



2026:DHC:6824-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
# **CNR No. DLHC010285932026**  
+ **W.P.(C) 8958/2026, CM APPLs. 41979/2026, 41980/2026 & 41981/2026**

UNION OF INDIA &amp; ORS.

.....Petitioner

Through: Mr. Balendu Shekhar, CGSC  
with Mr. Rajkumar Maurya, GP with Mr.  
Krishna Chaitanya and Mr. Divyansh Singh  
Dev, Advs.

versus

SH MAHIPAL &amp; ORS.

.....Respondent

Through: Mr. Ankur Chhibber Sr. Adv.  
with Mr. Mukesh Kumar and Mr. Nikunj  
Arora, Advs.

**CORAM:**  
**HON'BLE MR. JUSTICE C. HARI SHANKAR**  
**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN**  
**SHANKAR**

**JUDGMENT (ORAL)**% **07.08.2026****C. HARI SHANKAR, J.****A. The *lis***

1. An order passed by the Supreme Court nearly a decade ago, on 13 July 2017 in *Monu Tomar v. Union of India*<sup>1</sup>, has spawned a spate of litigations which seek to interpret the order one way or the other, though the order, to our mind, is perfectly clear. The order reads thus :

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<sup>1</sup> 2017 SCC OnLine SC 2239



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“ORDER

Permission to file SLP granted.

Delay condoned.

We have heard learned counsel for the appellants/petitioners and we have also heard learned Additional Solicitor General who has been instructed by officers of the concerned Department.

We have also perused the report of the Vigilance Committee set up by the Department.

We find from a perusal of the report of the Vigilance Committee that the entire examination was not necessarily vitiated but some persons who are suspected of having used malpractices in Postal Assistant/Sorting Assistant in five circles, viz., Uttarakhand, Rajasthan, Chhattisgarh, Haryana and Gujarat have actually been identified. The respondents will proceed against them in accordance with law but since they are quite a few in number, a formal show cause notice is dispensed with. However, they may personally called and explained the allegations against them and given some reasonable time of about a week or ten days to give their reply to the allegations and then a final decision may be taken.

Those persons who are not suspected of having committed any malpractices and who have undergone the prescribed courses may be reinstated with all consequential benefits and 50% back wages with liberty to the respondents to take action against them in case subsequently it is found in the investigation that they have indulged in some malpractices.

We make it clear that the respondents are at liberty to take action against those persons who have violated the terms of the examination such as having appeared in more than one centre. Such violations will also be treated as malpractice.

We further make it clear that this order will not enure to the benefit of those persons who have not been given appointment letters. However, we also make it clear that those candidates who have not completed the course but were in the process of completing the course until the impugned action was taken may be permitted to complete the course/training provided they are not suspected of any malpractice.

The appeals and special leave petitions stand disposed of.

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Pending applications are also disposed of.”

2. The present controversy relates to the interpretation of the following paragraphs from the order of the Supreme Court :

“We make it clear that the respondents are at liberty to take action against those persons who have violated the terms of the examination such as having appeared in more than one centre. Such violations will also be treated as malpractice.”

3. The precise issue which arises for consideration is whether indiscretions such as coloring the wrong option, usage of white fluid and entry of the roll number at the incorrect place in the Optical Mark Recognition<sup>2</sup> sheet relating to the examination would constitute “malpractice” within the meaning of the afore-extracted paragraph from the order of the Supreme Court in *Monu Tomar*.

4. The Central Administrative Tribunal<sup>3</sup>, in its order dated 31 October 2025 in OA 1612/2020, has answered this issue in the negative. The Union of India<sup>4</sup> has, by the present writ petition, assailed the decision of the Tribunal.

## B. Facts

5. On 21 February 2014, the Department of Posts published an advertisement for conducting an examination for recruitment to the post of Postal Assistant / Sorting Assistant, against vacancies of 2013-2014 in the Gujarat Circle. The examination consists of two papers. Paper-I was to test the aptitude of the candidates and Paper-II was to

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<sup>2</sup> “the OMR” sheet

<sup>3</sup> “the Tribunal”, hereinafter

<sup>4</sup> “UOI”, hereinafter



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test their felicity in computer / typing. The respondents cleared the papers and were selected.

6. After their selection, a Memorandum was issued by the Superintendent of Posts on 23 February 2015, cancelling the results of the examination in their entirety on the ground that large scale malpractices had been found to have taken place. Some candidates assailed the decision before the Ahmedabad Bench of the Tribunal in a batch of Original Applications<sup>5</sup>. By judgment dated 18 March 2016, the Ahmedabad Bench of the Tribunal quashed the cancellation of the candidature of the candidates, directed the select list, following the selection to be kept in abeyance and further directed an impartial investigation to be undertaken. On 8 April 2016, the Principal Bench of the Tribunal, in another batch of OAs, followed the decision of the Ahmedabad Bench.

7. The judgment of the Ahmedabad Bench of the Tribunal was challenged before the High Court of Gujarat which, by order dated 16 August 2016, set aside the decision of the Ahmedabad Bench of the Tribunal. The matter was carried further by the affected candidates to the Supreme Court in Civil Appeal 10513/2016<sup>6</sup>. The Civil Appeal came to be disposed of, by the Supreme Court, by the order dated 13 July 2017, reproduced in para 1 *supra*.

8. Following the aforesaid order of the Supreme Court, investigations were conducted into the conduct of the various

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<sup>5</sup> “the OAs”, hereinafter

<sup>6</sup> “*Monu Tomar v. UOI& Ors.*”



candidates in the examination. By various orders passed in 2018, the services of the respondents were terminated without disclosing any reasons. The respondents represented against the terminations. By order dated 31 October 2025 passed in a batch of OAs, the Tribunal directed that the representations be rejected by reasoned and speaking orders. Following this, by various orders passed in 2019, the respondents' representations were rejected.

9. It is not necessary for us to advert to each of these orders, however, the ground on which the candidature of the respondents was rejected and the decision to terminate their services maintained, may be set out in a tabular form :

| Respondent No. | Name              | Reasons                                                                                                                                                       |
|----------------|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1              | Mahipal Mitharwal | Roll No. mismatch<br>Overwriting/change in OMR                                                                                                                |
| 2              | Hemant Premchand  | OMR sheet correction in Col. No.-4 (Category)                                                                                                                 |
| 3              | Sudhir Kumar      | Mismatch in registration no. in registration slip and in OMR sheet.<br>Overwriting in registration no. in OMR sheet.<br>Overwriting in roll no. in OMR sheet. |
| 4              | Ajay Kumar        | OMR sheet column no.2 whitener used.                                                                                                                          |
| 5              | Pramila Devi      | OMR sheet registration no. not written correctly.                                                                                                             |
| 6              | Yogesh            | Wrong registration no. written and bubbled in OMR sheet.                                                                                                      |



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|   |             |                                               |
|---|-------------|-----------------------------------------------|
| 7 | Manoj Kumar | OMR sheet booklet no. not bubbled             |
| 8 | Mohan Lal   | Name not written in OMR                       |
| 9 | Pramendra   | OMR sheet correction in Col. No. 2 (Roll No.) |

10. Aggrieved thereby, the respondents re-approached the Tribunal by way of OA 1612/2020, which stands allowed by the impugned order dated 31 October 2025. The Tribunal has allowed the assertion of the Department of Posts that the respondents could be treated as guilty of malpractice within the meaning of order dated 13 July 2017 passed by the Supreme Court in *Monu Tomar*. As a result, the Tribunal has set aside the orders terminating the services of the respondents and has directed their reinstatement with consequential benefits.

11. The Union of India through the Department of Posts has assailed the decision of the Tribunal before us.

### C. Rival Contentions

12. We have heard Mr. Balendu Shekhar, learned CGSC for the petitioner and Mr. Ankur Chhibber, learned Senior Counsel for the respondents.

13. Mr. Chhibber submits that the allegations against the respondents do not constitute “malpractice” within the meaning of the order dated 13 July 2017 passed by the Supreme Court in *Monu Tomar*. He submits that, therefore, the respondents’ candidature could



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not have been terminated.

14. Mr. Shekhar submits, per contra, that the order of the Supreme Court included, within the ambit of the expression “malpractice” any violation of the terms and conditions of the examination. The terms and conditions of the examination, he submits, were set out on the reverse of the OMR sheet in which the candidates filled in their options. Any breach thereof would constitute “malpractice” within the meaning of the order dated 13 July 2017 passed by the Supreme Court in *Monu Tomar*. Mr. Shekhar submits that the respondents, admittedly, have committed various errors while filling in their OMR sheets, such as entering their roll numbers at the wrong place, coloring the incorrect option, using white fluid for correction and the like. These acts were in breach of the terms and conditions of the examination and were, therefore, “malpractice” within the meaning of the order passed by the Supreme Court in *Monu Tomar*. The candidature of the candidates was rightly cancelled.

#### D. Analysis

15. Having heard learned counsel for the parties and perused the order of the Supreme Court in *Monu Tomar*, we are unable to agree with Mr. Shekhar’s interpretation. It is clear from a reading of the order of the Supreme Court that, it was dealing with a case of malpractice. It is also clear that, once the matter had travelled to the Supreme Court and the Supreme Court had issued directions on how to deal with the candidates, any further action in that regard has to abide by the directions of the Supreme Court. There is, therefore, no



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occasion for us to advert to the general law relating to the cancellation of candidature consequent to errors committed by the candidates while participating in the examinations.

16. We are in agreement with Mr. Chhibber that the Supreme Court was specifically dealing with malpractices. The entire examination **had** been cancelled on the ground of perceived large scale malpractice. This cancellation had been challenged before the Ahmedabad Bench of the Tribunal. The challenge travelled upwards to the Supreme Court.

17. The manner in which Mr. Shekhar interprets the passage from the judgment of the Supreme Court extracted in para 1 (supra), which is what mainly falls for consideration is, to our understanding is somewhat myopic. The Supreme Court does not rest by stating that the violation of any of the terms and conditions of the examination would constitute malpractice. Such an interpretation would amount to an incomplete reading of the words used by the Supreme Court. The Supreme Court has held that persons who have violated the terms of the examination “*such as having appeared in more than one centre*” would also be treated as having indulged in malpractice. The words “such as having appeared in more than one centre” has obviously been used by the Supreme Court deliberately. It would be an affront to the order passed by the Supreme Court to ignore these facts and interpret the passage from the order of the Supreme Court as including within the ambit of the expression “malpractice”, breach of any of the terms and conditions of the examination. It is only breach which is *akin* to having appeared in more than one centre which would constitute



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“malpractice”.

18. Appearance in more than one centre indicates impersonation. Impersonation is an extremely serious offence and can even invite criminal action. It partakes of the character of conscious and deliberate fraud. It is clear, therefore, that the Supreme Court by exemplifying the words “persons who have violated the terms of the examination” with the subsiding words “such as having appeared in more than one centre” intended its order to apply only to braches which were *akin* to impersonation and not mere procedural or technical breaches such as entry of the roll number at the incorrect place, coloring of wrong option in the OMR sheet, etc.

19. The fact that the errors committed by the respondent, of which they were found guilty are not fatal is, as the Tribunal has correctly observed, clear from the fact that their OMR sheets were actually duly evaluated and consequent to said evaluation, the respondents were selected and appointed to their respective posts. The errors committed by the respondents could not, therefore, be regarded as such as would render their OMR sheets incapable of evaluation.

20. In that view of the matter and as we are of the opinion that the respondents cannot be treated as having committed malpractice for the purpose of the order dated 13 July 2017 passed by the Supreme Court in ***Monu Tomar***, we are in agreement with the view of the Tribunal that the cancellation of the respondents’ candidatures and their consequent termination from service was not sustainable in law or on facts.

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21. Resultantly, we do not find this to be a case meriting interference in exercise of our jurisdiction under Article 226 of the Constitution of India.

22. The petition is, accordingly, dismissed.

**C. HARI SHANKAR, J.**

**HARISH VAIDYANATHAN SHANKAR, J.**

**AUGUST 7, 2026/yg**