

In the High Court of Punjab and Haryana at Chandigarh

CRWP No. 7183 of 2022
Reserved on: 28.7.2022
Date of Decision: 03.8.2022

Kabal Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. S.S.Rana, Advocate with
Mr. Arvind Kr. Sharma, Advocate
for the petitioner.

Mr. M.S.Nagra, AAG, Punjab.

SURESHWAR THAKUR, J.

1. The petitioner is a life convict, and, is extantly a prison inmate in consequence, to his suffering a verdict of conviction, as made by the learned Additional Sessions Judge, Tarn Taran, on 12.4.2012, in respect of FIR No. 14 of 25.1.2009, registered at Police Station Jhabal, District Tarn Taran, wherein offences constituted under Sections 302, 120-B of the IPC, and, under Section 25/27 of the Arms Act, 1959, became embodied. In consequence to the above drawn verdict of conviction, he as above stated, is undergoing the sentence of life imprisonment, at the prison concerned.

2. The present petitioner, on anvil of a policy, drawn by the State of Punjab, and, which becomes carried in Annexure P-1, had claimed the contemplated therein benefit qua his becoming prematurely released from prison. However, upon his representation, embodied in Annexure P-2, the

competent authority, drew an order, as carried in Annexure P-3, rather declining his espoused claim for his becoming prematurely released from prison.

3. Therefore, the present petitioner becomes pained therefrom, and, is led to institute thereagainst the instant petition, before this Court, hence for making a contest qua its validity.

4. As above stated, the petitioner's claim, who is a life convict, for his becoming prematurely released from prison, became anchored, upon Annexure P-1. Annexure P-1 was drawn on 8.7.1991.

5. It is trite law, that the policy applicable to the relevant claim, would be the policy as applicable, at the time, when the verdict of conviction, and, consequent therewith sentence of life imprisonment, becomes imposed, upon the life convict. In consequence, when the verdict of conviction became returned against the present petitioner, in the year 2012, by the learned Additional Sessions Judge, Tarn Taran, and, in consequence therewith sentence of life imprisonment became imposed, upon the present petitioner, thereupon, when the above drawn policy in the year 1991, is not disclosed in the impugned order, to become modified or rescinded, through a subsequently drawn policy. In consequence, the policy, as carried in Annexure P-1, and, which was in prevalence at the time of the present petitioner, becoming awarded the verdict of conviction, and, consequent therewith sentence of life imprisonment, in respect of a charge drawn against him, under Section 302 of the IPC, does apply with the fullest force for the present petitioner.

6. The norms/guidelines of the policy, appended with the present petition as Annexure P-1, hence becomes the arch rather for determining the

validity of the petitioner's claim for his being prematurely released from prison. The contemplation, as carried in Anneuxre P-1, in respect of the life convict's claim for his becoming prematurely released from prison, carries an underlining, that an adult life convict, was required to be spending in prison, a total span of 14 years imprisonment along with remissions. However, the period spent on parole by the life convict, is to be excluded from the above spell.

7. In determining whether the above period of 14 years in prison, became evidently spent in prison by the life convict, along with remissions, but excluding the period spent on parole, a perusal of the custody certificate of the present petitioner, as unfolded by a table, carried in the impugned verdict, reveals that the actual period of sentence, as, spent in prison, by the present petitioner, is 10 years, but since the present petitioner, is also, detailed in the table, to earn remission for a term about 8 years. Therefore, upon totaling the actually spent period, in prison, by the life convict, which is about 10 years, with the above term of remissions, as, became earned by the petitioner, thereupon the total sentence for the relevant purpose comes to a term of 16 years.

8. As above stated, since the policy drawn on 08.7.1991, and, as carried in Annexure P-1, is applicable to the petitioner's claim, as at the relevant time, it was in force, inasmuch as, when the petitioner became handed over the verdict of conviction, hence in the year 2012, by the learned Additional Sessions Judge, Tarn Taran, for a charge drawn against him, under Section 302, 120-B of the IPC, and, under Section 25 of the Arms Act, and, in consequence therewith he became sentenced to undergo life imprisonment. In consequence, when in terms thereof, he was to

undergo 8 years of total actual sentence or he was to spend 14 years imprisonment along with remission period, spell whereof, in consonance therewith has been evidently spent or undergone in prison by the present petitioner.

9. In aftermath, the impugned order suffers from a gross fallacy, and, infirmity, inasmuch as it is in complete derogation of the relevant contemplation(s) (supra), carried therein, and, as such is required to be quashed, and, set aside.

10. In sequel, the impugned order is quashed, and, set aside. The Superintendent of the Jail concerned, is directed, if not required in any other case, to forthwith prematurely release the present petitioner, from the prison concerned.

11. The petition stands disposed of.

(SURESHWAR THAKUR)
JUDGE

August 03, 2022
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No