

NOTIFICATION

**Release Under- 14 Years Rule /
Release in case of danger of death**

Tripura Gazettee, Part III, July 4, 1964 A.,D

PART III --- Acts of the Tripura Government.
Government of Tripura
Jail Department.

No. F.1-115/IGP/64

Dated, Agartala, the 23rd June, 1964.

NOTIFICATION

In exercise of the powers conferred by clauses (5), (7) and (27) of section 59 of the Prisons Act. 1894 (IX of 1894), and in supersession of of all previous rules on the subject the Administrator is pleased to make the following rules governing the shortening of sentences and premature release of prisoners, namely :-

I – Release under 14 years Rule.

1. Every case in which a convict has undergone in a jail or jails a period of continued detention amounting together with remission earned, if any, to fourteen years, shall be submitted within a month of the completion of such period by the Superintendent of the Jail in which the convict is for the time being detained through the Inspector General of Prisons, for the orders of the Government of Tripura for his release.
2. For the purpose of rule 1 the Superintendent of the Jail after the admission of a convict into the Jail obtain a copy of the judgement of the case or a copy of the judge's charge to the jury, if any, and of his final order from the court concerned and the antecedents of the convict from the Superintendent of Police which shall be submitted to the Government of Tripura in due course along with the case under the aforesaid rule.

Note – Remissions granted on the occasion of public rejoicings, for example, in connection with the Independence Day, the Republic Day, etc, shall be taken into account in calculating the period of fourteen years under the aforesaid rules.

3. In considering the cases of prisoners submitted to it under rule I, the Government of Tripura shall take into consideration (i) the circumstances in each case (ii) the character of the convict's crime (iii) his conduct in prison and (iv) the probability of his reverting to criminal habits or instigating others to commit crime. If the Government of Tripura is satisfied that the prisoner can be released without any danger to the society or to the public, it may take steps for issue of orders for his release under section 401 of the Code of Criminal Procedure 1898.

II – Release in case of danger of death.

4. When a convicted prisoner is in danger of death from sickness, not due to infectious disease, and the Medical Officer of the jail certifies that there is no hope of recovery within or without the jail, and it is considered desirable to allow such prisoner the comfort of dying a freedman at home, the Superintendent of the Jail shall forthwith report the facts with his recommendation to the Magistrate of the district.
5. If in a case reported under rule 4 the prisoner has not been sentenced for a period exceeding seven years or for any heinous crime or series of crimes against society and if the unexpired period of the prisoner's sentence does not exceed six months, the Magistrate of the district may direct his immediate release after making such enquiry as he considers necessary.
6. In all other cases reported under rule 4 the Magistrate of the District shall immediately report the facts of the case, with his recommendation thereon, direct to the Government of Tripura for necessary orders.

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7. When a convict prisoner suffering from sickness, not due to infectious disease is likely to die if detained in jail but there is a reasonable chance of recovery if he is released, the Superintendent of the Jail shall report the facts with his recommendation to the Magistrate of the district who may sanction the release of the prisoner :

Provided that –

- (a) The prisoner has not more than six months to remain in the prison before the expiry of his sentence ; and
- (b) The Medical Officer of the Jail recommends the release and certifies that –
 - (i) the disease is likely to prove fatal if the prisoner remains in jail
 - (ii) there is a reasonable chance of recovery, if the prisoner be released; and
 - (iii) the disease has not been produced or aggravated by any willful act on the part of the prisoner.

(Note - Cases of leprosy in the infective stage and open cases of tuberculosis shall be included under the expression infectious disease mentioned in rule 4 and this rule.)

8. No prisoner who has no friends or relatives willing and able to take charge of him will be released under rule 5, rule 7, or rule-10. In no case shall a prisoner be released and sent charitable dispensary or to a charitable hospital for treatment.
9. If the Magistrate of the district dissents from the recommendation of the Superintendent of the Jail the Superintendent may request the Magistrate to submit the recommendation orders of the Government of Tripura.
10. In cases of complete and incurable blindness, of decrepitude or other incurable infirmity, such as absolutely incapacitates a prisoner from the commission of further crime on release, and where release would not be attended with mischief or danger, a report shall be submitted by the Superintendent of the Jail to the Inspector General of Prisons, who may at his discretion report the case for the order of the Government of Tripura as to the release of the prisoner. Before such report is made, the Magistrate of the district in which the prisoner was convicted shall be asked for his opinion.
11. Every case of release under rules 5 and 7 shall immediately be reported to the Government of Tripura through the Inspector General of Prisons, When a case is referred to the Government of Tripura under rule 6 or rule 9 it may, if it is satisfied that such release will not endanger the security of the community, order release of the prisoner and in a case referred to it under rule 10, may take steps for issue of orders for his release under section 401 of the Code of Criminal Procedure 1898.
12. Nothing in rules 4 to 11 shall apply to a prisoner who has been convicted of any offence against any law relating to a matter to which the executive power of the Union extends or to a prisoner convicted by a court outside Tripura. When any such prisoner fulfils the conditions specified in rule 4,7 or 10 above, his case shall be reported to the Inspector General of prisons by the Superintendent of the Jail in which the prisoner is confined with his recommendation and the Inspector General of Prisons may at his discretion forward the report with his recommendation to the Government of Tripura and the Government of Tripura may after making such enquiry as it considers necessary, report the facts to the Government concerned for necessary orders.

III-Release on the recommendation of an Advisory Board.

13. With a view to the release, of a number of reformed prisoners who can be liberated without any danger to the community after serving a sufficiently deterrent period of their sentence, an Advisory Board hereinafter referred to as the Board shall be appointed by the Government of Tripura for the Central Jail, Agartala to investigate and report to the Government of Tripura on the sentences of certain classes of prisoners. For this purpose the Board shall sit at least twice a year in the Central Jail, Agartala on dates to be fixed for the purpose by the Inspector General of Prisons.
- (a) The Superintendents of affiliated District and Subsidiary Jails shall bring to the notice of the Superintendent of the Central Jail the cases of prisoners confined in the District and Subsidiary Jails respectively which are fit for consideration by the Board according to the preceding rules, The Superintendent of the Central Jail shall then inform such District and Subsidiary Jails when the next meeting of the Board is likely to be held and obtain from them a list of the prisoners whose cases should be considered.
14. The Board shall be constituted as follows :-
- Chairman – The Jail Secretary
- Vice Chairman – The Sessions Judge.
- Members – The District Magistrate and two non-official members to be selected by the Chairman.
- Secretary – The superintendent of the Central Jail, Agartala (Ex-officio Inspector General of Prisons)
15. When a prisoner other than a habitual criminal undergoing a sentence of three years and over has completed two years imprisonment or half of his sentence, whichever is greater, including the period of remission or when a prisoner being a habitual criminal has served two and a half years of his sentence, including the period of remission or has served two thirds of his sentence, including the period of remission whichever in greater, his case shall save as otherwise provided in rules 17 and 18, be put up before the Board for consideration of remitting the remainder of his sentence.
16. For the purpose of calculating under rule 15 the period of two years imprisonment, of half of the sentence in the case of a prisoner other than a habitual criminal, and two and a half years imprisonment, or two thirds of the sentence, in the case of a prisoner being habitual criminal the Superintendent of the Jail shall, when examining cases for submission to the Board, take into account the remission actually earned and not remission granted in celebration of public events, for example, the Independence Day, the Republic Day, etc. The period of imprisonment shall include sentences in default of payment of fine, if it is not paid.
17. Prisoners convicted of rape, forgery, dacoity or any offence against the State involving violence shall not be put up before the Board. For the purpose, an offence punishable under section 466, section 467, section 468, section 469 section 471, section 472, section 473, section 474 of the Indian Penal Code shall be deemed to be a variation of the offence of forgery and an offence punishable under section 396, section 397, section 398, section 399, section 400, section 401 or section 402 of the Indian Penal Code shall be deemed to be a variation of the offence of dacoity and prisoners convicted of these offences, as also those convicted offences punishable under section 366, section 366A, section 366B, section 372, section 373, section 489A, section 489B, section 489C or section 489D of the Indian Penal Code, shall also excluded from reference to the Board.

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18. Prisoners who are habitual criminals and are homeless or prisoners with three or more convictions, all of which were of such a nature as to justify their classification as "habitual criminals" shall be excluded from the purview of the Board.

Explanation – For the purpose of calculating the total period of sentences with a view to determine the eligibility of cases for examination by a Board a sentence of imprisonment for life shall be taken as equivalent to imprisonment for twenty years.

19. Cases of prisoners sentenced to imprisonment for life shall be brought before the Board when they satisfy the conditions laid down in rule 15.

20. Long term sentences of prisoners sentenced by Courts-Martial shall also be reviewed by the Board and, so far as is practicable, the procedure followed in dealing with such sentences of persons convicted by Court- Martial shall be similar to that followed in dealing with persons sentenced by ordinary criminal courts.

21. The cases of prisoners suffering for infectious diseases such as leprosy, tuberculosis, etc shall also be considered by the Board. But the fact of the prisoner suffering from any such disease shall not be taken in to account as a ground for recommending his premature release.

Note – (a) In the case of leper convict the Medical Officer shall previously report whether the disease is likely to be dangerous to other persons, and if it is a condition of his release shall be that unless he has relatives or friends willing to take proper care of him, he shall reside in a leper home. Otherwise he may be released on such conditions as may appear to the Board to be fit and proper in view of the Medical Report.

b) This principal shall be followed in cases of other infectious diseases,

22. (a) In examining the case of a prisoner the Board shall consider not only the character of the offence but also the character and previous history of the prisoner, his conduct in jail and the result of the imprisonment already undergone by him and whether he can be released with safety to the community.

(b) Prisoners who are habitual criminals of the Goonda class shall not be recommended for premature release.

Explanation :- Goonda includes a hooligan or other rouse.

(c) In the case of prisoner Convicted by Court Martial the prisoner antecedents need not ordinarily be inquired into, it shall be sufficient if his behavior in jail in taken into consideration.

23. The Secretary to the Advisory Board of the Central Jail, Agartala shall collect and place before the Board=

(a) The judgement of the convicting court :

(b) Details of the prisoner's previous history and character, which shall, where possible, be obtained by him from the Magistrate of the district : and

(c) The prisoner's prison record, which shall, if possible, be supplemented by the opinion, to be obtained by him of the Magistrate and the Superintendent of Police of the district as to whether there is any objection to the prisoner's premature release.

24. The Superintendent and the Medical Officer in charge of the Jail concerned shall furnish to the Secretary to the Board for submission to the Board other relevant information regarding the physical and mental – condition of the prisoners and their fitness for release.

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Note :- (1) In order to facilitate the recording of a considered opinion and reaching of a quick decision in each case, the Secretary to the Board shall prepare from relevant passages in the judgement a brief statement showing the facts of each case and circulate it to all members of the Board before each meeting.

(2) As regards prisoners convicted by Court-Martial the Secretary to the Board is authorized to obtain, if necessary, information relating to their antecedents and character, together with brief statements of their offences, direct from the Adjutant General in India.

25. The Secretary to the Board shall record proceeding of meetings of the Board and forward them with the descriptive rolls of the prisoners recommended for premature release and other important relevant papers, to the Inspector General of Prisons for submission to the Government of Tripura for necessary orders, under section 401 of the Code of Criminal Procedure, 1898.
26. On receipt of the proceedings of the meetings of the Board and other relevant papers the Government of Tripura shall order release in cases in which having regard to all the circumstances of the case, it considers that the prisoner may be released without any danger to the society. In case of prisoners sentenced by Court Martial or sentenced for any offences against any law relating to a matter to which the executive power of the Union extends the Government of Tripura shall forward its recommendation to the Government of India for necessary orders. And in cases of prisoners who were convicted in courts outside Tripura the Government of Tripura shall forward its recommendation to the Government concerned for necessary orders.

IV – Release on completion of 20 years imprisonment including remission

27. Every case in which a convict, who has not received the benefit of nay of the foregoing rules, is about to complete a period of 20 years of continued detention including remission earned, if any, shall be submitted three months before such completion by the Superintendent of the Jail in which the convict in for the time being detained through the Inspector General of Prisons for orders of the Government of Tripura. If the convicts jail records during the last three years of his detention are found to be satisfactory the Government of Tripura may remit the remainder of his sentence.
28. In these rules :-
- (1) “remission” means remission granted to a prisoner under the rules for the time being in force made under the Prisons Act, 1894 (IX of 1894)
- (2) “habitual criminal: means a person liable to be classified as such under the rules for the time being in force made under the Prisons Act. 1894 (IX of 1894).

By order of the Chief Commissioner.
D. K. GUHA
Chief Secretary