
(2012) 01 AHC CK 0746
In the Allahabad High Court
Case No : C.M.W.P. No. 32716 of 2011

Smt. Asha Sharma

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 19-01-2012

Acts Referred:

Citation : (2012) 6 ADJ 734 : (2012) 2 AWC 2087

Hon'ble Judges : Vineet Saran, J; Ashok Pal Singh, J

Bench : Division Bench

Advocate : Ramesh Chand Tiwari and P.S. Baghel, for the Appellant;

Final Decision : Allowed

Judgement

1. The brief facts of the case are that husband of the petitioner late Bhupendra Sharma who was a fair price dealer was appointed on 20.9.1997 alongwith 22 other persons who were also aggrieved by the same order. Then by order dated 2.7.1998 the appointment of the petitioner as well as the other 22 persons had been cancelled. Challenging the same, one of such persons whose appointment had been cancelled filed a writ petition before Lucknow Bench of this Court being Writ Petition No. 2105 (MB) of 1998 in which an interim order was granted. Pursuant thereto the respondent authorities restored the fair price shop of the husband of the petitioner late Bhupendra Sharma also. Husband of the petitioner continued to run the shop till his death on 1.10.2010. After the death of her husband, the petitioner filed an application on 14.10.2010 for appointment of the fair price shop dealer in place of her husband on compassionate ground, in terms of the Government order dated 17.8.2002 which provides for such appointment to the dependents of the deceased fair price shop dealers on fulfilment of the conditions mentioned in the said Government order. The said application of the petitioner had been rejected by order dated 28.4.2011 passed by the District Supply Officer, Agra. By a subsequent order dated 19.5.2011, passed by the District Supply Officer, Agra, the petitioner has been given liberty to file a fresh application for grant of fair price shop dealer on the basis of merits on the

vacancy created on the death of husband of the petitioner. Challenging the aforesaid orders dated 28.4.2011 and 19.5.2011 passed by the District Supply Officer, this writ petition has been filed. We have heard Sri R.C. Tiwari, learned counsel for the petitioner as well as learned standing counsel appearing for the petitioner. Pleadings between the parties have been exchanged and with consent of learned counsel for the parties this petition is being disposed of at the admission stage.

2. The ground on which the application for grant of fair price shop dealership on compassionate ground has been rejected is that after cancellation of the fair price shop of husband of the petitioner on 2.7.1998 he had not filed any writ petition and as such even though the fair price shop of the husband of the petitioner was restored, he would not be entitled to the benefit of continuance of such dealership and consequently the benefit of the Government order dated 17.8.2002 could not be available to the petitioner.

3. The respondents do not deny that the petitioner is a dependent of the deceased fair price shop dealer. Merely because after the suspension of the fair price shop of husband of the petitioner her husband had not filed the writ petition, the petitioner cannot be denied the benefit of the Government order dated 17.8.2002 specially when the respondent authorities had themselves restored the dealership of the husband of the petitioner. The contention of the petitioner has force that her husband had no occasion to approach the High Court when his dealership had already been restored. It is admitted that the authorities themselves had withdrawn the order of suspension and restored the shop of husband of the petitioner, meaning thereby that the dealership of the husband of the petitioner continued till his death on 1.10.2010. The petitioner had thereafter on 14.10.2010 applied for the fair price dealership on compassionate ground in terms of the Government order dated 17.8.2002 which should have been considered on merits instead of having been rejected on technical grounds. In view of the aforesaid, we allow this writ petition and quash the orders dated 28.4.2010 and 19.5.2010, passed by the District Supply Officer. The respondents are directed to consider the application of the petitioner dated 14.10.2011 in terms of the Government order dated 17.8.2002 and in the light of the observations made herein above, as expeditiously as possible, preferably within two months from the date of filing of a certified copy of this order before respondent No. 3.

No order as to cost.