

2026.PHHC:018741



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-786-2022
DECIDED ON:27.01.2026

PREM PARKASH ANAND

.....PETITIONER(S)

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENT(S)

CWP-23756-2023

MOHAN LAL ASAR

.....PETITIONER(S)

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. B.S. Patwalia, Advocate with
Mr. Abhishek Masih, Advocate and
Mr. Vikram Sehoran, Advocate for the petitioner(s)
Mr. Rahul Dev Singh, Addl. AG Haryana

SANDEEP MOUDGIL, J (ORAL)

By this order, this Court shall dispose of both the aforesaid petitions,
as common questions of law are involved therein. To avoid repetition, the facts are
being taken from CWP-786-2022.

Prayer

1. The jurisdiction of this Court has been invoked under Article 226/227
of the Constitution of India for issuance of writ in the nature of

certiorari to quashing of the order dated 29/08/2014 Annexure P-2 vide which the respondent granted the benefit of 3rd ACP to the ayurvedic/unani medical officers prospectively not from the date when ACP Rule 2008 come into the force i.e 01.01.2006. Further prayer of mandamus directing to the respondents to grant the benefit of 3rd ACP to the ayurvedic/ unani medical officers from the date when ACP Rule 2008 come into the force i.e 01.01.2006 instead of the date of issue of letter i.e. 29/08/2014 Annexure P-2, with 18% interest be also revised from due dates for all intents and purposes.

The Conspectus of Facts

2. The petitioner was appointed as an Ayurvedic/Unani Medical Officer in the Department of AYUSH, Haryana on 15.04.1982 through a regular process of selection. The petitioner served continuously on the posts of Ayurvedic Medical Officer/Unani Medical Officer and also held the post of District Ayurvedic Officer, as reflected in the memo of parties. He rendered more than twenty years of uninterrupted service to the State and retired from service on 30.09.2009.

3. During his service career, the petitioner was granted the benefit of the first and second Assured Career Progression. However, the AYUSH department had extremely limited promotional avenues, with only a very small number of sanctioned posts available at the promotional level. Consequently, the vast majority of Ayurvedic/Unani Medical Officers, including the petitioner, remained stagnated on the same post and retired without obtaining any regular promotion.

4. With effect from 01.01.2006, the State Government notified the Haryana Civil Services (Revised Pay) Rules, 2008 and the Haryana Civil Services (Assured Career Progression) Rules, 2008(in short ACP Rules, 2008). Under the revised pay structure, several pay scales were merged into common pay bands and employees were classified into “specific cadre” and “general cadre” for the

purpose of ACP benefits. Ayurvedic/Unani Medical Officers were placed in the specific cadre and were made entitled to only two ACP benefits, whereas employees in the general cadre were granted three ACP benefits during their service tenure.

5. At the time of implementation of the revised pay rules, the petitioner's pay was fixed by granting him only the first and second ACP benefits, despite the fact that he had completed more than twenty years of service. Consequently, upon retirement, the petitioner's pension was calculated on the basis of the revised pay so fixed.

6. Subsequently, the State Government, upon considering representations and acknowledging the existence of an anomaly, issued a letter dated 29.08.2014 modifying the ACP scheme and extending the benefit of the third ACP to Ayurvedic/Unani Medical Officers. However, the said modification was made applicable prospectively from the date of issuance of the letter.

7. Since the petitioner had already retired prior to 29.08.2014, he was denied the benefit of the third ACP. As a result, the petitioner's pay and pension remained lower than that of his juniors who continued in service and were granted the benefit of the modified ACP scheme. Aggrieved by the continued disparity, the petitioner submitted representations and also served a legal notice upon the respondents, but no relief was granted, leading to the filing of the present writ petition.

Contentions

On behalf of the petitioners

8. Learned counsel for the petitioner(s) submits that the action of the respondents in restricting the benefit of the modified ACP scheme to a prospective date is arbitrary, discriminatory and violative of Articles 14 and 16 of the

Constitution of India. It is contended that once the Government itself has acknowledged the existence of an anomaly in the ACP scheme, the correction thereof ought to have been made effective from the date the anomaly arose, i.e. 01.01.2006.

9. It is further submitted that the entry qualification, mode of recruitment and nature of duties of Ayurvedic/Unani Medical Officers are similar to those of Medical Officers in the Allopathy stream. Both categories perform identical public health functions, including OPD services, maternal and child health care, family planning and implementation of national health programmes. In the absence of any intelligible differentia, denial of equal pay scales and career progression benefits to AYUSH Doctors is asserted to be unjustified.

10. Learned counsel argues that the Assured Career Progression scheme forms part of the pay structure and not an allowance. Therefore, denial of retrospective benefit directly impacts the pay and pension of the petitioner. It is submitted that the prospective application of the modified ACP scheme has resulted in an anomalous situation where seniors are drawing lesser pay and pension than their juniors, which is impermissible in law.

11. It is further contended that the cause of action in the present case is recurring in nature as the petitioner continues to suffer financial loss every month in the form of reduced pension. Despite repeated representations and issuance of a legal notice, the respondents have failed to redress the grievance, compelling the petitioner(s) to invoke the writ jurisdiction of this Court.

12. On the basis of the above submissions, learned counsel for the petitioner(s) prays that the impugned action of the respondents be set aside and the

benefit of the modified ACP scheme be granted retrospectively from 01.01.2006 with all consequential benefits.

On behalf of respondent/State

13. Learned State counsel submits that the present writ petition has been filed seeking grant of the benefit of the third Assured Career Progression with effect from 01.01.2006, whereas the policy granting such benefit to Ayurvedic/Unani Medical Officers was introduced for the first time vide Finance Department instructions dated 29.08.2014. It is contended that the said instructions were expressly made applicable prospectively and were intended to benefit only those employees who were in service on the date of issuance of the policy.

14. It is further submitted that the petitioner had retired from Government service on 30.09.2009, much prior to the issuance of the instructions dated 29.08.2014, and therefore, was never eligible for consideration under the modified ACP scheme. According to learned State counsel, no vested or accrued right of the petitioner has been taken away, as the benefit of the third ACP did not exist in the AYUSH department prior to 29.08.2014.

15. Learned State counsel also raises the objection of delay and laches, contending that the petitioner has challenged the policy dated 29.08.2014 after an unexplained delay of nearly seven years. It is pointed out that the petitioner approached this Court for the first time only in the year 2021 by filing an earlier writ petition, which was subsequently withdrawn, and thereafter filed the present petition. On this ground alone, it is submitted that the writ petition is liable to be dismissed.

16. It is further argued that the petitioner cannot seek parity or retrospective benefits by relying upon alleged anomalies, as the policy decision of

the State to grant the third ACP prospectively falls within the domain of executive wisdom and does not suffer from arbitrariness or unconstitutionality.

17. Learned State counsel places strong reliance on the judgment of the Hon'ble Supreme Court dated 26.04.2023 passed in Civil Appeal Nos. 8553–8557 of 2014, wherein the Apex Court has categorically held that Ayurvedic Doctors and Allopathic Doctors do not perform equal work and, therefore, are not entitled to the principle of equal pay for equal work. It is submitted that the issue raised by the petitioner stands squarely covered against him by the said judgment.

18. In view of the aforesaid submissions, learned State counsel contends that the writ petition is devoid of merit, suffers from delay and laches, and deserves to be dismissed.

Analysis

19. The Court has heard learned counsel for the parties at length and has perused the pleadings and documents placed on record. *The primary issue that arises for consideration is whether the petitioner, who retired from service on 30.09.2009, can claim the benefit of the third Assured Career Progression (ACP) retrospectively from 01.01.2006 on the basis of the instructions dated 29.08.2014, which admittedly grant such benefit prospectively.*

20. At the outset, it is well settled that the Assured Career Progression Scheme is a policy-based incentive intended to mitigate stagnation in service and does not confer an automatic or vested right unless expressly provided by the governing rules or instructions. The entitlement to ACP benefits flows strictly from the terms of the policy as framed by the competent authority.

21. In the present case, it is undisputed that under the ACP Rules, 2008 Ayurvedic/Unani Medical Officers were classified under the *specific cadre* and were entitled to only two ACP benefits. The grant of a third ACP to this category

was introduced for the first time by way of Finance Department instructions dated 29.08.2014. The said instructions clearly stipulate that the benefit would operate prospectively. The petitioner's contention that the modification ought to relate back to 01.01.2006 is thus misconceived. A policy decision introducing a new benefit cannot be retrospectively enforced in the absence of an express provision, particularly when it involves financial implications for the State.

22. Further this Court would note that the petitioner retired on 30.09.2009, much prior to the issuance of the instructions dated 29.08.2014. On the date of his retirement, there was no provision granting a third ACP to Ayurvedic/Unani Medical Officers. Therefore, no vested or accrued right ever crystallised in favour of the petitioner.

23. The argument that the benefit forms part of pay structure and impacts pension cannot be accepted in isolation. Pension is calculated on the basis of lawfully admissible pay on the date of retirement. Since the petitioner was never entitled to the third ACP during his service tenure, the question of revising his pension on that basis does not arise.

24. The petitioner's attempt to claim parity with Allopathic Medical Officers is directly answered by the judgment of the Supreme Court in ***State of Gujarat v. Dr. P.A. Bhatt 2023 (15) SCC 257***. In the said judgment, the Apex Court has categorically held that Ayurvedic Doctors and Allopathic Doctors do not perform equal work and that the doctrine of *equal pay for equal work* is not attracted between the two streams. The Supreme Court recognised the difference in qualifications, training, scope of practice and responsibilities and upheld the State's power to treat them as distinct classes for service benefits. Relevant paragraph of the same reads under as :

43. As seen from paragraph 41 above, Allopathy doctors are required to perform emergency duties and to provide trauma care. By the very nature of the science that they practice and with the advancement of science and modern medical technology, the emergency duty that Allopathy doctors are capable of performing and the trauma care that they are capable of providing, cannot be performed by Ayurved doctors.

44. It is also not possible for Ayurved doctors to assist surgeons performing complicated surgeries, while MBBS doctors can assist. We shall not be understood to mean as though one system of medicine is superior to the other. It is not our mandate nor within our competence to assess the relative merits of these two systems of medical sciences. As a matter of fact, we are conscious that the history of Ayurveda dates back to several centuries.

54. Therefore, even while recognizing the importance of Ayurved doctors and the need to promote alternative/indigenous systems of medicine, we cannot be oblivious of the fact that both categories of doctors are certainly not performing equal work to be entitled to equal pay. Hence, Issue No.2 has to be answered in favour of the appellant-State and against the respondents.

25. In view of this authoritative pronouncement, the petitioner's argument of discrimination under Articles 14 and 16 of the Constitution is wholly untenable and stands conclusively negated.

26. The objection of delay and laches raised by the State also deserves acceptance. The policy sought to be challenged was issued on 29.08.2014, whereas the petitioner approached this Court for the first time only in the year 2021, and even then withdrew the petition. The present writ petition has been filed after an inordinate and unexplained delay.

27. It is trite law that policy decisions relating to service benefits and financial upgradation fall within the domain of executive discretion, and the scope

of judicial review is confined to examining arbitrariness, unreasonableness or violation of constitutional provisions. In the present case, the Court finds that the decision of the State to grant the third ACP prospectively is neither arbitrary nor unconstitutional.

28. *In Directorate of Film Festivals v. Gaurav Ashwin Jain, (2007) 4 SCC 737*, the Apex Court held that “Courts do not and cannot act as Appellate Authorities examining the correctness, suitability and appropriateness of a policy, nor are courts advisors to the executive on matters of policy which the executive is entitled to formulate. The scope of judicial review when examining a policy of the Government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary. Courts cannot interfere with policy either on the ground that it is erroneous or on the ground that a better, fairer or wiser alternative is available. Legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review.”

14. The scope of judicial review of governmental policy is now well defined. Courts do not and cannot act as Appellate Authorities examining the correctness, suitability and appropriateness of a policy. Nor are Courts advisors to the executive on matters of policy which the executive is entitled to formulate. The scope of judicial review when examining a policy of the Government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary. Courts cannot interfere with policy either on the ground that it is erroneous or on the ground that a better, fairer or wiser alternative is available.

Conclusion

29. In view of the foregoing analysis, this Court finds no merit in the writ petition. The petitioner was not entitled to the benefit of the third Assured Career Progression during his service tenure, and the policy dated 29.08.2014 does not confer any retrospective benefit upon retired employees.

30. Accordingly, both the writ petitions are dismissed, with no order as to costs.

31. Pending application(s), if any shall be disposed off.

27.01.2026

Meenu

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No