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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision : 09.01.2025*+ **LPA 7/2025 & CM APPL. 626-27/2025**

M/S VIMLA STORE

.....Appellant

Through: Mr Yogesh Kumar, Advocate.

versus

THE COMMISSIONER & ANR.

.....Respondents

Through: None.

CORAM:**HON'BLE THE ACTING CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****VIBHU BAKHRU, ACJ. (ORAL)**

1. The appellant has filed the present appeal impugning an order dated 12.11.2024 (hereafter *the impugned order*) passed by the learned Single Judge dismissing the appellant's petition being W.P.(C) No.8841/2024 captioned *M/s. Vimla Store v. The Commissioner & Another*.

2. The appellant (Smt. Vimla Devi) was engaged in the running of a Fair Price Shop (hereafter *the FPS*) for distribution of the food items to the card holders at a subsidised rate in terms of the authorisation dated 02.12.1985 issued by the Department of Food and Supplies, Government of National Capital Territory of Delhi.

3. In November 2014, the appellant filed an application tendering her



resignation to operate the FPS citing health grounds. The said resignation was accepted by respondent no.2 in terms of an order dated 24.11.2014. Subsequently, appropriate directions were issued for linking card holders who were being serviced by the appellant's FPS to other authorised FPS operators.

4. On 10.11.2020 – almost six years after tendering her resignation – the appellant filed an appeal (bearing No.22/2020) before respondent no.1 impugning the order dated 24.11.2014 whereby her resignation was accepted. The said appeal was rejected on 17.06.2021 as respondent no.1 did not find any flaw in the decision of respondent no.2 in accepting the appellant's resignation. Respondent no.1 did not find any grounds to permit the withdrawal of the resignation at the belated stage as more than six years had elapsed since the resignation was accepted. The appellant preferred a review appeal being Review Appeal No.14/2021 seeking review of the order dated 17.06.2021 whereby her appeal for withdrawal of the resignation (appeal bearing No.22/2020) was rejected. However, the appellant was unsuccessful and the said review appeal was dismissed by respondent no.1 in terms of an order dated 13.08.2021.

5. Being dissatisfied with the conclusion of the aforesaid appeal and review appeal, the appellant preferred a second review appeal being the Second Review Appeal No.23/2021 before respondent no.1. However, the same was also rejected by an order dated 15.12.2021.

6. Thereafter, the appellant filed an appeal under Clause 6(7) of the Delhi Specified Articles (Regulations and Distributions) Control Order,



1981 (hereafter *the 1981 Control Order*) impugning the order dated 24.11.2014 whereby her resignation was accepted; the order dated 17.06.2021 whereby her Appeal No.22/2020 was dismissed by respondent no.1; the order dated 13.08.2021 whereby her Review Appeal No.14/2021 was rejected by respondent no.1; and the order dated 15.12.2021 whereby the Second Review Appeal being No.23/2021 was rejected.

7. The Financial Commissioner also rejected the appellant's appeal by an order dated 18.04.2024 after affording the appellant an opportunity to be heard.

8. It was the appellant's case before the Financial Commissioner that respondent had in several cases permitted authorisation holders to withdraw their resignation and denial of similar benefit to the appellant was erroneous. The Financial Commissioner noted that the appellant approached the appellate authority after span of six years and in the meanwhile, the Food and Supplies Department had linked the card holders to various other FPSs. Shifting the same to the appellant would cause hardship and inconvenience to other persons. He also noted that the appellant could have availed the provision of the medical leave, but had chosen to tender her resignation. The Financial Commissioner held that frequent linking of ration cards from one FPS to another FPS would amount to unnecessary hardship to number of recipients of specified food articles, which is uncalled for. The Financial Commissioner also observed that the appellant had tendered her resignation on account of certain medical problems and given her age the medical problems could reoccur, which would once again require the card holders to be linked to other FPSs.



9. Aggrieved by the order dated 18.04.2024 passed by the Financial Commissioner, the appellant filed aforementioned writ petition, which was dismissed *vide* the impugned order by the learned Single Judge.

10. The learned Single Judge found no fault in the orders passed by the respondents and observed that the same reflected a reasoned approach. The relevant extract of the impugned order is set out below: -

“12. The Court has carefully considered the Petitioner’s contentions but remains unpersuaded. The record shows that the Petitioner voluntarily submitted her resignation in 2014, which was promptly accepted by the designated official from the Department of Food Supplies and Consumer Affairs, GNCTD. It appears that, over time, the Petitioner regretted her decision and sought to revisit it through a series of legal proceedings. Her persistence in pursuing reinstatement, while earnest, does not establish a case for relief under the present circumstances.

13. Following the acceptance of her resignation, the Petitioner has since filed two review petitions and two appeals, all of which have been adjudicated without favourable results. Each of these proceedings provided ample opportunity for the Petitioner to make her case for reinstatement of her FPS authorization, yet the Respondents consistently held that the Petitioner’s claims lacked merit. This consistency across multiple orders reflects a reasoned approach, indicating that the Respondents’ stance is neither arbitrary nor dismissive, but rather grounded in substantive considerations.

14. The Court is inclined to agree with the observations made in the impugned order dated



18th April, 2024 passed by the Financial Commissioner. Firstly, all the contentions of the Petitioner had been considered and adequately addressed by Respondents in the orders of first appeal and the two review petitions and secondly, the Petitioner has no plausible explanation to assail the acceptance of the voluntary resignation after a considerable delay of 6 years. In this period of delay, the Respondents had linked the ration cards of the Petitioner with the other FPSs. Therefore, the Financial Commissioner correctly agreed with the observations made by the Commissioner/Appellate Authority to the effect that repeated delinking and linking of ration cards from one FPS to another would cause unnecessary hardships to the recipients of the specified food articles.

15. *** **

16. The Court also notes that the Petitioner referenced similar cases where FPS holders were allegedly allowed to withdraw their resignations. However, consistency in decision-making does not require identical outcomes in all cases, especially where individual circumstances differ. The Financial Commissioner's decision was founded on the facts particular to the Petitioner's case, specifically her prolonged delay, age, health concerns, and the potential impact on operational stability of the FPS. Considering these distinguishing factors, the Respondents' decision to deny her request for reinstatement in neither arbitrary nor unreasonable.

17. In sum, it is clear that the Petitioner has had multiple opportunities to present her case and has been unsuccessful in each instance. The matter has now been litigated at various levels, and the Petitioner cannot continue to pursue the same issues through this Court. The orders impugned in



this petition are consistent, well-reasoned, and show no signs of arbitrariness or procedural unfairness. Consequently, the Court finds no grounds to interfere with the Respondents' decision, which was taken with due consideration of both the Petitioner's submissions and the larger public interest.”

11. The learned counsel appearing for the appellant submits that in several such similar cases, the respondents have allowed the appeal of the authorisation holders to withdraw their resignation. He drew the attention of this court to the order dated 10.02.2020 passed in Appeal No.33/2019 captioned *M/s. Jai Bholey Store v. The Assistant Commissioner (North-West) Department of Food Supplies & Consumer Affairs, Delhi* as well as an order dated 23.09.2009 passed in Appeal No.JS(S)-14/2009 (FPS) captioned *M/s. Gupta Store v. The Assistant Commissioner (South), Food and Supplies Department, Delhi*.

12. We are unable to accept that the facts as set out in the aforesaid cases are similar to those obtaining in the present appeal. In the case of *M/s. Jai Bholey Store (supra)* the withdrawal of the resignation was just after a period of one year period and in the case of *Gupta store (supra)* the authorization holder had applied for withdrawal of resignation after four years. The facts relating to the said cases appear to be materially different.

13. As noted above, in the present case, the delay on the part of the appellant in seeking withdrawal of her resignation is about six years. Clearly, the same cannot be considered at par with the cases where there was the delay of one year as in the first case.



14. In the second case cited by the appellant (*M/s. Gupta Store*) a show cause notice had been issued to the FPS holder for not submitting the bank draft and not opening the shop. It is after the discussion with the Assistant Commissioner, FPS authorisation holder had tendered the resignation. It is material to note that the authorisation holder (appellant) in that case was the person with disability (48% disability). The concerned authority had also concluded that the appellant in that case had no other means of livelihood. Clearly, none of the facts as mentioned above are common in the present case.

15. In the given facts, we are unable to accept the orders passed by the respondents, which were subject matter of challenge before the learned Single Judge are arbitrary, unreasonable or can be faulted on the anvil of Article 14 of the Constitution of India.

16. We find no infirmity in the decision of the learned Single Judge in dismissing the aforesaid writ petition preferred by the appellant. The appeal is unmerited and, accordingly, dismissed. Pending applications are also disposed of.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

JANUARY 09, 2025

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Click here to check corrigendum, if any