



W.P.(MD) No.5851 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2021

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

W.P. (MD) No.5851 of 2019

S.S.Mary

... Petitioner

-vs-

- 1.The Government of Tamil Nadu
rep.by its Principal Chief Secretary
Secretariat
Fort St.George, Chennai-9
- 2.The Government of Tamil Nadu
rep.by its Secretary to Government
Home-Prison IV Department
Fort St.George, Chennai-9
- 3.The Additional Director General of Police-cum-
Inspector General of Prisons
Chennai-8
- 4.The Additional Director General of Prison-cum-
Advisory Committee
Chennai-8
- 5.The Superintendent of Prison
Central Prison
Palayamkottai, Tirunelveli District ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records and quash the impugned amended G.O.No.302 dated 03.05.2018 Prison IV-Department issued by the second respondent and consequently direct the respondent to consider premature release of the petitioner's husband life convict No.1124 confined at Central Prison, Palayamkottai, Tirunelveli, by liberally considering the G.O.Ms.No.64, Prison IV Department, dated 01.02.2018.



For Petitioner : Mr.M.S.Sureshkumar

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

WEB COPY

O R D E R

S.VAIDYANATHAN, J.

and

DR.G.JAYACHANDRAN, J.

The writ petition is filed by the wife of the life convict challenging the order, dated 09.08.2018, passed by the third respondent, rejecting the request of the life convict for premature release.

2. It is sufficient to note that the said order states that the life convict Mr.Samuel, son of Kovilpitchai, has undergone imprisonment for a period of 09 years 10 months and 04 days as on 25.02.2018 and therefore, based on G.O.(Ms) No.64, Home (Prison-IV) Department, dated 01.02.2018 as amended by G.O.(Ms) No.302, Home (Prison-IV) Department, dated 03.05.2018, he is not eligible for premature release.

3. The learned counsel appearing for the petitioner would submit that there is hardly a shortage of 56 days to complete ten years of imprisonment and if the parole period is taken into account, the life convict would have crossed ten years barrier and therefore, the respondent ought to have considered the request of the life convict for premature release positively.

4. The learned Additional Public Prosecutor has filed a counter affidavit, wherein, it has been stated that the convict has not completed the requisite period of ten years of imprisonment and hence, his name was not considered for premature release. Regarding inclusion of parole period, the Division Bench of this Court has already held that the period of parole cannot be taken into account while computing the period of imprisonment while considering the premature release.

5. Be that as it may, premature release is the prerogative power of the Executive and Courts cannot step into shoes of the executive. However, since from the facts this Court finds that the life convict has already completed ten years of imprisonment by this time, it is open for the life convict to make a fresh request to consider his case as per G.O.(Ms) No.64, dated 01.02.2018 as amended by G.O.(Ms) No.302, dated 03.05.2018, if his request is not so far considered. If the request of the life convict is already under consideration, the respondents shall expedite the process and



intimate their decision to the petitioner forthwith.

6. With the above observation, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

krk

To:

1.The Principal Chief Secretary,
Secretariat
Government of Tamil Nadu,
Fort St.George, Chennai-9.

2.The Secretary to Government,
Home-Prison IV Department,
Government of Tamil Nadu,
Fort St.George,
Chennai-9.

3.The Additional Director General of Police-cum-
Inspector General of Prisons,
Chennai-8.

4.The Additional Director General of Prison-cum-
Advisory Committee,
Chennai-8.

5.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.

+1 CC to M/s.M. S. SURESHKUMAR, Advocate (SR-34793[F] dated
17/11/2021)

W.P. (MD) No.5851 of 2019
15.11.2021

am(CO)

TR(06.12.2021) 3P 7C