



CRWP-7626-2022 (O&M)

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222 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRWP-7626-2022 (O&M)

Date of Decision: 05.11.2024

AMRIT SINGH

...Petitioner

V/S

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ishmeet Singh, Advocate
for Mr. Sherry K. Singla, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. The present Criminal Writ Petition has been filed under Article 226/227 of the Constitution of India in the nature of certiorari for quashing of the impugned order dated 30.12.2021 (Annexure P-3) passed by respondent No. 1, whereby the pre-mature release case of the petitioner has been rejected in violation of the policy dated 08.07.1991 (Annexure P-2) issued by Government of Punjab, Department of Home Affairs and Justice for grant of remission of sentence of life and imprisonment.

2. Learned counsel for the petitioner, inter alia, contends that as per applicable policy (Annexure P-2), the petitioner was required to undergo 20 years of imprisonment with remissions as the petitioner was a convict whose death sentence has been commuted to life imprisonment for making him eligible for premature release. The petitioner has undergone actual sentence of about 19 years and total sentence with remission is more

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than 23 years and without there being any provision in the applicable policy, case of the petitioner for his pre-mature release has been rejected vide impugned order dated 30.12.2021 (Annexure P-3). It is further contended that case of the petitioner for premature release is squarely covered by the policy dated 08.07.1991 (Annexure P-2) floated by the Govt. of Punjab and he fulfills the criteria laid down in the aforementioned policy. The competent authority passed the impugned order by rejecting the case of the petitioner for his pre-mature release without any plausible and justifiable cause.

3. Per contra, learned State files the reply by way of affidavit of Iqbal Singh Brar, Superintendent, District Jail Mansa on behalf of respondents No. 2 to 3. Same is taken on record. Learned State counsel refers to para 04 of the said reply and submits that case of the petitioner for pre-mature release is pending with the State Government. However, he could not controvert the fact that the petitioner fulfills the conditions mentioned in the policy (Annexure P-2) of the relevant period, which is applicable in the case of the petitioner.

4. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, this Court is of the opinion that the policy instituted by the State for pre-mature release is equally applicable to all convicts and directly impacts their fundamental rights as enshrined under Articles 14, 19 and 21 of the Constitution of India. Once eligible to be considered for premature release according to the applicable policy, the State cannot deny him this concession without

recording due reasons for the same. The State is duty bound to act fairly and to proceed according to the policy formulated by it in a manner that does not discriminate between similarly situated persons in absence of an intelligible differentia. Non-arbitrariness is a facet in Article 14 of the Constitution of India and the State and all its agencies are required to abide by it. This Court dealt with this matter i.e. deferment of cases of the accused for premature release *in extenso* in ***Pohlu @Polu Ram Vs. State of Haryana and others, CRWP No.8232 of 2022, decided on 05.02.2024,*** wherein the following was held:

“The entire edifice of exercise of judicial or quasi-judicial power rests on the foundation of giving reasoned and detailed orders. It is a fundamental principle of natural justice and ensures that there is proper and due application of mind while exercising said power. Therefore, the practice of arbitrarily categorising convicts as threats to society or indiscriminately deferring their cases for premature release needs to be strongly discouraged. It is expedient that the competent authority does not act in a ritualistic fashion and application of mind is discernible.”

5. In view of the above, impugned order dated 30.12.2021 (Annexure P-3) is set aside and the competent authority is directed to consider and decide case of the petitioner afresh, strictly in accordance with applicable policy within a period of six weeks from the date of receipt of certified copy of this order.
6. With the aforesaid observations made and directions issued, present petition is disposed of.

(HARPREET SINGH BRAR)
JUDGE

05.11.2024
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No