

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.610 OF 2019

PETITIONER :- Rambharose @ Ranga Pannalal Malviya,
Convict No.C/6340, Aged 40 years,
Occup.Nil, Confined at Central Prison,
Nagpur.

...VERSUS...

RESPONDENTS :-1. State of Maharashtra through Deputy
Inspector General of Prison, Eastern
Region, Nagpur.
2. The Superintendent, Central Prison,
Nagpur.

Mr. S.M.Ghodeswar Addl.PP for respondent nos.1 and 2.

CORAM : SUNIL B.SHUKRE &
AVINASH G. GHAROTE, JJ.

DATE : 17.02.2021.

ORAL JUDGMENT (Per :Sunil B.Shukre, J.)

Nobody is present for the petitioner.

2. Heard learned Addl. P. P. for the respondents.

3. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

4. The petitioner has challenged the order passed by respondent no.1 directing deduction of the remission period to be granted to the petitioner from his overall sentence @ 1:4 days in terms of the government notification dated 02.08.2011, which prescribes at Sr. No. 3 that whenever the prisoner remains outside the jail unauthorizedly for the first time and the period exceeds 15 days but does not exceed one month, and is required to be arrested and brought back to the prison, the cut in remission of the sentence would be @ 1:4 days.

5. The petitioner submits that such cut in remission applied to the case of the petitioner is arbitrary as it is excessive and not permissible under the notification dated 02.08.2011. Learned Additional Public Prosecution disagrees.

6. We have carefully gone through the notification dated 02.08.2011. We find that in imposing such a punishment upon the petitioner, the respondent no.1 has not applied his mind properly to the conditions prescribed in the notification dated 02.08.2011.

7. The facts of this case here are that the petitioner was on furlough leave and he did not return to the prison on the due date and was required to be arrested and brought back to the prison and the delay thus caused in his being brought back to the prison was of about 18 months. In such a case, the punishment ought to have been imposed in accordance with serial no.8 applicable to the category of the prisoners remaining out side the jail unauthorizedly after having been granted furlough leave.

8. Therefore, we are of the view that this is a fit case for quashing the impugned order and remanding the matter back to the respondent no.1 for fresh consideration in accordance with the government resolution dated 02.08.2011.

9. The petition is allowed. The impugned order is hereby

quashed and set aside and the matter is remanded back to the respondent no.1 for fresh consideration in accordance with the rules.

Rule is made absolute.

JUDGE

JUDGE