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19-7-04

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
[HOME (GENERAL) DEPARTMENT]
5TH LEVEL, 'A' WING, DELHI SACHIVALAYA,
I.P. ESTATE, NEW DELHI

No.F.18/5/94/Home(Genl)/

Dated, the 19-7-2004

ORDER

No.F.18/5/94-Home (General) :- In supersession of this Government's Order of even number dated 5th March 2004 and after carefully considering the proceedings dated 20th October, 1999, of the National Human rights Commission, New Delhi; and Commission's letter No 233/20/97-98(FC) dated 26th Sept. 2003 the Lt. Governor of NCT of Delhi; is pleased to constitute 'the National Capital Territory of Delhi Sentence Reviewing Board' to review the sentence awarded to a Prisoner undergoing Life sentence convicted by the Courts of Competent jurisdiction in Delhi and make recommendations to him about cases of premature release in appropriate cases and Order as follows:-

1. The Composition of the Board shall be as under :-

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| (a) Minister In-charge of Prisons | - Chairman |
| (b) Principal Secretary (Home),
Govt. of N.C.T. of Delhi | - Member |
| (c) Secretary Law, Justice & Legislative Affairs, Govt. of N.C.T. of Delhi | - Member |
| (d) District and Sessions Judge, Delhi | - Member |
| (e) Chief Probation Officer, Govt. of N.C.T. of Delhi | - Member |
| (f) A senior Police Officer not below the rank of
Joint Commissioner of Police, nominated by
the Commissioner of Police | - Member |
| (g) Director General of Prisons, Central jail, Tihar, Delhi | - Member Secretary |

2. The Board shall meet at least once in a quarter on a date and place to be notified to Members at least ten days in advance with complete agenda papers.

However, it shall be open to the Chairman of the Board to convene a meeting of the Board more frequently as may be deemed necessary.

Subject to the provision of Section 433A of the Code of Criminal Procedure, 1973 and Notification No. U-11011/2/74-UTL(I) dt. 20/3/74 of the Govt. of India, Ministry of Home Affairs, the following categories of convicted Prisoners shall be eligible to be considered for premature release by the Board:-

Eligibility for premature release

Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433 A Cr.PC shall be eligible to be considered for premature release from the prison immediately after serving out the sentence of 14 years of actual imprisonment i.e., without the remissions. It is, however, clarified that completion of 14 years in prison by itself would not entitle a convict to automatic release from the prison and the Sentence Review Board shall have the discretion to release a convict, at an appropriate time in all cases considering the circumstances in which the crime was committed and other relevant factors like:

- Whether the convict has lost his potential for committing crime considering his overall conduct in jail during the 14 year incarceration;
- The possibility of reclaiming the convict as a useful member of the society; and

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c) Socio-economic condition of the convict's family.

Such convict as stand convicted of a capital offence are prescribed the total period of imprisonment to be undergone including remission, subject to a minimum of 14 years of actual imprisonment before the convict prisoner is released. Total period of incarceration including remission in such cases should ordinarily not exceed 20 years.

Certain categories of convicted prisoners undergoing life sentence would be entitled to be considered for premature release only after undergoing imprisonment for 20 years including remissions. The period of incarceration inclusive of remissions even in such cases should not exceed 25 years. Following categories are mentioned in this connection.

- a) Convicts who have been imprisoned for life for murder in heinous crimes such as murder with rape, murder with dacoity, murder involving an offence under the Protection of Civil Rights Act 1955, murder for dowry, murder of a child below 14 years of age, multiple murder; murder committed after conviction while inside the jail, murder during parole, murder in a terrorist incident, murder in smuggling operation, murder of a public servant on duty.
- b) Gangsters, contract killers, smugglers, drug traffickers, racketeers awarded life imprisonment for committing murders as also the perpetrators of murder committed with pre-meditation and with exceptional violence or perversity.
- c) Convicts whose death sentence has been commuted to life imprisonment.

3.2 All other convicted male prisoners not covered by section 433 A Cr.PC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 14 years of imprisonment inclusive of remission but only after completion of 10 years actual imprisonment i.e., without remissions.

3.3 The female prisoners not covered by section 433A Cr.PC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 10 years of imprisonment inclusive of remissions but only after completion of 7 years actual imprisonment i.e., without remissions.

3.4 Cases of premature release of persons undergoing life imprisonment before completion of 14 years of actual imprisonment on grounds of terminal illness or old age etc. can be dealt with under the provisions of Art. 161 of the Constitution of India

4. The following procedure shall be followed for processing the cases for consideration of the Board :-

- (i) Every Superintendent of a Jail in the Union Territory of Delhi who has prisoner(s) undergoing sentence of imprisonment for life shall initiate the case of the prisoners at least 6 months in advance of the date when the prisoner would become eligible for consideration of premature release as per the criteria laid down by the State Government in that behalf.
- (ii) The Superintendent of the Jail shall prepare a comprehensive note in each case mentioning the family and social background of the prisoner along with the offence for which he was convicted and sentenced and the circumstances under which the offence was committed. He will also project clearly the particulars of the conduct and behavior of the prisoner in the jail during the period of his incarceration, behavioral conduct during the period he was released on probation leave/parole change in his behavioral pattern, and offences, if any, committed by him in jail and punishment awarded to him for such offence(s). A report shall also be made about his physical and mental health or any serious ailment from which the prisoner is suffering, entitling his case for special consideration for premature release. The note shall also contain recommendations of the Jail Superintendent on whether or not he

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favours for the premature release of the prisoner and in either case it shall be supported by adequate reasons.

- (iii) The Superintendent of the jail shall make a reference to the Deputy Commissioner of Police / Superintendent of Police of the district, where the prisoner was ordinarily residing at the time of the commission of the offence for which he was convicted and sentenced or where he is likely to resettle after his release from the jail. However in case the place where the prisoner was ordinarily residing at the time of commission of the offence is different from the place where he committed the offence, a reference shall also be made to the Deputy Commissioner of Police / Superintendent of Police of the district in which the offence was committed. In either case, he shall forward a copy of the note prepared by him to enable the Deputy Commissioner of Police / Superintendent of Police to express his views in regard to the desirability of the premature release of the prisoner.
 - (iv) On receipt of the reference, the concerned Deputy Commissioner of Police / Superintendent of Police shall cause an inquiry to be made in the matter through a senior police officer of appropriate rank and based on his own assessment shall make his recommendations. While making the recommendations the Deputy Commissioner of Police / the Superintendent of Police shall not act mechanically and oppose the premature release of the prisoner on untenable and hypothetical grounds/apprehensions. In case the concerned Deputy Commissioner of Police / Superintendent of Police is not in favour of the premature release of the prisoner, he shall justify the same with cogent reasons and material. He shall return the reference to the Superintendent of the concerned jail not later than 30 days from the receipt of the reference.
 - (v) The Superintendent of Jail shall also make a reference to the Chief Probation Officer and shall forward to him a copy of his note. On receipt of the reference, the Chief Probation Officer shall either hold or cause to be held an inquiry through a Probation Officer in regard to the desirability of premature release of the prisoner having regard to his family and social background, his acceptability by his family members and the society, prospects of the prisoner for rehabilitation and leading a meaningful life as a good citizen. He will not act mechanically and recommend each and every case for premature release. In either case he should justify his recommendation by reasons material. The Chief Probation Officer shall furnish his report with recommendations to the Superintendent of Jail not later than 30 days from the receipt of the reference.
 - (vi) On receipt of the report recommendations of the Deputy Commissioner of Police / the Superintendent of Police and Chief Probation Officer, the Superintendent of Jail shall put up the case to the Director General of Prisons at least one month in advance of the proposed meeting of the Sentence Review Board. The Director General of Prisons shall examine the case, bearing in mind the report recommendations of the Superintendent of Jail. Deputy Commissioner of Police / Superintendent of Police and the Chief Probation Officer shall make his own recommendations with regard to the premature release of the prisoner or otherwise keeping in view the general or special guidelines laid down by the Government for the Sentence Review Board. Regard shall also be had to various norms laid down and guidelines given by the Apex Court and various High Courts in the matter of premature release of prisoners.
5. The Board shall follow the following Procedure and Guidelines while reviewing the cases and making its recommendation to the competent authority:
- (i) The Director General of Prisons shall convene a meeting of the Sentence Review Board on a date and time advance notice of which shall be given to the Chairman and Members of the Board at least ten days before the scheduled meeting and it shall accompany the complete agenda papers i.e. the note of the Superintendent of Jail, recommendations of the Deputy Commissioner of Police / Superintendent of

Police, Chief Probation Officer and that of the Director General of Prisons alongwith the copies of documents if any.

- (ii) A meeting shall ordinarily be chaired by the Chairman and if for some reasons he is unable to be present in the meeting, it shall be chaired by the Principal Secretary(Home). The Member Secretary (Director General of Prisons) shall present the case of each prisoner under consideration before the Sentence Review Board. The Board shall consider the case and take a view. As far as practicable, the Sentence Reviewing Board shall endeavor to make unanimous recommendation. However, in case of a dissent, the majority view shall prevail and will be deemed to be decision of the Board.
- (iii) While considering the case of premature release of a particular prisoner, the Board shall keep in view the general principles of amnesty / remission of the sentence as laid down by the Government or by Courts as also the earlier precedents in the matter. The paramount consideration before the Sentence Review Board being the welfare of the prisoner and the society at large. The Board shall not ordinarily decline a premature release of a prisoner merely on the ground that the police have not recommended his release. The Board shall take into account the circumstances in which the offence was committed by the prisoner and whether he has the propensity and is likely to commit similar or other offence again.
- (iv) Rejection of the case of a prisoner for premature release on one or more occasions by the Sentence Review Board will not be a bar for reconsideration of his case. However, the reconsideration of the case of a convict already rejected shall be done only after the expiry of a period of not less than Six months from the date of last consideration of his case.
- (v) The recommendation of the Sentence Review Board shall be placed before the competent authority without delay for consideration. The competent authority may either accept the recommendations of the Sentence Review Board or reject the same on grounds to be stated or may ask the Sentence Review Board to reconsider a particular case. The decision of the competent authority shall be communicated to the concerned prisoner and in case the Competent authority has ordered grant of remission and ordered his premature release, the prisoner shall be released forthwith, with or without conditions.

By Order and in the name of
Lt. Governor of NCT of Delhi

(PETER BARA)

DY. SECRETARY HOME (JAIL)

Dated, the 16/7/ 2004

No.F.18/5/94-Home(G)/ 33/9

Copy forwarded for information and necessary action to :-

1. Pr. Secretary to the Chief Minister (Minister In-Charge of Prisons), Govt. of NCT of Delhi.
2. Pr. Secretary (Home), Govt. of NCT of Delhi,
3. Secretary (Law), Govt. of NCT of Delhi.
4. District & Sessions Judge, Delhi
5. D.G. (Prison), Prison Headquarters, Central Jail, Tihar, Delhi.
6. Chief Probation Officer, Govt. of NCT of Delhi.
7. The Joint Registrar (Law), NHRC, (Law Division-IV), Sardar Patel Bhawan, Sansad Marg, New Delhi.
8. Commissioner of Police, P.H.Q, I.P. Estate with the request to nominate a senior Police Officer not below the rank of Joint Commissioner of Police, as member of the Board.

Copy for information to :-

1. Secretary to the Lt. Governor, Delhi.
2. O.S.D. to the Chief Secretary, Delhi.
3. Superintendents of Central Jail No. 1,2,3,4,5,6A and 7 New Delhi.

(PETER BARA)

DY. SECRETARY HOME (JAIL)