

(1987) 12 P&H CK 0005

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Writ Petition No. 833 of 1987

Sada Singh

APPELLANT

Vs

State of Punjab and anr.

RESPONDENT

Date of Decision: Dec. 11, 1987

Citation: (1988) 1 RCR(Criminal) 271

Hon'ble Judges: Ujagar Singh, J

Advocate: S.K. Bhatia, V.K. Jindal, Advocates for appearing Parties

Judgement

Ujagar Singh, J.

1. The Punjab Government formulated a policy which was conveyed to the Inspector General of Prisons, Chandigarh for releasing of the following categories of life convicts :

(i) All prisoners who were undergoing life imprisonment and who were above the age of 70 years and had undergone at least 51/2 years of actual imprisonment provided they were convicted before 18.12.1978 and their conduct during imprisonment had been satisfactory, and

(ii) All infirm prisoners who were incapacitated by illness provided their release is supported by recommendations of a committee of three doctors of the District concerned

In the said Policy, it is further stated that the policy of release of the life convicts of the above two categories would not be attracted to those life convicts whose death sentence has been commuted to life imprisonment on mercy petition. It was further directed in the Policy (Annexure P2) that individuals cases, along with relevant documents viz. rolls of the convict etc., may kindly be sent to the Government immediately for issuing formal orders under section 432 of the Code of Criminal Procedure.

2. On the basis of the said policy, the petitioner has filed this petition, claiming that he was entitled to be released forthwith and that his further detention would be violative of Articles 14, 19 and 21 of the Constitution of India. It is further stated that the petitioner was tried, convicted and sentenced to life imprisonment by the First Additional Sessions Judge, Faridkot on 26.5.1980 and since then he has been continuously confined in jail. Appeal against his conviction and sentence was dismissed by this Court on 1.12.1980. While giving the details, this petitioner claims that he has undergone 1 year, 6 months and 11 days during the trial and 7 years 1 month and 4 days after his conviction. This period comes to 8 years, 7 months and 15 days and remissions granted to the petitioner come to a period of 5 years 2 months and 3 days. Total of both the periods comes to 13 years 9 months and 8 days. 5 months have passed after this petition was filed and therefore, total period of detention comes to 14 years, 2 months and about 8 days. These facts have not been denied by the respondent authorities.

3. The petitioner has submitted a certificate given by a Special Medical Board, holding that he was examined on 7.12.1987 and the Board was of the opinion that the petitioner was infirm due to age and was incapacitated due to anemia and high bloodpressure. The petitioner's age has been said to be above 76 years, in the certificate given earlier by the Medical Board, appearing at page 16 of the file.

4. Release of the petitioner has been opposed only on the ground that the policy contained in Annexure P2 is applicable only to those cases where the persons have been convicted before 18.12.1987. The interpretation placed on Annexure P2 by the respondents is not consistent with the clear categories given therein.

5. Earlier also the petitioner filed Criminal Writ No. 153 of 1987 which was decided on 8.5.1987 wherein it was held that the petitioner belonged to second category of convicts mentioned in Annexure P2. Pritpal Singh, J., as he then was while holding the petitioner to be entitled to the said concession, directed the State Government to consider the case of the petitioner in the light of the observations within 2 months from 8.5.1987, but the respondent authorities have not so far released the petitioner and therefore, the present petition has been filed to give a direction to the State Government for premature release of the petitioner. The respondent authorities are again putting up the same stand that the said Policy relates only to those convicts who were sentenced before 18.12.1978.

6. In view of what has been observed above, this petition is accepted and the petitioner is directed to be released forthwith, if not required in any other case.