



W.P.(MD) No.877 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.(MD) No.877 of 2024

and

W.M.P.(MD) No.897 of 2024

Ajith

... Petitioner

-VS-

1.The Principal Secretary to Government
O/o.The Principal Secretary to Government
Home (Prison IV) Department
Secretariat, St.George Fort, Chennai

2.The Additional Director General of Prison
O/o.The Additional Director General of Prison
Whannels Road, Egmore, Chennai

3.The Additional Superintendent of Central Prison
O/o.Superintendent of Central Prison
Central Prison, Palayamkottai, Tirunelveli

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of the impugned G.O. (D) No.1360, dated 24.11.2023, issued by the first respondent and quash the



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same as bad in law and subsequently direct the respondents herein to release the petitioner's father / detenue who is under the Central Prison at Palayamkottai in C.P.No.2282 prematurely. Since the petitioner's father has been under the prison for more than 10 years 2 months 1 day including the remand period where petitioner's father had undergone into the prison during the trial stage and well entitled for premature release by comply with the conditions stipulated connecting with G.O.(Ms) No.488 amended as 508, Home (Prison-IV) Department, dated 18.11.2021.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The order in G.O.(D) No.1360, Home (Prison-IV) Department, dated 24.11.2023, passed by the first respondent rejecting the request of the petitioner for premature release of his father on the ground of non-completion of requisite period of imprisonment is under challenge in this writ petition. Consequently, the petitioner has sought a direction to the respondents to release his father prematurely under G.O.(Ms) No.488, Home (Prison-IV)



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Department, dated 15.11.2021, since he is in imprisonment for more than ten years, including the remand period.

2. It is the case of the petitioner, his father is in imprisonment for more than ten years and therefore, he is entitled for premature release as per the conditions laid down in G.O.(Ms) No.488, dated 15.11.2021. However, the petitioner's request has been rejected by the impugned order stating that the prisoner has not completed ten years of imprisonment on the crucial date. Challenging the same, the present writ petition.

3. The respondents have filed a detailed counter affidavit, wherein in Paragraph No.10, they have stated as follows:

“10. With regard to the averments made in paragraph 7 of the affidavit, it is submitted that remand period of the life convict prisoner No.2282, Kaliraj was 134 days i.e., from 15.11.2001 to 28.03.2002. Even after adding his remand set-off period, he had completed only 09 years, 09 months and 07 days of actual imprisonment as on 15.09.2021. The above life convict prisoner had not completed 10 years of actual imprisonment as on the crucial date I.e., 15.09.2021. Hence, as per the conditions laid down in para 2(A) of G.O. (Ms) No.488, Home (Prison-IV) Department, dated 15.11.2021,



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he is not eligible for premature release. Further, as per 2(H) of the said Government order granting of premature release is a one-time affair in commemoration of 113th Birthday of former Chief Minister of Tamil Nadu, Dr.Peraringar Anna and it is applicable only to those, who are eligible as on 15.09.2021 and it shall not be extended later on to the persons who fulfil all the conditions stipulated in the Government orders on a later date, so the order passed by Government in G.O.(D) No.1360, Home (Prison-IV) Department dated 24.11.2023 is valid.”

4. Learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that the crucial date for the operation of G.O.(Ms) No.488, dated 15.11.2021, is 15.09.2021 and on the said date, the prisoner had not completed the requisite imprisonment period of ten years and he had only completed 09 years 09 months and 07 days and thereby, the said Government Order is not applicable to him.

5. On 03.06.2024, when the matter came up for hearing, in order to verify the period of sentence undergone by the petitioner, we directed the third respondent to produce a certified copy of the conviction warrant of the prisoner before this Court today.



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6. Today, the third respondent has produced a certified copy of the form of warrant on a sentence of imprisonment for life of the petitioner's father. A perusal of the calculation sheet enclosed along with the said warrant shows that on as 15.09.2021, the petitioner's father had completed only 09 years 09 months and 07 days, thereby, he is not entitled for premature release under G.O.(Ms) No.488, Home (Prison-IV) Department, dated 15.11.2021, which requires a period of ten years of imprisonment for premature release. Hence, we are of the view that the petitioner is not entitled for the relief as such sought for in this writ petition.

7. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[A.D.J.C., J.] [K.R.S., J.]

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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