

## CHAPTER LII

## LEAVE AND EMERGENCY RELEASE

**Kinds of leave**

52.1) A variety of systems exist in States in regard to leave or special leave for prisoners during the period of imprisonment in the form of parole, ticket leave, furlough etc. With a view to bringing in a basic uniformity in these matters, especially as an incentive for good behaviour and responsiveness to correctional treatment, the following norms are fixed for release of a prisoner on leave or special leave :

- (i) A prisoner may be entitled to leave of 21 days in one or two spells during a year on the completion of half of his/her sentence or a minimum period of 3 years of imprisonment, whichever is less. Such a leave may be earned by a prisoner on the basis of his/her good behaviour and conduct in the prison.
- (ii) In the case of a prisoner to be granted leave, the application for leave may be sent to the concerned District Magistrate and the Superintendent of Police for comments before it is placed before the Inspector General of Prisons for consideration. If no comment is received from the District Magistrate and the Superintendent of Police within 3 weeks, it may be presumed that there is no adverse opinion to be offered by them and the recommendation of the Superintendent of Jail may be considered by the Inspector General of Prisons. For the subsequent leave, the Superintendent of Jail may be empowered to grant leave on the basis of the conduct of the prisoner during the previous leave without any consultation with the concerned District Magistrate or the Superintendent of Police. Leave availed of by a prisoner may be counted towards his/her imprisonment.
- (iii) Special leave may be granted to a prisoner for a maximum period of 14 days on a specific ground of death, marriage, sickness or any other sufficient cause in his/her family. Special leave may be granted to a prisoner on the recommendation of the Superintendent of Jail by the Inspector General of Prisoners under intimation to the concerned District Magistrate and the Superintendent of Police, so as to facilitate the prisoner to attend to the emergency in his/her family. Special leave granted to a prisoner may not count towards his/her imprisonment.

- (iv) If the prisoner on leave or special leave fails to maintain good behaviour and peace and other conditions specified in relevant order, the order of leave or special leave, may be revoked by the competent authority.

### **Eligibility**

52.2) The following categories of prisoners may not be eligible for being released on leave :-

- (i) prisoners whose presence is considered dangerous or otherwise prejudicial to public peace and order by the District Magistrate/ Superintendent of Police ;
- (ii) prisoners who are considered dangerous, or who have been prosecuted for serious prison violation like assault, outbreak, riot, mutiny, escape, instigation to serious violations, strike, etc. ;
- (iii) prisoners transferred to special prisons on disciplinary grounds for the period of their incarceration in such prisons ;
- (iv) prisoners committed to prisons in default of furnishing security to keep the peace or to be of good behaviour ; and
- (v) prisoners suffering from unsoundness of mind.

*Note :—In case of prisoners governed by any of the laws relating to armed forces of the Union and having separate mode of trial, these provisions of leave and special leave shall be subject to their laws.*

### **Objects**

52.3) The objects of releasing a prisoner on leave are :-

- (i) to enable the inmate to maintain continuity with his family life and deal with family matters ;
- (ii) to save the inmate from the evil effects of continuous prison life ;
- (iii) to enable the inmate to maintain and develop his self-confidence ;  
and
- (iv) to enable the inmate to maintain constructive hope and active interest in life.

**Leave not a right**

52.4) Leave is not a right but a concession, which may be granted to convicts. This concession is subject to cancellation. The State Government / Inspector General reserves the right to debar / withdraw any prisoner or category of prisoners from the concession of leave.

52.5) The following categories of prisoners shall not be eligible for being released on leave :-

- (i) offenders classified as habituals ;
- (ii) prisoners sentenced under sections 392 to 402 Ranbir Penal Code ;
- (iii) prisoners whose presence is considered dangerous or prejudicial to public peace and tranquillity by the District Magistrate/Commissioner of Police ; and
- (iv) prisoners who are considered dangerous, or who are involved in serious prison violations like assault, outbreak, riot, mutiny, escape, instigation to serious violations, strike etc. ;

*Note :- In case of prisoners mentioned in (iv), the Inspector General will pass orders debarring them from concessions of leave.*

- (v) prisoners transferred to special prisons on disciplinary grounds, for the period of their incarceration in such prisons ;
- (vi) prisoners committed to prisons in default of furnishing security to keep the peace or to be of good behaviour ; and
- (vii) prisoners suffering from unsoundness of mind or contagious diseases.

52.6) The Inspector General shall refer to Government the cases of the under mentioned categories of prisoners when they apply for release on leave so as to enable the Government to obtain the prior consent of the Government of India or the State Government concerned :-

- (i) Persons convicted of offences against law relating to a matter to which the executive power of the Union Government extends ; and
- (ii) Persons whose release on leave is likely to have repercussions elsewhere in the country.

52.7) Subject to the provision of rule, eligibility for leave should be regulated as shown below :-

Sentence	When due for first release on leave.	When due for second release.	When due for subsequent release.
Exceeding three years but not exceeding five years.	On completion of one year of actual imprisonment to be counted from the date of admission to prison.	After Completion of one year of actual imprisonment to be counted from the date of his last return form leave.	After completion of one year of actual mprisonment to be counted form the date of his last return from leave.
Exceeding five years but not exceeding fourteen years.	On completion of two year of actual imprisonment to be counted from the date of admission to prison.	After Completion of two years of actual imprisonment to be counted from the date of his last return form leave.	After completion of one year of imprisonment to be counted form the date of his last return from leave.
Prisoners sentenced to life imprisonment and to periods of imprisonment exceeding fourteen years.	On completion of there years of actual imprisonment to be counted from the date of admission to prison.	After Completion of two years of actual imprisonment to be counted from the date of his last return form leave.	After completion one year of actual imprisonment to be counted from the date of his last return from leave.

52.8) For calculation of sentences for the purpose of eligibility for leave, "sentence" shall mean a sentence as finally fixed on appeal or revision or otherwise and includes an aggregate of more sentences than one. Sentences in default of fine shall not be taken into consideration while fixing eligibility for being released on leave.

52.9) Leave should not be granted to a prisoner within a period of six months from the date of his surrender after the expiry of emergency release.

52.10) A register shall be maintained in the prescribed form in which all cases of prisoners eligible for leave shall be posted three months in advance of the date on which they become eligible for being released on leave. On due dates, all such cases shall be placed before the Classification Committee.

### **Consideration of applications**

52.11) The Classification Committee shall examine the case of each prisoner who is eligible for leave to find out whether the prisoner is fit for being released on leave. His case will be considered on the basis of (a) conduct, (b) work, (c) progress achieved in various spheres, (d) efforts for introspection and self-improvement, (e)attitude towards family and community , and (f) the manner in which previous period of leave or emergency leave was utilized.