No. Home-B(F) 6-1/89-Jails-II
Govt. of Himachal Pradesh
Department of Home

From

The Principal Secretary (Home), the
govt. of Himachal Pradesh

To

The Addl. Director General of Prisons,
Himachal Pradesh, Shimla-3

Dated: Shimla-2, the 15-12-2003

Sub: Premature release of the prisoners undergoing
degree of life imprisonment-Eligibility criteria for,
constitution of Sentence Review Board and
proceedure to be followed.

Sir,

I am directed to say that henceforth the mercy
petitions of prisoners made under Article 161 of the Constitution
of India and Section 432 and 433 Cr. P. C. will also be considered
by the State Sentence Review Board constituted vide this department's
letter of even number dated 28.02.01. The mercy petitions under
Article 161 of the Constitution will be considered by the State
Sentence Review Board as per the procedure made in the Constitution
for the same.

You are, therefore, requested to take further
necessary action accordingly:

You are, therefore, requested to take further
necessary action accordingly:

You are, therefore, requested to take further
necessary action accordingly:

Under Secretary (Home) to the
Govt. of Himachal Pradesh
Dated: Shimla-2, the 15.12.03

No. As above

Copy for information & further necessary action is forwarded to
the:
1. The Joint Registrar (Law), National Human Rights Commission
   (Law Division-IV), Sardar Patel Bhawan, Sansad Marg, New Delhi-1
2. The Registrar General, Hon'ble High Court of Himachal Pradesh,
   Shimla-1
3. The Ld. Distt. & Sessions Judge, Shimla, H.P., Shimla-1
4. The Secretary (Law) to the Govt. of H.P., Shimla-2
5. The Director General of Police, H.P., Shimla-2
6. The Chief Probation Officer-cum-Dy. Director (Welfare) H.P.,
   Shimla-9

Under Secretary (Home) to the
Govt. of Himachal Pradesh.
No. Home-3(F)6-1/89-Jails-II
Government of Himachal Pradesh
Department of Home

From

The F.C. cum-Secretary (Home) to the
Govt. of Himachal Pradesh.

To

The Director General of Prisons,
Himachal Pradesh, Shimla-3.

Dated: Shimla-2, the 28.02.2001

Sub.: Premature release of the prisoners undergoing
sentence of life imprisonment-Eligibility
criteria for, Constitution of Sentence Review
Board and Procedure to be followed.

Sir,

In supression of this Department letter No.
Home-(B)(F)5-23/83, dated 12.8.1983 I am directed to say that
consequent upon the recommendations of National Human Rights
26.5.2000, the premature release cases of prisoners undergoing
sentence of life imprisonment will be considered as per the
following norms henceforth:-

1. **STATE SENTENCE REVIEW BOARD**

   The State Sentence Review Board shall review
the sentence awarded to the prisoners and recommend the pre-
mature release in appropriate cases. The Review Board shall
be a permanent body having following constitution:-

   1. Secretary (Home) Chairman

   2. Secretary (Law)-cum-
      Legal Remembrancer Member

   3. A District & Sessions
      Judge nominated by
      High Court Member

   4. Chief Probation Officer
      Member

   5. A senior Police Officer
      nominated by DG of Police
      not below the rank of SP
The recommendation of the Sentence Review Board shall not be invalid merely by reason of any vacancy in the Board or the inability of any Member to attend the Board meeting. The meeting of the Board shall not, however, be held if the Coram is less than 4 Members including the Chairman.

2. PERIODICITY OF THE BOARD'S MEETINGS

The State Sentence Review Board shall meet at least once in a quarter at the State Headquarter, on date 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.

3. ELIGIBILITY FOR PREMATURE RELEASE

The following category of inmates shall be eligible to be considered for premature release by the State Sentence Review Board:

(i) Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433-A Cr.P.C. shall be eligible to be considered for premature release from prison immediately after serving out the sentence of 14 years of actual imprisonment i.e. without the remissions.

(ii) All other convicted male prisoners undergoing the sentence of life imprisonment shall be considered for premature release after they have served at least 14 years of imprisonment inclusive of remissions and after completion of 10 years actual imprisonment i.e. without remissions.

(iii) All other convicted female prisoners undergoing the sentence of life imprisonment shall be considered for premature release after they have served at least 10 years of imprisonment inclusive of remissions and after completion of 7 years actual imprisonment i.e. without remissions.

(iv) Convicted prisoners undergoing the sentence of life imprisonment on attaining the age of 65 years provided he or she has served at least 7 years of imprisonment including remissions.

(v) The convicted prisoners undergoing the
sentence of imprisonment for life and who are suffering from terminal diseases like cancer, TB, AIDS, irreversible kidney failure, cardio respiratory disease, leprosy and any other infectious disease etc. as certified by a Board of Doctors on completion of 5 years of actual sentence or 7 years of sentence including remissions.

The following conditions shall be kept in view while considering/recommending the premature release cases of prisoners:

(a) Conduct of the prisoner during the imprisonment remained 'good'.

(b) The prisoner has committed no jail offence.

(c) The prisoner has returned from parole and furlough granted to him punctually.

4. INABILITY FOR PREMATURE RELEASE

The following category of convicted prisoners undergoing life sentence may not be considered eligible for premature release:

(i) Prisoners convicted of the offences such as rape, dacoity, terrorist crimes etc.

(ii) Prisoners who have been convicted for organised murders in a premeditated manner and in an organised manner.

(iii) Professional murderers who have been found guilty of murder by hiring them.

(iv) Convicts who commit murder while involved in smuggling operations or having committed the murder of public servants on duty.

5. PROCEDURE FOR PROCESSING OF THE CASES FOR CONSIDERATION OF THE REVIEW BOARD

(i) Every Superintendent of Central/District Jail who has prisoner(s) undergoing sentence of imprisonment for life, shall initiate the case of the prisoner at least 3 months in advance of the date when the prisoner become eligible for consideration of premature release as per the criteria laid down in this behalf.

(ii) The Superintendent of jail shall prepare a comprehensive note in each case giving out the family and societal background of the prisoner, the offence for which he was convicted and sentenced and the circumstances under which the offence was committed. He will also reflect fully about the conduct
and behaviour of the prisoner in the jail during the period of his incarceration, behaviour/conduct during the period he was released on probation leave, change in his behavioural pattern and punishment awarded to him for such offence(s). A report shall also be made about his physical/mental health or any serious ailment with which the prisoner is suffering entitling his case special consideration for his premature release. The note shall also contain recommendation of the jail Superintendent whether he favours for the premature release of the prisoner or not and in either case it shall be supported by adequate reasons.

The Superintendent of Jail shall make reference to the District Magistrate/ 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 re-settle 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 District Magistrate/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 District Magistrate and Superintendent of Police to express their views in regard to the desirability of the premature release of the prisoner.

On receipt of the reference, the Superintendent of Police shall cause an inquiry to be made in the matter through senior police officer of appropriate rank and based on their own assessment shall make their recommendations. While making the recommendations, 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 Superintendent of Police are not in favour of the premature release of the prisoner, they shall justify the same with cogent reasons and material. They shall return the reference to the Superintendent of the concerned jail not later than 30 days from the receipt of the reference.
The Superintendent of Jail shall also make a reference to the Chief Probation Officer of the State 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 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/recommendations to the Superintendent of Jail not later than 30 days from the receipt of the reference.

On receipt of the report/recommendations of the District Magistrate/Superintendent of Police and Chief Probation Officer, the Superintendent of Jail shall put up the case to the Director General/Addl. Director General/Inspector General of Prisons so that the case may be, at least one month in advance of the proposed meeting of the Sentence Review Board. The D.G./A.D.G./I.G. of Prisons shall examine the case bearing in mind the report/recommendations of the Superintendent of Jail, District Magistrate/Superintendent of Police and the Chief Probation Officer and 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 for 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.

6. Procedure and Guidelines for the Review Board

(1) The D.G./A.D.G./I.G. of Prisons shall convene a meeting of the Sentence Review Board on a date and time at the State Headquarters, an advance notice of which shall be given to the Chairman and Members of the Board, at least ten days in advance of the scheduled meeting and it shall accompany the complete agenda papers i.e., the note of the Superintendent of Jail, recommendations of Distt. Magistrate/Superintendent of Police, Chief Probation Officer and that of D.G./A.D.G./I.G. of Prisons alongwith the copies.
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 Secretary (Law) - JLM Legal Remembrancer. The Member Secretary (D.G./A.D.G./I.G. 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 Review Board shall endeavour 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.

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 State 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 prisoner merely on ground that the Police has not recommended his release on certain farfetched and hypothetical premises. 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.

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 one year from the date of last consideration of his case.

The recommendations of the Sentence Review Board shall be placed before the competent authority without delay for consideration. The competent authority may either accept recommendations of the Sentence Review Board or reject the same on the 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 to grant remission and order his premature release, the prisoner shall be released forthwith with or without conditions.

Yours faithfully,

Joint Secretary (Home) to the Govt. of Himachal Pradesh

No. Home-B(F)6-1/89-Jails-II Dated: Shimla-2, the 28.2.11
Copy forwarded to the followings for information/further necessary action:

2. The Registrar (General), Hon'ble High Court of Himachal Pradesh, Shimla-1.
3. The Private Secretary to the Chief Secretary, Govt. of Himachal Pradesh, Shimla-2.
4. The Secretary (Law) to the Govt. of Himachal Pradesh, Shimla-2.
5. The Director General of Police, Himachal Pradesh, Shimla-2.
6. The Director General of Prisons, Himachal Pradesh, Shimla-3.
7. All the Distt. & Sessions Judges in Himachal Pradesh.
9. All the District Magistrates in Himachal Pradesh.
10. All the Superintendents of Police in Himachal Pradesh.
11. All the Superintendents of Jails in Himachal Pradesh.

Joint Secretary (Home) to the Govt. of Himachal Pradesh