



WEB COPY



W.P.No.2292 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.2292 of 2024
and W.M.P.No.2484 of 2024

Vanniya Raja

... Petitioner

Vs.

The State represented by its,
1.The Principal Secretary to Government,
Home (Prison-IV) Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Director General of Prisons,
Gandhi Irwin Road, CMDA Building,
2nd Tower, Egmore,
Chennai-600 008.

3.The Superintendent of Prison,
Central Prison at Palayamkottai,
Tirunelveli District-627 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
praying for the issuance of Writ of Certiorarified Mandamus, to direct the
first respondent to call for the records pertaining to the impugned order



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in G.O.(D).No.1273, dated 03.11.2023 passed by the first respondent and quash the same and direct the third respondent to release the Convict / petitioner namely, Mr.Vanniya Raja, S/o.Karuppasamy who is confined at Central Prison, Palayamkottai.

For Petitioner : Mr.M.Mohamed Saifulla
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
assisted by Mr.Aravind.C

ORDER

(Order of the Court was made by *M.S.RAMESH, J.*)

The petitioner herein is a convict prisoner whose request for premature release has been rejected through the impugned order in G.O.(D).No.1273, dated 03.11.2023. Challenging the same, the petitioner has come forward with the present Writ Petition.

2. Heard the learned counsel for the petitioner as well as the learned Additional Public Prospector appearing for the respondents.

3. The reason assigned for rejection of the petitioner's request is that he had not served 14 years of imprisonment as prescribed in



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Paragraph 2 (G) of G.O.Ms.No.488, Home (Prison-IV) Department,
dated 15.11.2021.

4. It is seen that the requirement for grant of premature release under G.O.Ms.No.488 is that the life convict concerned ought to have completed a minimum period of 10 years of sentence and not 14 years. This aspect was already considered in a case before us in ***Gunasekaran vs. Home Secretary (Prison-IV) and others*** passed in W.P.No.31099 of 2023, dated 11.01.2024 in the following manner:

"4.

..... Insofar as the second reason assigned in the impugned order that the petitioner's remission would be premature as he has not completed 14 years in prison as on 15.08.2023 is concerned, this reasoning, seems to be a misconception of the facts. As a matter of fact, in Paragraph 5 of the impugned Government order itself, it is admitted that the petitioner has completed 11 years, 10 months and 9 days. The Regulation governing the premature release on this ground is under G.O.No.488, Home (Prison-IV) Department, dated 15.11.2021, which prescribes the minimum period to be served as 10 years and not 14 years. While that being so, the second reason on which



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the petitioner's request for his premature release also cannot be sustained for all the forgoing reasons."

5. In view of the above observations, it is evident that the respondents have misconstrued the G.O.Ms.No.488, Home (Prison-IV) Department, dated 15.11.2021. Hence, the impugned order in G.O.(D).No.1273, dated 03.11.2023 cannot be sustained and the same is quashed. Consequently, the matter is remitted back to the first respondent herein for re-consideration on merits by applying G.O.Ms.No.488, Home (Prison-IV) Department, dated 15.11.2021, within a period of six (6) weeks from the date of receipt of a copy of this order.

6. Accordingly, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

[M.S.R., J] [S.M., J]

16.02.2024

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

Anu



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