

State of Uttar Pradesh and Ors.

v.

Bhawana Mishra

(Civil Appeal No. 14250 of 2025)

08 January 2026

[Rajesh Bindal* and Manmohan, JJ.]

Issue for Consideration

Issue arose as to whether on mere admission in a course, right is conferred for appointment on the post of Ayurvedic Staff Nurse.

Headnotes[†]

Service law – Appointment – Post of Ayurvedic Staff Nurse – Advertisement inviting application for the course of Ayurvedic Nursing Training – Respondent admitted and thereafter passed out from government institutions between 2015-19 – Representation before the competent authority seeking appointment, however was rejected – Respondent then filed writ petition – Case of the appellant-State that earlier there were only 20 seats in one government college for imparting Ayurvedic Nursing Training Course, and after completion they were being given appointment, however post 2011, there was a change in policy, the permission was granted to number of private colleges to impart training in that course, and the availability of candidates for appointment on the post of Ayurvedic Staff Nurse was more, hence, due process of selection was required to be followed, and post was now required to be filled up by the UPSSSC – However, the High Court allowed the writ petition – Appeal thereagainst also dismissed – Correctness:

Held: Direction issued by the High Court mandating the State to consider the candidature of respondents for appointment as Ayurvedic Staff Nurse in a Medical College, Hospital or Dispensary under the State Government, cannot be legally sustained – Perusal of the advertisement inviting application for the course of Ayurvedic Nursing Training, shows that no promise had been made for

* Author

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appointment – Clause 9 in the advertisement clearly stipulated that only in case the candidate is appointed after training, he/she shall compulsorily serve the government for at least 5 years – Bond was only meant for the candidate selected for the government service – Principle of legitimate expectation cannot be applied as there was a change in policy and scheme of government – Existing facts and circumstances underwent a substantial shift from the year 2012, when the private institutions were granted permission to conduct the Ayurvedic Nursing Training Course, by way of government order – Candidates pursuing the said course had grown exponentially and all such candidates could not be recruited after training due to limited vacancies – Respondent-candidates failed to identify any specific clause in the advertisements for admission to the course that guarantees right to appointment upon admission – While advertisements for private colleges explicitly state that admission does not grant a right to appointment, the absence of this specific disclaimer in government college advertisements does not mean a right to appointment is automatically implied – Past practice was merely on the basis of the situation at the relevant time when there were only 20 seats for imparting education for Ayurvedic Nursing Training Course and only one government institution was authorized to conduct the course – Since there were more vacancies, most of them may have been adjusted – There were no appointments made by following the earlier system available – There was change in the process of selection as well, earlier the selection was being made by UPPSC, now it was being made by UPSSSC – After the change in policy of the government permitting private institutions to impart training for Ayurvedic Nursing Training Course, the availability of candidates was much more as compared to the earlier regime – Available vacancies with the government being less, the normal rule provides for a selection process to be followed so that the best available candidate is selected – Thus, no violation of Art. 14 as, there was no discrimination against the respondents or that the action of the State was arbitrary – Essence of discrimination is the unequal treatment of equals; however, the State clearly established that no appointments were made under the old system for any candidate admitted after the 2010-11 session – Since no batchmates of the respondent, nor any other candidates passing out after the first private college in 2016, given direct appointments, no instance of similarly situated person being

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treated preferentially – Plea of discrimination factually and legally unsustainable – Thus, the impugned judgment of the High Court set aside. [Paras 19-21, 26-28]

Case Law Cited

N. Suresh Nathan and Anr. v Union of India and Ors [1991] **Supp. 2 SCR 423 : (1992) Supp. 1 SCC 584**; *Sivanandan C T and Others v. High Court of Kerala and Others*, **2023 INSC 709 : [2023] 11 SCR 674 – referred to.**

List of Acts

United Provinces [Indian Medicines] Act, 1939; Uttar Pradesh Ayush Department (Ayurved) Nursing Service Rules, 2021.

List of Keywords

Admission; Appointment; Post of Ayurvedic Staff Nurse; Course of Ayurvedic Nursing Training; Government institutions; Representation before competent authority; Change in policy; Availability of candidates for appointment; Process of selection; Government service; Principle of legitimate expectation; Right to appointment upon admission; Discrimination; Unequal treatment of equals.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 14250 of 2025

From the Judgment and Order dated 17.01.2025 of the High Court of Judicature at Allahabad, Lucknow Bench in SPLA No. 214 of 2020

With

Civil Appeal No(s). 14251 and 14252 of 2025

Appearances for Parties

Advs. for the Appellant(s):

Ms. Sakshi Kakkar, Mrigank Mishra, Ms. Gargi.

Advs. for the Respondent(s):

Varun Singh, Ms. Alankriti Dwivedi, Somesa Gupta, Shivam Sharma, Mudit Gupta, M Shaz Khan, Sudhanshu Tewari, Rafid Akhter, Faizan Ahmed, Talha Abdul Rahman.

Supreme Court Reports**Judgment / Order of the Supreme Court****Judgment****Rajesh Bindal, J.**

1. This order will dispose of three appeals involving common questions of law and facts.
2. The State is before this Court impugning the judgment dated 17.01.2025 passed by the Division Bench of the High Court¹ in Special Appeals² filed by the State. The same were filed against 3 different orders passed by the Single Bench of the High Court in Writ Petitions³ filed by the respondents.
3. For the purpose of consideration of the issues involved, we are noticing facts from Civil Appeal No. 14250 of 2025 (arising out of S.L.P.(C) No.19707 of 2025).
4. Taking us through the long history of facts of the case, learned counsel for the State submitted that vide Government Order dated 12.11.1986, procedure for selection of candidates for Ayurvedic Nursing Training Course in the State was circulated. The selection procedure was specified which provided for written examination followed by an interview and the marks assigned for the same. Tone and tenor of the aforesaid order clearly established that the same was meant for selection of the candidates for the purpose of training for Ayurvedic Nursing Training Course and not for appointment. This was followed by another Government Order dated 22.04.2010. Earlier permission was being granted to continue with the aforesaid course on year-to-year basis. Realizing the need thereof, it was directed that no fresh permission was required every year.
 - 4.1 In the aforesaid backdrop, an advertisement was issued on 23.09.2013 inviting applications for admissions to the Ayurvedic Nursing Training Course for the year 2013-14. The notice clearly suggested that for the aforesaid session, the admission was for 20 seats in the Government Ayurvedic College and Hospital,

1 High Court of Judicature at Allahabad, Lucknow Bench

2 Special Appeal Nos.214 and 257 of 2020 and Special Appeal No.317 of 2021

3 Service Single Nos. 12609 and 33476 of 2019 and Service Single No. 3415 of 2020

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Lucknow. Clause 9 of the advertisement provided that after completion of training, in case the government selects any candidate for mandatory service, it shall be incumbent for the candidate to serve the State at least for a period of 5 years from the date of appointment. The candidates had to submit a bond stating that after training, in case they are appointed by the State government, they shall compulsorily serve the State for at least 5 years. Upon failure to abide by this bond, the entire amount paid during the training period to the candidate was recoverable along with interest @12% per annum.

5. A development which had taken place just prior to the issuance of the aforesaid advertisement, as referred by the learned counsel for the State, was a notification dated 21.10.2011, specifying that Ayurvedic Nursing Training Course in Ayurvedic and General Nursing (Unani Nurses) shall now be conducted by the institutions both in the government and non-government sectors. The interested institutions were to seek permission for the same. After due process, 15 institutions were granted permission in the meeting of the Board⁴ held on 29.03.2012 to impart the aforesaid training. The permission was granted in exercise of powers under the United Provinces [Indian Medicines] Act, 1939.
6. After this permission was granted, even the private institutions started admitting candidates for the aforesaid course. Consequently, the number of pass outs were much more than the vacancies and many times more than those who were earlier getting admission in the government institution.
7. Reference was made to the communication dated 23.12.2013, wherein the respondent was called for appearing in the written examination. Thereafter, vide letter dated 14.02.2024, she was notified about her selection and was required to appear and complete the formalities to be considered for admission in the Ayurvedic Nurses Training Session 2013-14.
8. Learned counsel have further referred to a notification dated 15.12.2014 issued by the State directing that the selection process for the post carrying Pay Band-1 (Rs.5200-20200), Grade Pay

4 Board of Ayurvedic, Unani, and Tibbia, Systems of Medicine, Uttar Pradesh

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Rs.1900/- and above but below Pay Band-2 (Rs.9300-34800), Grade Pay Rs.4600/- shall come within the purview of Uttar Pradesh Subordinate Services Selection Commission.⁵ Notification further stated that for the posts aforementioned, the requisitions already forwarded to the Uttar Pradesh Public Service Commission⁶ shall continue to be processed and finalized by the said Commission. For the present and future vacancies, this exercise shall be undertaken exclusively by the UPSSSC. It was submitted that at that relevant time there were no service rules notified for the post in question.

9. Further, the argument raised by learned counsel for the appellant is that when the respondents passed out, there was a change in the process of selection. By that time, number of private colleges having the requisite infrastructure for imparting Ayurvedic Nursing Training Course were granted permission to start the aforesaid course. The availability of candidates, thus, became more in number. Due selection process was required to be followed to select the best available candidates, as compared to the earlier times, when there were only 20 seats in the State for imparting education for the Ayurvedic Nursing Training Course. It is not denied that earlier, they were being given appointment.
10. After the respondent completed her training course in the year 2017, it is claimed that she sent a representation to the competent authority seeking appointment. To expedite the decision thereon, the respondent filed Writ Petition⁷ before the High Court, seeking a direction for her appointment. The same was disposed of on 19.07.2019 permitting the respondent/petitioner therein, to file a representation before the respondent No. 2 therein and the same was directed to be decided within a period of 3 months from the date of receipt of the copy of the said order. After due consideration, the representation made by the respondent/petitioner therein was rejected by the competent authority vide order dated 25.09.2019. The basis for the rejection was twofold: firstly, it was asserted that there were currently no notified service rules for Ayurvedic Nurses, and the matter of promulgation was under active consideration by

5 Hereinafter, "UPSSSC"

6 Hereinafter, "UPPSC"

7 Service Single No. 19652/2019

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the Government; secondly, reliance was placed on the notification dated 15.12.2014, stating that the pay scales for the post of Ayurvedic Staff Nurse had been revised, which now fall in Pay Band II (Rs. 9300-34800) with Grade Pay of Rs. 4600. Due to this revised pay scale, the direct recruitment for this post fell within the purview of the UPSSSC. The competent authority concluded that a requisition for appointment could only be forwarded to the UPSSSC subsequent to the notification of the relevant service rules.

11. Another factor pointed out by the learned counsel for the appellant was that no appointments were made to the post of Ayurvedic Staff Nurses from 15.12.2014 except some appointments given in 2015. It encompassed candidates who had been admitted to the training course up to the year 2010-11. This is evident from the letter dated 28.05.2015, brought on record by the appellant, which refers to an order passed by the High Court.
12. The aforesaid rejection order dated 25.09.2019 was challenged by the respondent by filing Writ Petition⁸ before the High Court. Definite stand taken by the State before the High Court was that mere admission in the course did not give any right of appointment. There was a change in policy. Permission had been granted to number of private colleges to impart training in that course. The availability of candidates for appointment on the post of Ayurvedic Staff Nurse was more. Hence, due process of selection was required to be followed. Further, the post was now required to be filled up by the UPSSSC.
13. The aforesaid Writ Petition was allowed by the High Court. Reference was made to the letter dated 28.05.2015 placed on record, which showed the relevant policy being followed for the previous batches and it further indicated that certain appointments had been made in the same manner even after the issuance of the government order dated 15.12.2014.
14. The State preferred intra-court appeal.⁹ The same was dismissed vide the impugned order. The opinion of the High Court was that the case of the respondent falls within the principles of legitimate expectation as the erstwhile policy, which was in accordance with

8 Service Single No. 33476/2019

9 Special Appeal No. 214/2020

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Government Order dated 12.11.1986, had been followed for number of years. The candidates who were admitted in the course were being appointed immediately after completion of their training.

15. In the aforesaid factual matrix, learned counsel for the appellant argued that the government order issued on 12.11.1986 only provided a selection procedure for Ayurvedic Nursing Training course for the academic session commencing from 1986. The permission was only for imparting training. The condition in the advertisement regarding the five-year bond was only in case of selection for the post of Ayurvedic Nurse Staff but that did not entitle them for appointment. The condition of bond was applicable only for those who were selected and appointed. Earlier appointments were being given to all the candidates who passed the course of Ayurvedic Nursing Training as there were only 20 seats. Whereas after permission was granted to 15 private colleges to conduct the Ayurvedic Nursing Training, the number of available candidates increased manifold and proper process of selection was required to be followed to select the most competent candidates for the purpose of appointment. The issue of legitimate expectation will not be applicable in the case in hand as the process of selection changed later on. As opposed to the earlier regime, the selection was now required to be undertaken by the UPSSSC for the most suitable candidates. The appointments given in May 2015 were due to an order passed by the High Court in a Writ Petition and that will not give a right of appointment to the respondents. There may be few candidates before this court, however, there are number of petitions pending on the same issue in the High Court. Much water has flown after such candidates have passed out. They can very well compete, whenever the process of selection is notified, subject to their eligibility and thereafter, the meritorious candidates shall be selected.
16. On the other hand, learned counsel for the respondent submitted that from the year 1972 till 2015, the process followed by the State was that whosoever got admission in the course was given appointment as an Ayurvedic Staff Nurse. The bond was required to be furnished at the time of the admission of the course itself. The respondents had passed out from a government institution and not from a private college. The language used in the advertisement issued for admission in a private college was different as it clearly specified that admission will not bind the Board of Ayurvedic and

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Unani Tibbi System of Medicine to offer government service to the trained candidates. Such a clause was missing in the advertisement issued in the present case at the time when the respondent had got admission. The respondent certainly had legitimate expectation at the time of admission in the course as the same system was being followed for decades. Only after seeing those batches, the respondent thought of choosing this career. Even the notification issued by the government on 15.12.2014 will not take away the right of the respondent. In fact, there was no change in the policy after the government order dated 20.11.2011. It is only that some private colleges were also granted permission to impart training of Ayurvedic Nursing course. The process of selection remained the same. In fact, the appointments made in the year 2015 even after the notification of 15.12.2014 clearly show that, the State was still continuing with the old process. The original policy remained the same even at the time of rejection of the representation of the respondent, regardless of the fact that certain private colleges had been granted permission to impart training for Ayurvedic Nursing course. The batches admitted up to 2013-14 prior to the notification dated 15.12.2014, certainly have right of legitimate expectation. He further referred to a communication of the government dated 29.02.1968 to submit that the trainees undergoing the training of Ayurvedic/Unani Nurses will be treated as on duty under the Fundamental Rule 9(6)(b) of the financial hand book Volume II Part II and they were to be paid travel allowances. In support of the argument, reliance was placed on the judgment of this Court in **N. Suresh Nathan and Anr. Vs Union of India and Ors.**¹⁰

17. Heard learned counsel for the parties and perused the relevant referred record.
18. Though the facts have been noticed in detail in the previous paras, still briefly, we reiterate the same. These may be relevant for consideration of the arguments raised by the learned counsel for the parties. From 1986 onwards, till certain private institutions were granted permission to impart training of Ayurvedic Nursing Course, the same was being conducted only by government institution¹¹ with

¹⁰ (1992) Supp. 1 SCC 584

¹¹ Government Ayurvedic College and Hospital, located on Tulsidas Marg (also referred to as Turiyaganj) in Lucknow, Uttar Pradesh.

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intake of 20 students. At that time, the vacancies may have been more, so those were filled with the available candidates, who were given appointments. With the change in the policy vide notification dated 21.10.2011 even the private institutions were permitted to impart education for the aforesaid course. As a result, the number of pass outs increased. The first batch which passed out from the private college was in the year 2016. No doubt, the respondent had passed out from a government institution. However, the fact remains that when she passed out in the year 2017, there was a change in the policy. The selection to the post of Ayurvedic Staff Nurse was to be made by the UPSSSC.

19. The issue arises as to whether mere admission in a course, right is conferred for appointment on the post of Ayurvedic Staff Nurse. A perusal of the advertisement inviting application for the course of Ayurvedic Nursing Training, shows that no such promise had been made. Rather, Clause 9 in the advertisement clearly stated that a candidate who is finally selected for the mandatory service-training by the State Government, shall have to execute a bond in the favour of the government. It stipulated that only in case the candidate is appointed after training, he/she shall compulsorily serve the government for at least 5 years. It is not that the bond was applicable for all the candidates. It was only meant for the candidate selected for the government service.
20. It is on record that the respondents in the present appeals passed out from government institutions between 2015-19. When the permission for imparting Ayurvedic Staff Nurse Training Course was initially granted in the year 2012, only 15 private colleges had started the course. However, as stated by the appellants in their appeals before the High Court, with the passage of time, precisely, by the year 2019-20, nearly 311 institutions were conducting Ayurvedic Nursing Training Course. Thus, the number of pass outs had far outnumbered the available vacancies. As a result, it was impossible to recruit all the pass outs. Besides, appointing candidates passing out of government institutions and not offering the same to the candidates passing out of private institutions would have led to discrimination.
21. It may be far-fetched to apply the principle of legitimate expectation to the case in hand as there was a change in policy and scheme of government. The existing facts and circumstances underwent a

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substantial shift from the year 2012, when the private institutions were granted permission to conduct the Ayurvedic Nursing Training Course, by way of government order dated 21.10.2011. As noted above, the candidates pursuing the aforesaid course had grown exponentially and all such candidates could not be recruited after training due to limited vacancies. Further, the respondent-candidates have failed to identify any specific clause in the advertisements for admission to the course that guarantees a right to appointment upon admission. While advertisements for private colleges explicitly state that admission does not grant a right to appointment, the absence of this specific disclaimer in government college advertisements does not mean a right to appointment is automatically implied. Further, it is pertinent to note that the notice for admission for 20 seats in the Ayurvedic Nursing Training course was issued by the government college itself whereas for a private institution, the notice was issued by the Board.

22. It is the definite case of the State that no appointments were made as per the old system when the State was offering appointments to the candidates who had passed out from the government institution. After the issuance of notification dated 15.12.2014, except for few appointments in the year 2015, no appointments were made. It was on account of order of Court. Those were also of the students who were admitted upto the session 2010-11, which is prior to issuance of notification dated 15.12.2014 as well as granting of permission to private institutions to impart training of the Ayurvedic Nursing course. Thereafter, the selections were made only by the UPSSSC as service rules for the post in question had also been notified vide the Uttar Pradesh Ayush Department (Ayurved) Nursing Service Rules, 2021, which came into force w.e.f. 18.11.2021.
23. As far as the judgment of ***N. Suresh Nathan case (supra)***, relied upon by learned counsel for the respondent, is concerned, the same deals with an issue where a long-standing practice of construction of service rules was sought to be upset. The issue considered in the aforesaid judgment is summed up in paragraph 2 thereof, which is extracted below:

“2. The dispute in the present case is whether a Diploma-holder Junior Engineer who obtains a Degree while in service becomes eligible for appointment as Assistant

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Engineer by promotion on completion of three years' service including therein the period of service prior to obtaining the Degree or the three years' service as a Degree-holder for this purpose is to be reckoned from the date he obtains the Degree. The Diploma-holders contend that they are entitled to include the earlier period and would be eligible for promotion in this category on obtaining the Degree if the total period of service is three years inclusive of the earlier period. The Degreeholders contest this position and contend to the contrary. According to the Degree-holders, these are two distinct categories. In the first category are Degree-holders with three years' service in the grade as Degree-holders, the period of three years being subsequent to the date of obtaining the Degree as in the case of the Junior Engineers who join the service with a Degree; and the other category is of Diploma-holders with six years' experience."

24. It was finally opined that the relevant recruitment rules must be interpreted to mean that the three years of service required in the grade of degree-holder is to be reckoned only from the date of obtaining the degree, as the department had consistently followed the practice of counting the three-year period only from the date the degree was obtained. The Court concluded that since this interpretation was legally tenable and supported by consistent past practice, it would be inappropriate to unsettle it.
25. The doctrine of legitimate expectation under the Indian Law was recently considered by a Constitution Bench of this Court in ***Sivanandan C T and Others vs. High Court of Kerala and Others***¹². While referring to various judgments of this Court, in paragraphs 43 and 44 of the aforesaid judgment, this Court opined as under:

"43. The underlying basis for the application of the doctrine of legitimate expectation has expanded and evolved to include the principles of good administration. Since citizens repose their trust in the state, the actions and policies of the state give rise to legitimate expectations that the state

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will adhere to its assurance or past practice by acting in a consistent, transparent, and predictable manner. The principles of good administration require that the decisions of public authorities must withstand the test of consistency, transparency, and predictability to avoid being regarded as arbitrary and therefore violative of Article 14.

44. From the above discussion, it is evident that the doctrine of substantive legitimate expectation is entrenched in Indian administrative law subject to the limitations on its applicability in given factual situations. The development of Indian jurisprudence is keeping in line with the developments in the common law. The doctrine of substantive legitimate expectation can be successfully invoked by individuals to claim substantive benefits or entitlements based on an existing promise or practice of a public authority. However, it is important to clarify that the doctrine of legitimate expectation cannot serve as an independent basis for judicial review of decisions taken by public authorities. Such a limitation is now well recognized in Indian jurisprudence considering the fact that a legitimate expectation is not a legal right. It is merely an expectation to avail a benefit or relief based on an existing promise or practice. Although the decision by a public authority to deny legitimate expectation may be termed as arbitrary, unfair, or abuse of power, the validity of the decision itself can only be questioned on established principles of equality and non-arbitrariness under Article 14. In a nutshell, an individual who claims a benefit or entitlement based on the doctrine of legitimate expectation has to establish: (i) the legitimacy of the expectation; and (ii) that the denial of the legitimate expectation led to the violation of Article 14."

26. Two tests have been laid down, one being the legitimacy of the expectation and second being denial of legitimate expectation that led to violation of Article 14. When the facts of the case are examined in the light of the enunciation of law in the aforesaid judgment of the Constitution Bench of this Court, may be, at the cost of petition, we need to add that in the case in hand, the past practice was merely on the basis of the situation at the relevant time when there were only 20 seats for imparting education for Ayurvedic Nursing Training

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Course and only one government institution was authorized to conduct the course. Since there were more vacancies, most of them may have been adjusted. However, subsequently there was change in the policy as number of private institutions were permitted to impart education for the Ayurvedic Nursing Training Course. It is also on record that there were no appointments made by following the earlier system available after 15.12.2014, except few as is evident the letter dated 28.05.2015. It is evident therefrom that only the candidates who were admitted till the year 2010-11 were given appointment and that too due to Court order. The private colleges were permitted to impart education thereafter.

27. Statutory rules governing the post had not been framed earlier, and the same came to be framed in the year 2021. There was change in the process of selection as well, namely, earlier the selection was being made by UPPSC, now it was being made by UPSSSC. Further, after the change in policy of the government permitting private institutions to impart training for Ayurvedic Nursing Training Course, the availability of candidates was much more as compared to the earlier regime where only 20 seats in the government institution were there. The available vacancies with the government being less, the normal rule provides for a selection process to be followed so that the best available candidate is selected. There is no violation of Article 14 as, in the facts of this case, it cannot be opined that there was any discrimination against the respondents or that the action of the State was arbitrary. The essence of discrimination is the unequal treatment of equals; however, the State has clearly established that no appointments were made under the old system for any candidate admitted after the 2010-11 session. Since no batchmates of the respondent, nor any other candidates passing out after the first private college batch in 2016, were given direct appointments, there is no instance of a similarly situated person being treated preferentially. The respondent has failed to point out a single candidate from her own batch or subsequent batches who was directly appointed by the State, thereby rendering the plea of discrimination factually and legally unsustainable.
28. For the reasons mentioned above, in our view, the direction issued by the High Court mandating the State to consider the candidature of respondents for appointment as Ayurvedic Staff Nurse in a Medical College, Hospital or Dispensary under the State Government, cannot

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be legally sustained and is set aside. The appeals are, accordingly, allowed, while setting aside the impugned judgment of the High Court.

29. Pending application(s), if any, shall stand disposed of.

Result of the case: Appeal allowed.

^tHeadnotes prepared by: Nidhi Jain