



2026:AHC-LKO:10143-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 21 of 2026

State Of U.P. Thru. Prin. Secy. Deptt. Of Medical Health And Family
Welfare U.P. Lko. And Another

.....Appellant(s)

Versus

Sudeep Shukla And 46 Others

.....Respondent(s)

Counsel for Appellant(s)	: C.S.C., Suyash Kumar Pandey, Vinod Kumar Pandey
Counsel for Respondent(s)	: Alok Mishra

Along with :

1. Special Appeal No. 22 of 2026:

State of U.P. Thru. Prin. Secy. Deptt. of Medical Health and Family
Welfare Lko. and another

Versus

Swati Singh and another

2. Special Appeal No. 23 of 2026:

State of U.P. Thru. Prin. Secy. Deptt. of Medical Health and Family
Welfare Lko. and another

Versus

Nandan Prakash Saroj and others

3. Special Appeal No. 61 of 2026:

Vivek Singh and 4 others

Versus

State of U.P. Thru. Prin. Secy. Deptt. of Medical Health and Family
Welfare Lucknow and Ors.

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Heard.

2. This is an appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 against the judgment and order dated 16.01.2024 passed in Writ-A No.9881 of 2023 [Sudeep Shukla & Ors. vs. State of U.P. & Ors.].

3. After hearing the parties, although we had passed certain orders in this case putting queries to learned counsel for the State, ultimately, when we go through the impugned judgment, we find that learned Single Judge while allowing the writ petition has directed the appellant-opposite parties to consider candidature of the respondents-petitioners in the light of its judgment and the judgment rendered in Writ Petition No.190 (S/S) of 2013 '**Seema Singh & Ors. vs. State of U.P. & Ors.**' dated 01.02.2013 after granting weightage on account of past services rendered by the petitioners as an Optometrist on contractual basis for the last more than ten years under National Health Mission within a period of four weeks. However, we do not find any discussion as to the entitlement of the respondents-petitioners to such weightage preceding issuance of such a direction. As regards judgment in **Seema Singh (supra)**, on being confronted, learned counsel for the respondents-petitioners fairly submitted that in **Seema Singh (supra)**, weightage was not given but preference was given to contractual employees working as Auxiliary Midwives /Health Worker (Female) in the same department. If at all weightage is to be given, then, some reasons had to be assigned by learned Single Judge as to what was the basis for issuing such a direction. Of course, the question which we had posed earlier in this appeal as recorded in our orders would be relevant in this context but they have not been considered by the learned Single Judge. Therefore, we see no reason as to why we should consider these issues without the learned Single Judge having considered the same.

4. At this stage, Sri Alok Mishra, learned counsel for the respondents-petitioners says that in **Seema Singh (supra)**, preference was given to contractual employees, therefore, at least that benefit should be extended. However, we did not find the learned Single Judge to have given this benefit to the respondents-petitioners as such if this is the claim, whether the main or the alternative claim, then, even this would, first of all, have to be considered by learned Single Judge, which has not been done.

5. We, accordingly, set aside the impugned judgment. Consequently, writ petition bearing Writ-A No.9881 of 2023 [**Sudeep Shukla & Ors. vs. State of U.P. & Ors.**] shall stand restored to its original number and shall be listed before the learned Single Judge on 19.02.2026 amongst first ten

cases of the day. We request the learned Single Judge to kindly consider and dispose of the writ petition at the earliest keeping in mind the observations made hereinabove and also considering that the selection in question is already underway and a select list has been sent to the Government for appointment. We, however, make it clear that so far as age relaxation is concerned, if the same has been considered for grant to the concerned as ordered, the same shall remain unaffected by our order.

6. Accordingly, the appeal is **allowed** in the aforesaid terms.

(Abdhesh Kumar Chaudhary,J.) (Rajan Roy,J.)

February 10, 2026

Shanu/-