



2026:AHC-LKO:11953-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 58 of 2024

State of U.P. through Addl. Chief Secy. Deptt. of Ayush U.P. Govt. Civil
Sectr. Lko. and another

.....Appellant(s)

Versus

Dr. Rakesh Kumar Bajpai and others

.....Respondent(s)

Counsel for Appellant(s)	: V.P. Nag, S.C., Jyotsana Pal, A.A.G., Tushar Verma, A.C.S.C.
Counsel for Respondent(s)	: Amrendra Nath Tripathi (Sr. Advocate) with Vijay Nandan Mani Tripathi, Shreya Upadyyay, Amritansh Tripathi, , Prem Chandra Rai, Om Prakash Pandey, Neerav Chitravanshi

Along with :

- 1. Special Appeal No. 446 of 2023:**
State of U.P. Thru. Addl. Chief Secy. Deptt. of Ayush Govt. of U.P.
Lko. and another
Versus
Dr. Surendra Pratap Yadav
- 2. Special Appeal No. 447 of 2023:**
State of U.P. Thru. Addl. Chief Secy., Deptt. of Ayush, Anubhag-I
Govt. of U.P. Lko. and others
Versus
Dr. Ram Prakash and another
- 3. Special Appeal No. 145 of 2024:**
State of U.P. Thru. Prin. Secy. Deptt. of Ayush U.P. Govt. Lko. and
another
Versus
Ram Vishal Tiwari and others
- 4. Special Appeal No. 147 of 2024:**
State of U.P. Thru. Addl. Chief Secy. Deptt. of Ayush Govt. of U.P.
Lko. and another
Versus
Dr. Suman Raheja and others
- 5. Special Appeal No. 159 of 2024:**
State of U.P. Thru. Addl. Chief Secy./Prin. Secy. Deptt. of Ayush
U.P. Lko. and others
Versus
Dr. Sanjay Kumar
- 6. Special Appeal No. 162 of 2024:**
State of U.P. Thru. Addl. Chief Secy., Deppt. of Ayush, Lucknow
and another

Versus

Dr. Prem Kumar and others

7. **Special Appeal No. 225 of 2024:**
State of U.P. Thru. Addl. Chief Secy. / Prin. Secy. Deptt. of Ayush
Lko and 2 others

Versus

Dr. Abdul Wahab

8. **Special Appeal No. 226 of 2024:**
State of U.P. Thru. Addl. Chief Secy./ Prin. Secy. Deptt. of Ayush
Lko and 2 others

Versus

Dr. Vimla Rawat and Ors.

9. **Special Appeal No. 227 of 2024:**
State of U.P. Thru. Addl. Chief Secy. / Prin. Secy. Deptt. of Ayush
Govt. of U.P. Lko and 2 others

Versus

Dr. Savinay Narela and 2 others

10. **Special Appeal No. 249 of 2024:**
State of U.P. Thru. Addl. Chief Secy. / Prin. Secy. Deptt. of Ayush
Lko. and another

Versus

Dr. Deepika Asi and 4 others

11. **Special Appeal Defective No. 543 of 2024:**
State of U.P. Thru. Prin. Secy. Ayush Anubhag 1 U.P. Lko. and
another

Versus

Subedar Mishra and 6 others

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE JASPREET SINGH, J.**

**Re: Order on Civil Misc. Delay Condonation Application
No. 1 of 2024**

1. Heard on application seeking condonation of delay in filing Special Appeal Defective No. 543 of 2024
2. For the reasons indicated in the application, supported by affidavit, the same is allowed.
3. Delay in filing the appeal is condoned.

Order on Appeals

1. These appeals are directed against orders passed by learned Single Judge whereby the respondents AYUSH Doctors have been permitted to continue in service till the age of 62 years and entitled to all consequential benefits of service in accordance with law.
2. The petitions were filed challenging the orders passed by the respondents indicating the date of retirement of the respondents at the age of 60 years.
3. Challenge was laid on the ground that while by notification dated 31.05.2017, the age of retirement of medical officers of the Provincial Medical Health Services in the State of U.P. was enhanced from 60 years to 62 years, the age of retirement of AYUSH doctors, which are governed by different medical Service Rules, has not been enhanced.
4. Learned Single Judge relying on the judgement of Hon'ble Supreme Court in **North Delhi Municipal Corporation Vs. Dr. Ram Naresh Sharma and others: 2021 SCC OnLine SC 540**, allowed the writ petitions and passed the direction as noticed herein before.
5. In the present special appeals, reliance was placed on **State of Gujarat and others Vs. Dr. P. A. Bhatt and others: 2023 SCC OnLine SC 503**, which judgement had distinguished the judgement in the case of Dr. Ram Naresh Sharma (supra).
6. Now, learned counsel for the parties submit that in **State of Rajasthan and others Vs. Anisur Rahman: 2025 SCC OnLine SC 2266**, Hon'ble Supreme Court has referred the matter to a larger Bench and certain directions have been issued therein and as the matter remains pending before the Supreme Court, similar directions may be passed.
7. Learned counsel for the appellants-State made submissions that for applying the directions given by the Supreme Court, the parameters as indicated in the notification dated 31.05.2017 qua which parity has been claimed by the respondents, may be ordered to be applied.
8. Counsel for the respondents submit that the directions as given by the Supreme Court do not envisage any condition and, therefore, attempt to

apply the condition as indicated in the notification, is not justified.

9. We have considered the submissions made.

10. A perusal of the order passed by Hon'ble Supreme Court reveals that while noticing the contentions raised on behalf of various parties including the conflicting views in the case of **Dr. Ram Naresh Sharma (supra)** and **Dr. P.A. Bhatt (supra)**, the following directions have been given:

"We are of the opinion that there should be an authoritative pronouncement on the issue and we hence refer the matter to a larger Bench. The Registry is directed to place the matter before the Hon'ble the Chief Justice of India on the administrative side.

10. In the meanwhile, the States and the authorities would be entitled to either continue the practitioners of indigenous systems of medicine, even after the age of superannuation specified for them till the age of superannuation provided for MBBS doctors, without the benefit of regular pay and allowances. Eventually, if the larger Bench holds in favour of the AYUSH doctors, entitling them for enhancement in retirement age, the practitioners would be entitled to avail pay and allowances during the period they were continued. However, if they are not allowed to continue by virtue of this order, still they would be entitled to avail the pay and allowances for the enhanced period, if the issue is held in their favour. If the State Government permits such continuance and the individual doctors do not take up such assignment without regular pay and allowances, they would be treated as retired and the fate of this reference will be inconsequential to them.

11. Considering the fact that if the AYUSH doctors are continued, they will not be entitled to pension also, it is directed that they shall be paid half of the pay and allowances, which, if the reference does not yield any favourable orders will be adjusted in their pension or otherwise against the regular pay and allowances.

12. Ordered accordingly."

11. In the above order, Hon'ble Supreme Court has given the option to the State to continue the respondents i.e. AYUSH doctors even after the age of superannuation specified for them till the age of superannuation provided for M.B.B.S. doctors and the same has been made subject to the

final outcome of the order to be passed in reference.

12. Once the case of the appellants-State is that the respondents as such are not entitled to similar treatment in terms of notification dated 31.05.2017, they cannot seek to apply the conditions as indicated in the said notification. The parties in the present cases have to be governed by the directions given by Hon'ble Supreme Court, which are very specific and take care of practically all eventualities.

13. In view thereof, the present appeals are disposed of. The orders passed by learned Single Judge in each of the writ petition, shall stand modified in terms of the directions issued by Hon'ble Supreme Court, which directions would apply in the present cases as well.

(Jaspreet Singh,J.) (Arun Bhansali,CJ.)

February 16, 2026

Sandeep/Asheesh