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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Order reserved on: 05.08.2026***

Order pronounced on: 14.08.2026

Order uploaded on: 14.08.2026

\# **CNR No. DLHC010601662024**

\+ W.P.(C) 12736/2024 and CM APPL. 53081/2024

DIRECTOR GENERAL OF PRISONS AND ORS .....Petitioners

versus

RINKU KUMAR AND ORS .....Respondents

\# **CNR No. DLHC010638702024**

\+ W.P.(C) 13317/2024, CAV 474/2024, CM APPL. 55663/2024 and CM APPL. 55664/2024

DIRECTOR GENERAL OF PRISONS AND ORS .....Petitioners

versus

SUNIL KUMAR AND ORS .....Respondents

\# **CNR No. DLHC010656312024**

\+ W.P.(C) 13672/2024, CM APPL. 57298/2024 and CM APPL. 57299/2024

DIRECTOR GENERAL OF PRISONS AND ORS .....Petitioners

Versus

ANUJ AND ORS .....Respondents

\# **CNR No. DLHC010671082024**

\+ W.P.(C) 13875/2024, CM APPL. 58075/2024 and CM APPL. 58076/2024

DIRECTOR GENERAL OF PRISONS AND ORS .....Petitioners

Versus

SATYAWAN .....Respondent

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CNR No. DLHC010688742024
\+ W.P.(C) 14183/2024, CM APPL. 59379/2024 and CM APPL. 59380/2024
DIRECTOR GENERAL OF PRISONS AND ORS .....Petitioners
versus
ASHISH VERMA .....Respondent

CNR No. DLHC010792562024
\+ W.P.(C) 15747/2024 and CM APPL. 66117/2024
DIRECTOR GENERAL OF PRISONS AND ORS .....Petitioners
Versus
NAVEEN SHOKEEN .....Respondent

CNR No. DLHC010792572024
\+ W.P.(C) 15752/2024 and CM APPL. 66132/2024
DIRECTOR GENERAL OF PRISONS AND ORS .....Petitioners
versus
DEEPAK AND ORS .....Respondents

CNR No. DLHC010868292025
\+ W.P.(C) 16837/2025 and CM APPL. 69210/2025
DIRECTOR GENERAL OF PRISONS AND ORS .....Petitioners
versus
MANDEEP .....Respondent

CNR No. DLHC010415192025
\+ W.P.(C) 9441/2025, CM APPL. 39898/2025, CM APPL. 57442/2025 and CM APPL. 78960/2025
GOVT OF NCT OF DELHI AND ORS .....Petitioners
versus
SHEETAL .....Respondent

CNR No. DLHC010430872025
\+ W.P.(C) 9758/2025, CM APPL. 40779/2025 and CM APPL. 12204/2026
GOVT OF NCT OF DELHI AND ORS .....Petitioners

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versus

KAMAL DABAS AND ORS .....Respondents

Through: Ms. Esha Mazumdar, Mr. Setu Niket, Mr. Manish Kumar and Mr. Abhishek Kumar Yadav, Advs for Respondents in W.P.(C) 12736/2024.

Mr. M K Bhardwaj and Ms. Shakshi Saugat, Advs. for Respondents in W.P.(C) 13317/2024, 13672/2024, 15752/2024 & 16837/2025.

Mr. Avi Karla, Mr. Prateek Lakhra and Mr. Kartik Nigam, Advs. for Respondents in W.P.(C) 13875/2024, 14183/2024 & 15747/2024.

Mr. Piyush Pahuja, Mr. Upender Kumar, Advs. for Petitioners in W.P.(C) 9758/2025.

Mrs. Avnish Ahlawat SC GNCTD Services, Mr. Nitesh Kumar Singh, Ms. Aliza Alam, Mr. Mohnish Sehrawat, Advs. for Petitioners in W.P.(C) 9441/2025 & 9758/2025.

Mr. Yogesh Kumar Mahur, Mr. Harkesh Parasher, Mr.K. Suryanarayanan, Advs. for Respondent in W.P.(C) 9441/2025.

Mr. Abbhay Behera, Sr. Adv. with Mr Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Mr. Shubham Tanwar, Advs. for Petitioners in all Writ Petitions.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. Since the present Writ Petitions involve a common question of law and arise out of substantially similar facts, they were heard

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together and are being disposed of by this common judgment. W.P.(C) Nos. 12736/2024, 13317/2024, 13672/2024, 13875/2024, 14183/2024, 15747/2024 and 15752/2024 assail the common judgment dated 30.04.2024 passed by the Central Administrative Tribunal, Principal Bench, New Delhi ['the Tribunal']. W.P.(C) No. 16837/2025 assails the order dated 27.05.2025, W.P.(C) No. 9758/2025 assails the order dated 25.02.2025, and W.P.(C) No. 9441/2025 assails the order dated 04.03.2025, all passed by the Tribunal in separate Original Applications.

2. The principal question which arises for consideration in this batch of Writ Petitions is whether the services of probationary employees, appointed pursuant to recruitment conducted by the Delhi Subordinate Services Selection Board ['DSSSB'], could have been dispensed with on the basis of alleged mismatch in biometric particulars, photographs and/or fingerprints, or allegations of impersonation in the recruitment process, without holding a regular departmental inquiry. The ancillary issue is whether the Impugned Orders of termination are liable to be regarded as orders of termination simpliciter or whether, having regard to their foundation and attendant circumstances, they are punitive and stigmatic in nature?

FACTUAL MATRIX:

3. The facts giving rise to the present batch of Writ Petitions are, to a large extent, undisputed and may first be noticed in a consolidated manner.

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4. The Respondents were selected in various recruitment processes conducted by the DSSSB pursuant to different advertisements issued for posts under the Government of National Capital Territory of Delhi ['GNCTD'], including Grade-IV (DASS), Stenographer Grade-III, Warder, Assistant Superintendent and Matron. Upon being declared successful, their dossiers were forwarded by the DSSSB to the concerned departments. After completion of the requisite formalities, including verification of documents and medical examination, orders of appointment were issued. The Respondents thereafter joined service and, in terms of the applicable conditions of appointment, were placed on probation or appointed provisionally, as the case may be.

5. Subsequently, complaints were received regarding alleged impersonation in certain recruitment examinations conducted by the DSSSB. The concerned authorities thereafter undertook exercises for verification of the identity of employees who had already joined service by comparing their biometric and photographic particulars with the corresponding records preserved by the DSSSB at the recruitment stage.

6. Where discrepancies were noticed, the concerned employees were called upon to furnish their explanations and, in appropriate cases, were afforded further opportunities for verification. Upon such consideration, the competent authorities formed the opinion that the concerned employees were not suitable for retention in Government service and accordingly proceeded to dispense with their services under Rule 5(1) of the Central Civil Services (Temporary Service)

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Rules, 1965 ['CCS (Temporary Service) Rules']. The legality of the said action constitutes the principal controversy in the present batch of Writ Petitions.

A. Prison Department Matters [W.P.(C.) Nos. 12736/2024, 13317/2024, 13672/2024, 13875/2024, 14183/2024, 15747/2024 and 15752/2024]

7. The seven Petitions in this category concern appointments made in the Prison Department of the GNCTD. The Respondents therein were appointed during the years 2020-2021 to the posts of Assistant Superintendent, Warder and Matron pursuant to selections conducted by the DSSSB under Post Codes 62/15, 63/15, 84/17, 85/17 and 86/17.

8. Following complaints regarding impersonation in the relevant recruitment examinations, the Petitioners undertook biometric and photographic verification of the temporary employees appointed against the aforesaid post codes. Three verification exercises were conducted: the first between 23.11.2021 and 03.12.2021 at Prison Headquarters, Tihar; the second on 09.02.2022 at the office of the DSSSB; and the third on 28.04.2022 at the office of the DSSSB. The third exercise was notified as the final opportunity for the concerned employees to undergo verification.

9. It is the case of Petitioners that the biometric particulars of several employees did not correspond with the records preserved by the DSSSB. Show cause notices were thereafter issued, to which the concerned employees furnished replies disputing the discrepancies and asserting that they were the candidates who had participated in the

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recruitment process. The competent authority considered the material placed before it, including the explanations furnished by the employees, and issued orders dated 30.11.2023 and 01.12.2023 under Rule 5(1) of the CCS (Temporary Service) Rules, bringing their services to an end.

10. The affected employees challenged the said orders before the Tribunal by instituting separate Original Applications, including O.A. Nos. 3902/2023, 3960/2023, 3990/2023, 3910/2023, 3992/2023, 3991/2023 and 3961/2023. Interim protection was granted during the pendency of the proceedings. By the common judgment dated 30.04.2024, the Tribunal allowed the Original Applications, quashed the orders of termination, made the interim protection absolute and granted consequential benefits.

B. W.P. (C.) No. 16837/2025

11. W.P.(C.) No. 16837/2025 arises from O.A. No. 2597/2024 and concerns the appointment of the Respondent as Warder (Male) under Post Code 62/15. He was appointed on 02.06.2020.

12. The DSSSB subsequently issued Office Memoranda dated 30.07.2021 and 14.09.2022 prescribing a Standard Operating Procedure [‘SOP’] for verification of the identity of nominated candidates. The SOP contemplated verification, in the first instance, on the basis of the photograph and signature available in the recruitment records and, where necessary, biometric verification with the assistance of the DSSSB.

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13. It is the Petitioners' case that the Respondent's credentials were verified in accordance with the aforesaid procedure and that the biometric verification did not establish a match. His services were thereafter brought to an end under Rule 5(1) of the CCS (Temporary Service) Rules. He challenged the said action in O.A. No. 2597/2024, which was allowed by the Tribunal by order dated 27.05.2025, resulting in the filing of the present Petition.

C. DASS Recruitment Matters

i. W.P.(C.) No. 9441/2025

14. W.P.(C.) No. 9441/2025 concerns recruitment to the post of Grade-IV (DASS) pursuant to Advertisement No. 01/2017 issued by the DSSSB. The Respondent was provisionally appointed after being declared successful, subject to verification of his eligibility, documents, character and other prescribed conditions.

15. The Respondent was subjected to biometric and photographic verification on different occasions. It is the Petitioner's case that the Respondent did not successfully clear the verification and was absent from one of the scheduled exercises despite being afforded an opportunity. A further opportunity was thereafter afforded. The Petitioners also rely upon a communication dated 07.07.2023, stated to contain an admission that another person had appeared on the Respondent's behalf in the written examination, as well as upon the verification report dated 01.09.2023 recording mismatch in the fingerprint and photographic comparison.

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16. The Respondent's services were dispensed with by order dated 12.09.2023, which was challenged in O.A. No. 3239/2023. The same was allowed by the Tribunal by order dated 04.03.2025. The said order is assailed in the present Petition.

ii. W.P.(C.) No. 9758/2025

17. W.P.(C.) No. 9758/2025 concerns recruitment pursuant to Advertisement Nos. 01/2017 and 02/2018 issued by the DSSSB for the posts of Grade-IV (DASS), Junior Assistant and Stenographer Grade-III. The Respondents were provisionally appointed subject to verification of their eligibility and compliance with the applicable conditions of appointment.

18. Biometric and photographic verification of the Respondents was conducted on different dates during 2021 and 2022. It is the Petitioners' case that discrepancies were noticed between the particulars obtained during verification and the biometric records preserved by the DSSSB. The services of the Respondents were thereafter brought to an end by notices dated 05.09.2023 issued under Rule 5(1) of the CCS (Temporary Service) Rules. During this period, the probation of certain Respondents had also been extended from time to time.

19. The Respondents challenged the said action in O.A. No. 2846/2023. By order dated 25.02.2025, the Tribunal allowed the Original Application, quashed the orders of termination and made the interim protection earlier granted in their favour absolute. The said order is under challenge in the present petition.

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20. It may also be noticed that while deciding O.A. Nos. 2597/2024, 3239/2023 and 2846/2023, the Tribunal substantially relied upon the reasoning adopted in the common judgment dated 30.04.2024 rendered in O.A. Nos. 3902/2023 and connected matters. It is these four orders of the Tribunal which are under challenge before this Court in the present batch of Writ Petitions.

CONTENTIONS OF THE PARTIES:

21. Contentions on behalf of the Petitioners:

21.1. It was submitted that the Tribunal erred in treating the orders of termination as punitive merely because the competent authority had considered the material arising from the biometric and photographic verification and the explanations furnished by the Respondents. The relevant test, according to the Petitioners, is whether the material was treated as the foundation for a finding of misconduct, or merely as material relevant to the assessment of suitability for continued retention in service.

21.2. It was submitted that the Respondents were temporary Government servants on probation and their services were governed by Rule 5(1) of the CCS (Temporary Service) Rules. The said provision does not require a regular departmental inquiry where the competent authority, without adjudicating upon any charge of misconduct or imposing a penalty, forms the opinion that a probationer ought not to be retained in service. The Petitioners accordingly contended that the absence of a departmental inquiry, by itself, could not render the orders of termination punitive.

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21.3. According to the Petitioners, the competent authority did not undertake any adjudication to determine whether the Respondents were guilty of impersonation. No charge was framed, no finding of guilt was recorded and no disciplinary penalty was imposed. The material gathered during verification was considered only for the purpose of determining whether the Respondents were suitable for continued retention in service. The fact that their explanations were not accepted could not, by itself, convert such assessment into an adjudication of misconduct.

21.4. Reliance was placed upon the distinction between "motive" and "foundation" recognised by the Supreme Court, particularly in ***Radhey Shyam Gupta v. U.P. State Agro Industries Corporation Ltd.***[1]. It was submitted that an employer may take into consideration material which creates a doubt regarding the suitability of a probationer without making such material the foundation of a punitive order. Where the employer does not determine the truth of the allegation or record a finding of misconduct, but merely decides not to continue the employee, the allegation operates only as a motive for the termination.

21.5. Reliance was also placed upon ***Pavanendra Narayan Verma v. Sanjay Gandhi P.G.I. of Medical Sciences***[2], to contend that the Court is required to examine not merely the form of the order but also its substance. According to the Petitioners, however, the present orders, when examined in substance, do not disclose any adjudicated finding

[1] (1999) 2 SCC 21
[2] AIR 2002 SC 23

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of misconduct and therefore remain orders of termination simpliciter.

21.6. It was accordingly contended that the Tribunal erred in treating the biometric discrepancies and the consideration of the Respondents' explanations as determinative of the character of the termination. These circumstances, according to the Petitioners, constituted the material on the basis of which suitability was assessed; they did not amount to a determination that the Respondents had committed the misconduct of impersonation. The Petitioners therefore submitted that the Tribunal could not have required a departmental inquiry merely because the competent authority had considered adverse material before exercising the power under Rule 5(1).

21.7. It was further submitted that the fact that the alleged irregularity related to the recruitment examination, and therefore preceded the Respondents' entry into service, was also material. It was contended that the termination was not imposed as a punishment for misconduct committed during service, but resulted from the competent authority's assessment that the Respondents ought not to be retained in Government service.

21.8. The Petitioners also challenged the Tribunal's direction requiring or contemplating a fresh biometric and photographic verification exercise. It was submitted that the Respondents had already been afforded opportunities for verification and that the competent authority had considered the material generated during those exercises. A further verification, according to the Petitioners, could not be treated as a condition precedent to the exercise of the

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power under Rule 5(1).

21.9. In relation to W.P.(C.) No. 16837/2025, learned counsel additionally relied upon the DSSSB's SOP and submitted that the procedure had been evolved specifically to enable the user departments to verify the identity and credentials of candidates nominated for appointment. It was contended that the Respondent's appointment was provisional and subject to verification of his credentials and that the verification undertaken pursuant to the SOP was therefore part of the mechanism governing his appointment. Upon the verification disclosing a mismatch, the competent authority was entitled to conclude that the Respondent could not be retained in service. The action, according to the Petitioners, was consequently referable to the conditional nature of the appointment and not to the imposition of a disciplinary penalty.

21.10. As regards W.P.(C.) No. 9441/2025, it was submitted that the material against the Respondent was not confined to the biometric and photographic verification. Reliance was particularly placed upon the communication dated 07.07.2023, which, according to the Petitioners, contained an admission that another individual had appeared in the written examination on the Respondent's behalf. It was contended that, when considered with the verification material, this furnished sufficient basis for the competent authority to conclude that the Respondent was not entitled to continue in service. According to the Petitioners, the order dated 12.09.2023 was therefore an order giving effect to the discovery that the Respondent was not the candidate who had participated in the recruitment examination, and not a punishment

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imposed upon him for misconduct.

21.11. It was further submitted that an appointment obtained through impersonation could not confer an enforceable right to continuation in Government service. It was contended that, in such circumstances, the question was whether the Respondent was entitled to the appointment in the first place, rather than whether a disciplinary penalty ought to be imposed upon him.

21.12. In relation to W.P.(C.) No. 9758/2025, it was submitted that the Respondents' appointments were provisional and subject to verification of their credentials. The Petitioners contended that the subsequent extension of the period of probation did not confer any independent right to continuation in service contrary to the terms governing the appointments. The results of the verification exercises, according to the Petitioners, were therefore relevant to the competent authority's assessment of whether the Respondents ought to be retained.

21.13. It was further submitted that the Tribunal, while deciding O.A. No. 3239/2023, had substantially relied upon the reasoning contained in the common judgment dated 30.04.2024 in O.A. No. 3902/2023 and connected matters. It was pointed out that the said judgment was already under challenge before this Court in W.P.(C.) No. 12736/2024 and that its operation had been stayed by order dated 11.09.2024. On this basis, it was urged that the order dated 04.03.2025, having proceeded substantially on the reasoning of the judgment whose operation had been stayed, was liable to be set aside.

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21.14. It was thus submitted that the Tribunal had incorrectly treated an assessment of suitability as an adjudication of misconduct. According to them, the impugned orders were issued in exercise of the power under Rule 5(1), without recording a finding of guilt or imposing a disciplinary penalty, and therefore could not be characterised as punitive or stigmatic merely because adverse material had been considered before the decision to terminate was taken.

22. Contentions on behalf of the Respondents:

22.1. *Per contra*, learned counsel for the Respondents supported the orders passed by the Tribunal and submitted that, notwithstanding their form, the Impugned Orders were founded upon the allegation that the Respondents had impersonated other candidates and/or procured appointment through unfair means. According to the Respondents, the competent authorities had not merely assessed their suitability but had reached a factual conclusion regarding the genuineness of their candidature. Such a conclusion, it was contended, amounted in substance to a finding of misconduct and could not have been recorded without following the procedure prescribed by law.

22.2. It was submitted that the Respondents had successfully undergone the recruitment process, had been declared successful, and had thereafter been appointed following scrutiny of their dossiers and verification of their credentials by the concerned authorities. It was contended that their identity had consequently been verified at multiple stages of the recruitment and appointment process and could not subsequently be displaced merely on the basis of a later biometric

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exercise without a proper examination of the entire material.

22.3. In relation to the Prison Department matters, attention was drawn to the safeguards employed by the DSSSB during the recruitment examination, including verification of photographs, admit cards and identity documents, taking of photographs and biometric particulars, verification of signatures and thumb impressions, and the use of videography and CCTV recordings. It was submitted that the recruitment process thus contained contemporaneous material capable of independently establishing the identity of the candidates who appeared in the examination.

22.4. It was further submitted that the reliability and conclusiveness of the subsequent biometric verification were specifically disputed. According to the Respondents, the biometric exercise produced varying facial and fingerprint matching results and was therefore not, by itself, capable of conclusively establishing impersonation. It was contended that the authorities ought to have considered the other contemporaneous material, including photographs, videography, CCTV footage, thumb impressions, signatures and specimen handwriting, before drawing any adverse conclusion.

22.5. It was further submitted that the Respondents had sought expert examination of the relevant material, including by an appropriate forensic agency, but such comprehensive verification was not undertaken. It was also contended that the biometric reports and other material relied upon by the authorities were not initially furnished to the Respondents, thereby depriving them of an effective opportunity

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to meet the case against them.

22.6. It was submitted that the Respondents had consistently denied the allegation of impersonation and had offered to establish their identity by reference to the original recruitment records and by providing fresh specimen handwriting and thumb impressions for comparison. According to the Respondents, the authorities nevertheless proceeded to draw an adverse conclusion without undertaking the verification sought by them. The constitution of committees in certain cases to examine the relevant material, it was submitted, itself demonstrated that the issue required proper evaluation and could not be conclusively determined on the basis of an isolated machine-generated result.

22.7. It was accordingly contended that, by relying upon the alleged biometric discrepancies to terminate the Respondents' services, the Petitioners had effectively recorded a finding that the Respondents had obtained appointment through impersonation or unfair means. Such a finding, according to the Respondents, had serious civil consequences and could not be reached behind their back or without affording them a reasonable opportunity to test the material relied upon.

22.8. It was submitted that the distinction between a termination founded upon suitability and one founded upon misconduct was well settled. While antecedent circumstances may constitute the motive for deciding not to retain a probationer, the position is different where the employer proceeds on the basis that the employee has committed a

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specific act of misconduct. Once the allegation of impersonation became the foundation of the decision to terminate, the Petitioners could not circumvent the safeguards applicable to disciplinary action merely by invoking Rule 5(1) or describing the order as one of termination simpliciter.

22.9. Reliance was placed upon the judgment of this Court in ***Union of India & Ors. v. Sanjeev Kumar & Anr.***[3]. It was submitted that the said decision concerned employees who had already entered service and whose services were subsequently terminated on the basis of material alleging irregularity/impersonation in the recruitment process. According to the Respondents, this Court held that where such material constituted the basis for termination and the employee was not afforded a proper opportunity to meet it, the termination could not be sustained merely by invoking Rule 5 of the CCS (Temporary Service) Rules. It was contended that the principle was directly applicable to the present cases.

22.10. As regards the Petitioners' reliance upon the probationary and temporary status of the Respondents, it was submitted that the limited right of a probationer to continue in service was not disputed. The contention, however, was that such status does not authorise a punitive or stigmatic termination without adherence to the procedure prescribed by law. According to the Respondents, the absence of a vested right to the post cannot dispense with procedural fairness where the termination is founded upon misconduct.

[3] W.P.(C.) No. 15248/2022 decided on 18.07.2024

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22.11. It was further submitted that the fact that the alleged irregularity occurred at the stage of recruitment did not alter the character of the action once the Petitioners chose to rely upon it for terminating persons who had already entered Government service. The relevant consideration, according to the Respondents, was whether the allegation was merely an antecedent circumstance taken into account while assessing suitability or had become the foundation for bringing the existing service to an end.

22.12. The Respondents also disputed the Petitioners' reliance upon the provisional or conditional nature of their appointments. It was submitted that, after selection, scrutiny of dossiers, verification of credentials and entry into service, the terms of appointment could not be invoked to bypass a fair procedure where the authorities sought to terminate the Respondents on the allegation that their appointments had been procured through impersonation.

22.13. It was further submitted that the Respondents had rendered service for several years before the orders of termination were passed. According to them, the lapse of time between the recruitment process and the termination, coupled with the serious consequences of an allegation of impersonation, reinforced the necessity of properly establishing the allegation before their existing service could be brought to an end.

22.14. In relation to W.P.(C.) No. 16837/2025, it was submitted that the DSSSB's verification procedure could facilitate verification of identity but could not dispense with a fair adjudication where the

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material was sought to be used to sustain an allegation of impersonation against a person who had already entered service.

22.15. As regards W.P.(C.) No. 9441/2025, the Respondent disputed the Petitioners' reliance upon the communication dated 07.07.2023 and submitted that the circumstances in which the communication was made and the explanation subsequently furnished required proper consideration. It was contended that, even if the material raised a serious doubt regarding the candidature, such doubt could not by itself justify a stigmatic termination without an effective opportunity to establish the Respondent's case and without properly determining the allegation of impersonation.

22.16. Insofar as W.P.(C.) No. 9758/2025 is concerned, the Respondents submitted that the biometric discrepancies did not establish impersonation and that they had consistently denied the allegation. It was further contended that the extension of probation could not be treated as an admission of any defect in their candidature. If the Petitioners intended to rely upon the alleged discrepancies as proof of misconduct, the Respondents submitted, the same had to be established in accordance with law.

22.17. It was therefore submitted that the controversy was not confined to the suitability of the Respondents as probationers. According to the Respondents, once the Petitioners proceeded on the basis that the Respondents had obtained appointment through impersonation or unfair means, the resulting termination was punitive in substance and could not be sustained without first establishing the allegation in

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accordance with law and after affording the Respondents an effective opportunity to meet the material relied upon.

ISSUES FOR DETERMINATION:

23. In view of the rival submissions and the material placed on record, the following questions arise for determination:

23.1. Whether the orders terminating the services of the Respondents under Rule 5(1) of the CCS (Temporary Service) Rules were, in substance, orders of termination simpliciter based upon an assessment of their suitability and genuineness of appointment, or were punitive orders founded upon a finding of misconduct, thereby attracting the procedural safeguards applicable to disciplinary proceedings?

23.2. Whether the material relied upon by the Petitioners, including the biometric and photographic verification and the other identification material available on record, was sufficient to sustain the conclusion that the Respondents had failed to establish that they were the candidates who had participated in the recruitment process and were selected for appointment?

23.3. Whether the Tribunal, in quashing the orders of termination, failed to properly appreciate the nature and effect of the material relied upon by the competent authorities and thereby arrived at findings which are legally unsustainable?

ANALYSIS & FINDINGS:

24. This Court has carefully considered the submissions advanced

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on behalf of the parties and perused the material on record.

25. The controversy in the present batch essentially concerns the legal consequence of the biometric and photographic verification undertaken by the Petitioners after the Respondents had entered service. The Tribunal proceeded on the premise that the Respondents had acquired valid appointments and that the subsequent verification exercise was, in substance, an attempt to establish that they had committed the misconduct of impersonation in the recruitment examination. The Petitioners, on the other hand, contend that the verification exercise was undertaken to ascertain a more fundamental question, namely, whether the persons who had entered service were in fact the candidates who had participated in the recruitment process and whose candidature had resulted in their selection and appointment.

26. The distinction is material. An appointment to a post pursuant to a recruitment process necessarily attaches to the candidature of the person who participated in that process and was selected thereunder. The identity of the candidate is, therefore, not a collateral circumstance but forms part of the foundation of the appointment itself.

27. If, subsequent to appointment, material emerges which raises a serious and substantiated doubt as to whether the person who entered service is the same person whose candidature was considered and selected, the competent authority is entitled to examine the validity of the appointment itself. Such an enquiry is conceptually distinct from

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an enquiry into whether the concerned person deliberately impersonated another candidate or committed any other act of misconduct.

28. The distinction assumes particular significance in the present batch. The case of the Petitioners is not that the Respondents committed any misconduct in the discharge of their duties after entering service. The controversy originates from the recruitment process itself and concerns the identity of the persons who participated in that process and were thereafter appointed. The question, therefore, is anterior to the question of disciplinary culpability.

29. The Tribunal, however, proceeded substantially on the basis that the Petitioners were required to establish, through a regular disciplinary enquiry, that each of the Respondents had committed the act of impersonation before his or her services could be brought to an end. In doing so, the Tribunal did not sufficiently distinguish between a finding that a person has committed misconduct and a determination that the person holding an appointment has not established that he or she was the candidate selected through the recruitment process.

30. The distinction between cancellation of appointment, termination simpliciter and punitive termination is well settled. A probationer or temporary Government servant does not acquire an indefeasible right to continue in service merely by virtue of having been appointed. Where the applicable service conditions permit, the competent authority may discontinue such an employee on the ground of unsuitability, without holding a regular disciplinary enquiry,

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provided that the action is not founded upon a determination of misconduct. In this batch, the Respondents are proved to have passed the recruitment examination. In fact, some impersonators wrote recruitment examinations on behalf of the Respondents.

31. Rule 5(1) of the CCS (Temporary Service) Rules, insofar as relevant, reads as under:

> *"5. Termination of temporary service.*
>
> *(1) (a) The services of a temporary Government servant shall be liable to termination at any time by a notice in writing given either by the Government servant to the appointing authority or by the appointing authority to the Government servant;*
>
> *(b) the period of such notice shall be one month.*
>
> *Provided that the services of any such Government servant may be terminated forthwith and on such termination, the Government servant shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or as the case may be, for the period by which such notice falls short of one month.*
>
> *NOTE:- The following procedure shall be adopted by the appointing authority while serving notice on such Government servant under clause (a).*
>
> *(i) The notice shall be delivered or tendered to the Government servant in person.*
>
> *(ii) Where personal service is not practicable, the notice shall be served on such Government servant by registered post, acknowledgement due at the address of the Government servant available with the appointing authority.*
>
> *(iii) If the notice sent by registered post is returned unserved it shall be published in the Official Gazette and upon such publication, it shall be deemed to have been personally served on such Government servant on the date it was published in the Official Gazette."*

32. The present cases, however, cannot be determined merely by examining the form in which the competent authorities described their orders. The Court is required to examine the substance of the action

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and, more importantly, the nature of the right which the competent authority was seeking to bring to an end.

33. The appointment documents assume significance in this regard. A substantial number of the Respondents were appointed against temporary posts. Clause 3 of the offer of appointment expressly stipulated:

> *"The post is temporary. In the event of its becoming permanent, his claim for appointment thereto in substantive capacity will be considered in accordance with the rules in force."*

34. The appointment orders further stipulated that the appointment was provisional and subject to verification of the candidate's character and antecedents by the competent authority. The relevant condition reads:

> *"The appointment is provisional & subject to Verification of Character & Antecedents from the Competent Authority."*

35. These conditions cannot be treated as surplusage. They make it clear that the appointment was not unconditional or insulated from subsequent verification. The Respondents' continuance in service was subject to the conditions incorporated in their respective offers and appointment orders. Consequently, the fact that they had entered service did not preclude the competent authority from undertaking verification relevant to the genuineness of their candidature and the validity of the appointment.

36. The provisional nature of the appointment is particularly relevant in the present context. The verification undertaken by the Petitioners was not an enquiry into the conduct of the Respondents while in service. It was directed towards determining whether the

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persons who had been appointed were, in fact, the candidates whose candidature had been processed and selected. Where the answer to that foundational question is rendered doubtful by the verification material, the consequence is not necessarily one of disciplinary punishment.

37. The jurisprudence relating to "motive" and "foundation" remains relevant while examining whether the action is punitive. In ***Radhey Shyam Gupta*** (supra), the Supreme Court recognised that material concerning the suitability of a probationer may constitute the motive for discontinuance, so long as the employer does not adjudicate upon the truth of an allegation of misconduct and found the order upon such adjudication. Likewise, in ***Pavanendra Narayan Verma*** (supra), the Supreme Court emphasised that the substance of the order and the basis of the decision, rather than its mere form or nomenclature, must be examined to determine whether the action is punitive.

38. This Court has applied the same principle in the context of Rule 5 of the CCS (Temporary Service) Rules. In ***Government of NCT of Delhi and Anr. v. Dalbir Singh***[4], it was held that a preliminary exercise undertaken to ascertain whether a probationer ought to be retained in service does not, by itself, render the subsequent discontinuance punitive. Similarly in ***Govt. of NCT of Delhi and Ors. v. Virender***[5] , this Court reiterated that the circumstances which lead the competent authority to form an opinion regarding suitability do

[4] W.P.(C.) 6596/2023 decided on 06.09.2023
[5] W.P.(C.) 12696/2023 decided on 28.02.2024

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not, without more, convert an order of discontinuance into a punitive termination.

39. These principles, however, do not mean that an employer may avoid a disciplinary enquiry merely by describing an action as one of suitability. The substance of the decision remains determinative. The question in the present case is therefore whether the competent authorities adjudicated the Respondents' guilt for impersonation or whether they acted upon material which rendered the genuineness of their candidature and consequently the validity of their appointments doubtful.

40. The distinction between the two enquiries may be stated succinctly. An enquiry into whether the person appointed is the candidate selected concerns the foundation of the appointment. An enquiry into whether that person deliberately impersonated another candidate concerns culpability for misconduct but the same is not connected with discharge of duty by the employee.

41. The use of expressions such as "impersonation", "unfair means" or "*mala fide* intention" in the notices or communications issued during the verification exercise cannot, therefore, be viewed in isolation. The Court must ascertain whether the competent authority actually adjudicated upon such allegations and imposed a punishment on the basis of a finding of guilt, or whether those expressions were used while recording the circumstances which led the authority to conclude that the candidature and identity of the person in service had not been satisfactorily established.

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42. The material concerning identity must also be considered cumulatively. Photographs, signatures, videography, CCTV footage and biometric particulars are all relevant forms of identification material, though they do not possess identical evidentiary characteristics. A photograph records visual appearance at a particular point in time, whereas fingerprints and thumb impressions constitute biometric identifiers capable of direct comparison with the corresponding records generated during the recruitment process.

43. The significance of biometric verification is further enhanced where the discrepancy is not confined to a single exercise. An isolated mismatch may warrant further examination. Repeated mismatches, particularly where the concerned person has been afforded further opportunities to establish his or her identity, constitute materially different circumstances. At the same time, this Court is not holding that every biometric mismatch, considered in isolation, is conclusive. The circumstances in which the verification was undertaken, the reliability of the material, the number of verification exercises, the other identification material available and the explanation furnished by the concerned employee are all relevant.

44. The Respondents were, in the cases under consideration, afforded opportunities to participate in the verification exercises and to explain the discrepancies noticed. The question is not whether every conceivable procedure could have been adopted, but whether a regular disciplinary enquiry was an indispensable precondition to the competent authority examining the genuineness of the appointments.

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45. The decision of this Court in ***Sanjeev Kumar*** (supra), relied upon by the Respondents, does not warrant a different conclusion. That case concerned employees whose termination was expressly founded upon allegations that they had adopted unfair means in the recruitment examination by arranging for another person to impersonate them. The Court found the action to be stigmatic and took note, inter alia, of the fact that the forensic material relied upon had not been properly tested through a departmental enquiry and constituted the principal material for establishing the alleged misconduct.

46. The factual foundation in the present batch is materially different. The Petitioners are not relying upon a solitary forensic opinion as proof of a completed act of misconduct. In the cases concerning the Prison Department, the material includes biometric verification undertaken on repeated occasions and comparison of the fingerprints/thumb impressions recorded at the recruitment stage with those subsequently obtained from the concerned employees. The question is consequently whether such material was capable of supporting the conclusion that the identity of the persons holding the appointments had not been satisfactorily established.

47. It follows that the absence of a regular departmental enquiry cannot, by itself, invalidate the action taken by the competent authorities. Such an enquiry would be necessary if the object were to impose a disciplinary penalty upon a finding that a Respondent had committed misconduct. It would not necessarily be required where the competent authority is determining whether the foundational condition

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of the appointment, namely, that the person appointed is the candidate selected through the recruitment process, stands established.

48. The fact that the Respondents had already joined service or had rendered service for a period of time does not alter this position. Length of service may have relevance to the consequences that follow, but it cannot retrospectively establish the identity of the person who participated in the recruitment process.

49. The Tribunal was, therefore, required to examine the verification material and determine whether the competent authorities had acted upon material relevant to the validity of the appointments. In exercising judicial review, the Tribunal was not required to substitute its own factual assessment for that of the competent authority merely because another view could possibly be taken. Equally, it was required to intervene if the conclusion was unsupported by the record, arbitrary or legally impermissible.

50. The jurisdiction of this Court under Articles 226 and 227 of the Constitution is similarly supervisory and not appellate. Interference is warranted where the Tribunal proceeds upon an erroneous legal premise, ignores material evidence or reaches a conclusion which is unsustainable on the record. In the present batch, the principal error in the Impugned Orders is that the Tribunal proceeded on the assumption that the Petitioners had necessarily adjudicated the guilt of the Respondents for impersonation, without first examining the anterior question of whether the Respondents had established that they were the candidates whose candidature had resulted in their appointments.

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51. This Court is, therefore, of the view that the Petitioners were entitled to undertake verification for determining whether the persons who had entered service were the persons selected through the recruitment process. Where, upon consideration of the material available, the competent authority was not satisfied that such identity had been established, the absence of a disciplinary enquiry for proving the separate allegation of impersonation could not, by itself, invalidate the action.

52. It is equally important to clarify what this Court is not holding. The Court is not recording a finding that any particular Respondent has committed the criminal offence of impersonation or has been proved guilty of any disciplinary misconduct. The present proceedings do not require, and do not justify, such a finding. The Court is concerned with the legal consequence of the failure to establish the foundational identity underlying the appointment.

53. The aforesaid principles shall now be applied to the individual matters, since the factual material and the circumstances relied upon by the competent authorities are not identical in every case.

W.P.(C.) Nos. 12736/2024, 13317/2024, 13672/2024, 13875/2024, 14183/2024, 15747/2024 and 15752/2024

54. These seven Writ Petitions arise from the common judgment dated 30.04.2024 passed by the Tribunal. The Respondents had been appointed to various posts in the Prison Department and were continuing as probationers when the orders dated 30.11.2023 and 01.12.2023 were issued.

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55. The record discloses that the verification exercise was not confined to a single comparison. Verification was undertaken on three occasions, and while a substantial number of candidates were found to have matching credentials, the biometric particulars of the concerned Respondents did not correspond with those preserved in the DSSSB records.

56. The Respondents were also afforded opportunities to explain the discrepancies. Following the initial verification, show cause notices were issued; replies were furnished; and further opportunities for biometric and photographic verification were afforded. Memoranda dated 09.09.2022 were thereafter issued calling upon the concerned employees to explain the discrepancies, and their responses were considered before action was taken.

57. The Tribunal nevertheless treated the exercise principally as an enquiry into alleged impersonation. It was influenced, *inter alia*, by references in the notices and memoranda to mismatch of biometric and photographic particulars as being *prima facie* indicative of impersonation, as well as by references in the orders to unfair means or *mala fide* intention in the recruitment examination.

58. The relevant question, however, was whether those references demonstrated an adjudication of guilt or merely described the circumstances which led the competent authorities to doubt the genuineness of the candidature. The termination notice in the case of Rinku Kumar is illustrative. It records the biometric mismatch on more than one occasion, the opportunity afforded to the Respondent to

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explain the discrepancy and the subsequent verification which again resulted in a mismatch. The competent authority thereafter concluded that the Respondent's retention in Government service was not desirable.

59. The repeated verification exercises are significant. The Respondents were afforded more than one opportunity to establish their identity, yet the discrepancy continued to emerge from the verification material. The competent authority considered the explanations furnished before taking action. In these circumstances, the record does not justify treating the exercise as though the Petitioners had conducted a disciplinary adjudication and recorded a finding of guilt for impersonation.

60. The references in the notices to unfair means or *mala fide* intention do not alter this conclusion. The decisive consideration is the substance of the decision. The competent authorities acted upon the verification material and the inability to satisfactorily establish the identity of the persons holding the appointments. The absence of a disciplinary enquiry to establish a separate allegation of culpable impersonation could not, therefore, be treated as fatal.

61. The Respondents' reliance upon photographs, signatures, videography and other material, and their request for further expert examination, does not warrant a different conclusion. The competent authority was entitled to consider the entire identification material available to it. In writ jurisdiction, this Court is not required to undertake a fresh biometric or technical examination unless the

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conclusion reached is unsupported by the record, arbitrary or perverse.

62. The Tribunal consequently erred in treating the action as necessarily punitive and in proceeding on the premise that the Petitioners were first required to establish the precise act of impersonation through disciplinary proceedings. The relevant enquiry was whether the Respondents had established that they were the candidates selected through the recruitment process. On the material placed before the competent authorities, that question could legitimately be examined through the verification exercise.

63. The common judgment dated 30.04.2024 is, therefore, unsustainable to the extent it proceeds on the premise that a regular disciplinary enquiry was an indispensable precondition to the action taken in these cases.

W.P.(C.) No. 16837/2025 – Mandeep

64. W.P.(C.) No. 16837/2025 arises from O.A. No. 2597/2024 and requires separate consideration on account of the particular verification procedure relied upon by the Petitioners.

65. The Respondent, Mandeep, was selected for appointment to the post of Warder (Male) under Post Code 62/15 and was appointed on 02.06.2020. His services were thereafter brought to an end by notice dated 30.11.2023 issued under Rule 5(1) of the CCS (Temporary Service) Rules.

66. The Petitioners rely upon the SOP issued by the DSSSB through Office Memoranda dated 30.07.2021 and 14.09.2022. The

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procedure contemplated verification of the nominated candidate with reference to the photograph and signature contained in the recruitment records and, where the appointing authority remained dissatisfied with the identity or credentials, biometric verification with the assistance of the DSSSB.

67. The record placed before the Tribunal shows that the Respondent was afforded repeated opportunities for verification. The Petitioners specifically contend that biometric verification was conducted on five occasions and that the Respondent failed to obtain a matching result.

68. The Tribunal, however, followed its earlier decision in Rinku Kumar and connected matters and treated the language of the notice as establishing a punitive and stigmatic termination. For the reasons already recorded, similarity in the language employed in the notices cannot by itself determine their legal character.

69. The repeated verification exercises were directly relevant to the foundational question whether the Respondent was the candidate selected through the recruitment process. The Tribunal did not adequately undertake that enquiry and instead treated the references to unfair means and *mala fide* intention as necessarily constituting a finding of misconduct.

70. The order dated 27.05.2025 passed by the Tribunal in O.A. No. 2597/2024 is accordingly liable to be set aside.

W.P.(C.) No. 9441/2025 – Sheetal

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71. W.P.(C.) No. 9441/2025 stands on a somewhat different factual footing. The Respondent, Sheetal, was appointed to the post of Grade-IV (DASS) pursuant to Advertisement No. 01/2017. Her appointment was provisional and subject to verification of the prescribed credentials and conditions.

72. The record relied upon by the Petitioners discloses that the Respondent was subjected to biometric and photographic verification on more than one occasion. The first verification was conducted on 30.07.2021. She did not appear for the subsequent exercise scheduled on 11.11.2022 despite reminders. A further and final opportunity was afforded on 07.07.2023, when she appeared and was again found to have mismatched biometric and photographic particulars.

73. The verification report dated 01.09.2023 records that the biometric particulars of the person who appeared in the CBT/Skill Test did not correspond with those of the person subsequently subjected to verification. The Petitioners rely, in particular, upon a fingerprint match of 0.0% and an image match of 36.03%.

74. The Petitioners also rely upon the communication dated 07.07.2023 which, according to them, records that another person had appeared in the written examination on behalf of the Respondent. The circumstances surrounding that communication have been disputed. It is unnecessary, however, for this Court to determine whether the communication establishes the criminal offence of impersonation or disciplinary misconduct. Its relevance lies in whether it constituted material which the competent authority was entitled to consider while

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determining the genuineness of the candidature.

75. The repeated biometric mismatch, the failure to appear at one of the scheduled verification exercises, the mismatch recorded upon the final opportunity and the communication dated 07.07.2023 constituted material relevant to determining whether the person holding the appointment was the candidate selected through the recruitment process. The provisional nature of the appointment further reinforces the authority of the competent authority to undertake such verification.

76. The Tribunal, while allowing O.A. No. 3239/2023, substantially followed the reasoning contained in the common judgment dated 30.04.2024. Having found the foundational premise of that judgment unsustainable, the Impugned Order dated 04.03.2025 also cannot be sustained.

W.P.(C.) No. 9758/2025 – Kamal Dabas and connected Respondents

77. W.P.(C.) No. 9758/2025 arises from O.A. No. 2846/2023. The Respondents were selected pursuant to Advertisement Nos. 01/2017 and 02/2018 for various posts, including Grade-IV (DASS), Junior Assistant and Stenographer Grade-III. Their appointments were provisional and subject to verification of their credentials.

78. The record discloses that biometric and photographic verification was conducted on 11.11.2021. The Petitioners rely upon the report which recorded, inter alia, a fingerprint match of 49.88% and an image match of 91.01% in the case of Komal Dabas, and a fingerprint match of 0.0% and an image match of 92.71% in the case

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of Sandeep Kumar. A further verification exercise was conducted on 11.11.2022, and the Petitioners contend that the Respondents continued to fail the fingerprint verification despite the additional opportunity.

79. The fact that the probation of certain Respondents was extended on subsequent occasions does not, by itself, establish the validity of their candidature. Nor does it preclude subsequent verification where the appointment itself was provisional and subject to verification.

80. The termination notices dated 05.09.2023 were issued under Rule 5(1) of the CCS (Temporary Service) Rules. The Petitioners' case is that the action was necessitated because the biometric verification did not satisfactorily establish that the Respondents were the candidates who had participated in the recruitment process. The Tribunal, however, principally followed its earlier reasoning without independently examining the cumulative effect of the verification material and the opportunities afforded to the Respondents.

81. Applying the principles already recorded, the Tribunal was required to determine whether the material before the competent authority was capable of supporting the conclusion that the Respondents had failed to establish their identity as the selected candidates. The absence of a disciplinary enquiry could not, without first examining the nature of the action, be treated as determinative of its validity.

82. The order dated 25.02.2025 passed in O.A. No. 2846/2023 is accordingly liable to be set aside.

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NATURE & CONSQUENCE OF THE RELIEF:

83. There is, however, one further aspect which requires clarification. The Tribunal has used the expression "termination" while describing the orders challenged before it. The use of that expression does not, in the circumstances of the present cases, require this Court to affirm the action as a termination founded upon misconduct.

84. As already held, this Court is not recording a finding that the Respondents have been proved guilty of impersonation or of any disciplinary misconduct. The present cases concern the validity of the appointments themselves, having regard to the material which emerged during verification regarding the identity of the persons who participated in the recruitment process.

85. Consequently, the appropriate legal characterisation of the action is cancellation of the appointments, rather than termination by way of punishment for misconduct. The distinction is substantive and not merely semantic. Cancellation proceeds on the basis that the foundational requirement of establishing that the person appointed was the candidate selected through the recruitment process has not been satisfactorily established. It does not amount to a finding that the concerned person committed misconduct during service.

86. This Court, in exercise of its jurisdiction under Articles 226 and 227 of the Constitution, is accordingly entitled to mould the relief and modify the orders of the Tribunal and the consequential orders of the competent authorities to the extent necessary to give effect to the

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aforesaid distinction. The orders shall, therefore, be treated as orders cancelling the appointments of the concerned Respondents on account of the failure to establish the foundational identity underlying those appointments, and not as orders imposing a disciplinary punishment by way of termination

87. The consequence of cancellation in the present circumstances also requires to be expressly delineated. Since this Court is not recording a finding of disciplinary or criminal guilt against the Respondents, cancellation of the appointments shall not be treated as a disqualification for future recruitment or employment under the Government. The Respondents shall remain entitled to participate in future recruitment processes, subject of course to their satisfying the eligibility conditions applicable to such recruitment and to any independent action permissible in law.

88. Nothing contained in this judgment shall, however, preclude the competent authority or any other authority from taking such independent disciplinary or criminal action as may be permissible in law, if considered warranted on the basis of material concerning impersonation, use of unfair means or any other offence or misconduct. Any such action shall have to be initiated and concluded in accordance with the procedure prescribed by law and this judgment shall not be construed as expressing any opinion on the merits of such allegations.

CONCLUSION:

89. For the aforesaid reasons, the questions framed in paragraph 23

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are answered in favour of the Petitioners. The Tribunal erred in treating the action taken by the Petitioners as necessarily punitive without first examining the anterior question whether the Respondents had established that they were the candidates who had participated in the recruitment process and whose candidature had resulted in their selection.

90. Accordingly, the Impugned Orders of the Tribunal dated 30.04.2024, 27.05.2025, 04.03.2025 and 25.02.2025, challenged in the present batch, are set aside. However, it is declared that the appointment of the Respondents shall stand cancelled.

91. Consequently, the interim orders passed by the Tribunal in the respective Original Applications, insofar as they continued the Respondents in service, shall stand vacated. The Respondents shall not be entitled to consequential benefits flowing solely from the orders of the Tribunal which have been set aside by this Court.

92. All the present Writ Petitions are accordingly allowed in the aforesaid terms.

93. The pending applications also stand closed.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 14, 2026
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