



2026:AHC:14593

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 569 of 2026

Avanish Kumar And 11 Others

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Bhagwan Dutt Pandey
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri B.D. Pandey, learned counsel for the writ petitioners and Sri Gaurav Singh, learned Standing Counsel for the State.

2. Sri Gaurav Singh, learned Standing Counsel has made a statement that he is well equipped with the instructions and is in a position to argue the case. He does not propose to file any counter affidavit and he further submits that the writ petition be decided on the basis of the documents available on record.

3. With the consent of the parties, the writ petition is being decided at the fresh stage.

4. The case of the writ petitioners is that the writ petitioners were appointed on the Class-IV post as Ward-boy, Sweeper and Chawkidar since 1992-1994. However, according to the writ petitioners, two orders came to be passed; one dated 30.11.2024 and another dated 01.02.2025, by which time ACP benefits were sought to be withdrawn and recovery order came to be passed.

5. Questioning the said orders, the petitioners preferred Writ-A No.12755 of 2025, Rajpal and 13 others vs. State of U.P. and others, which came to be decided on 29.05.2025, order whereof is quoted herein:-

"Heard Sri Radha Kant Ojha, learned Senior Advocate assisted by Sri Shivendu Ojha, learned counsel for the petitioners as well as learned Standing Counsel.

By means of this petition filed under Article 226 of the Constitution, petitioners have prayed for quashing of the orders dated 30.11.2024 and 01.01.2025 respectively as by the order impugned their Assured Career Progress (ACP) benefit are sought to be

withdrawn which would ultimately resulted in recovery upon such pay fixation.

It is argued by learned Senior Advocate on behalf of the petitioners that these orders have adverse civil consequence and yet no notice much less a show cause notice given to any of the petitioner before passing of the order impugned.

It is contended next that once the petitioners were conferred upon the benefit of ACP and have been permitted to draw their salary, it was incumbent upon the respondents to at least give one opportunity of hearing to them.

Learned Standing Counsel could not demonstrate from the orders impugned that any show cause notice was ever given to the petitioners.

Having heard learned counsel for the respective parties and having perused the records, I find that from the orders impugned also that ACP benefit is sought to be withdrawn on the ground that petitioners were not entitled to promotional pay scale.

In my considered view, once the benefit had been conferred upon the petitioners, they were at lease entitled to hearing by way of offering explanation.

In the circumstances, therefore, I consider it appropriate to put these orders in abeyance to enable petitioners to put up their explanation in defence of ACP benefit so as to provide opportunity of hearing to them.

In the circumstances, this petition stands disposed of with direction to the petitioners to file their individual written explanation to the concerned competent authority taking the orders impugned as notice within four weeks from today and in the event such explanation is individually offered, the competent authority concerned namely the respondent no. 2 shall be taking final decision in the matter considering the explanation of the petitioners, within a further period of one month. Until such decision is taken by the authority afresh, no action shall be taken pursuant to the orders impugned. The orders impugned are accordingly kept in abeyance to abide by the decision to be taken afresh as directed hereinabove."

6. The writ petitioners claim to have submitted their written explanations which start from page-155 of the paper-book, but now by virtue of the order dated 10.12.2025 passed by the Director, Ayurvedic Services, U.P., Lucknow, the claim set up by the writ petitioners has been negated.

7. Questioning the said order, present petition has been preferred by the writ petitioners.

8. Learned counsel for the writ petitioners submits that the order impugned cannot be sustained for the simple reason, particularly when in the earlier spell of litigation, order whereof is quoted above, required the respondents to consider the explanation submitted by the writ petitioner. However, according to the writ petitioner, explanation has not been considered at all.

9. Learned Standing Counsel could not dispute the said position. According

to him, though the writ petitioner was put to notice and he appeared for hearing, but there is no recital in the order impugned while meting the objections raised by the writ petitioners.

10. I have heard the submissions so made across the Bar and perused the records carefully.

11. Facts are not in issue. It is not in issue that the writ petitioners were engaged as Ward-boy and the writ petitioners no. 1, 2, 3 and 3 were regularized on 30.12.1998 and 30.10.1999 and with rest of the writ petitioners, they are working on ad hoc basis. On a pointed query, being raised to the learned counsel for the writ petitioners, there is no consideration of the explanation, the answer is in negative.

12. According, the writ petition is being decided in the following terms:

(a) The order dated 10.12.2025 passed by Director, Ayurvedic Services, U.P., Lucknow is set aside.

(b) Matter stands remitted back to the authority to pass fresh orders considering the explanation of the writ petitioners.

13. With the aforesaid observations, the writ petition stands **disposed of**.

January 21, 2026

N.S.Rathour

(Vikas Budhwar,J.)