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

RAJA ELANGO, J

19th December, 2016

sj