



2026:AHC:42568

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 2855 of 2026

Gyanendra Gautam

.....Petitioner(s)

Versus

State Of U.P. And 6 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Kamla Kant Mishra, Varun Mishra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri K.K. Mishra, learned counsel for the writ petitioner and Sri Rahul Malviya, learned Standing Counsel for the State.
2. Sri Rahul Malviya, 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 petitioner is that he was appointed on the post of Malaria Inspector in the pay-scale of Rs.3200-85-4900 on 29.12.2006. He assumed charge on 02.01.2007. The writ petitioner was confirmed on 02.01.2010. On 18.01.2017, the writ petitioner was given first ACP after completion of 10 years, Grade Pay 2800 w.e.f 02.01.2017 on the basis of the Government Order dated 04.05.2010 and 22.12.2011. It is also the case of the writ petitioner that he was granted second ACP post completion of 16 years w.e.f. 02.11.2023 by virtue of the Government Order dated 05.11.2024, however, according to the writ petitioner on 18.06.2025, an exparte order came to be passed by Addl. Director (Malaria) and V.B.D. U.P. Jawahar Bhawan, Lucknow and based upon the same, on 24.07.2025, the order came to be passed by Chief Medical Officer Jhansi seeking to recover and refixation of the salary on the ground that the writ petitioner was

accorded benefit of ACP erroneously .

4. Questioning the order dated 18.06.2025, and 24.07.2025, the present writ petition has been preferred.

5. Learned counsel for the writ petitioner sought to argue that the order impugned cannot be sustained for the simple reason that the writ petitioner was not put to notice and the entire exercise is unilateral behind the back of the writ petitioner. Reliance has been placed upon the decision in ***Bhagwan Shukla vs. Union of India and others; (1994) 6 SCC 154.***

6. Sri Rahul Malviya, learned Standing Counsel on the other hand submits that whenever any error is crept in, then it is always open for the employer to correct the same. However, according to him, the propriety demands that the affected parties to be heard.

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

8. Apparently, the writ petitioner alleges that certain benefits in the shape of first and second ACP came to be extended to the writ petitioner. However, by virtue of an order dated 18.06.2025 of the Addl. Director (Malaria) and Vector Borne Disease (VBD). U.P. Jawahar Bhawan, Lucknow as well as the order dated 24.07.2025 passed by Chief Medical Officer, Jhansi, refixation and recovery has been directed. So far as the order dated 18.06.2025 is concerned, the same is not available on record, which according to the writ petitioner is an exparte, which has not been served upon the writ petitioner and so far as the order dated 24.07.2025, which happens to be a consequential one, the same has been issued by the Chief Medical Officer, Jhansi, it does not disclose that the writ petitioner was put to notice. In ***Bhagwan Shukla (supra)***, the following was observed:-

"3. We have heard learned counsel for the parties. That the petitioner's basic pay had been fixed since 1970 at Rs. 190 p.m. is not disputed. There is also no dispute that the basic pay of the appellant was reduced to Rs. 181 p.m. from Rs. 190 pan. in 1991 retrospectively w.e.f. 18.12.1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not, even put on notice before his pay was reduced

by the department and the order came to be made behind his back without following any procedure known to law. There, has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter. Since, that was not done, the order (memorandum) dated 25.7.1991. which was impugned before the Tribunal could not certainly be sustained and the Central Administrative Tribunal fell in error in dismissing the petition of the appellant. The order of the Tribunal deserves to be set aside. We, accordingly, accept this appeal and set aside the order of the Central Administrative Tribunal dated 17.9.1993 as well as the order (memorandum) impugned before the Tribunal dated 25.7.1991 reducing the basic pay of the appellant From Rs. 190 to Rs. 181 w.e.f. 18.12.1970."

9. Since the said exercise is lacking, the writ petition is being decided in following terms:-

(a) The writ petitioner shall prefer a comprehensive representation along with self attested copy of the writ petition and the certified copy of the order before the respondent, Addl. Director (Malaria) and Vector Borne Disease (VBD). U.P. Jawahar Bhawan, Lucknow by 13.03.2026.

(b) On the said motion, the respondent, Addl. Director (Malaria) and Vector Borne Disease (VBD). U.P. Jawahar Bhawan, Lucknow shall issue a show cause notice to the writ petitioner within a period of 15 days thereafter.

(c) The writ petitioner shall submit its reply within 15 days thereafter; and

(d) The order shall be passed by the third respondent within a further period of two months.

(e) In case the third respondent is of the opinion that the matter needs to be redressed by some other authority, then a due communication shall be made to the writ petitioner. A reasoned and speaking order shall be passed.

(f) The refixation or recovery shall remain subject to the further orders to be passed.

(g) Further recovery shall not be made till further orders are passed in that

regard.

10. With the said observations, the writ petition stands **disposed of**.

February 25, 2026
N.S.Rathour

(Vikas Budhwar,J.)