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W.P. No.2889/2025, etc.

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Reserved on	Pronounced on
21.01.2026 23.01.2026 28.01.2026	05.02.2026

**CORAM**

**THE HONOURABLE MR. JUSTICE M.DHANDAPANI**

**W.P. NOS.2889, 6011, 10700, 10706, 10708, 10710, 10712, 10701, 11105,  
11108, 11110, 11112, 11109, 13854, 24235, 5185, 44374, 44376,  
47569 & 49936 OF 2025**

**W.P. NOS.941, 1067, 1074, 1058, 1045, 1051 & 1075 OF 2026**

**AND**

**WMP Nos. 3190, 6613, 6614, 15570, 15573, 15575, 27286, 27289, 5764,  
5765, 53095 & 55817 OF 2025**

**W.M.P. NOS.1136, 1138, 1238, 1247, 1226, 1215,1217, 1220 & 1250 OF 2026**

**W.P. NO. 2889 OF 2025**

S. Mahalakshmi

.. Petitioner

**- Vs -**

1. The Tamil Nadu Public Service Commission  
Rep. by its Secretary, Park Town,  
Tamil Nadu Public Service Commission Road,  
VOC Nagar, Chennai 600 003.

2. The Superintendent of Police  
Central Bureau of Investigation,  
Anti Corruption Branch, Chennai.  
(R2 –Suo Motu impleaded as per order  
dated 18.02.2025 in W.P. 2889/2025

.. Respondents



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W.P. No.2889 of 2025 filed under Article 226 of the Constitution of India

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praying this Court to issue a writ of certiorarified mandamus calling for the records relating to the order of the respondent in Memorandum No.420/PSD-D1/2017 dated 30.12.2024 and to quash the same and consequently direct the respondent to confirm the Memorandum No.420/PSD-D1/2017 dated 15.08.2018.

For Petitioners : Mr. S.Gunaseelan in  
WP 2889/2025  
Mr. P.N.Vignesh in  
WP 6011/2025  
Mr. K.Balu in WP 10700, 10706,  
10708, 10710, 10712, 10701,  
11105, 11108, 11109, 11110,  
11112, 44374, 44376, 47569 &  
49936/2025  
Ms. Y.Kavitha for M/s. P.V.S.  
Giridhar Associates in WP  
13854/2025  
Mr. L.Chandrakumar in WP  
24235 & 5185/2025  
Mr. A.Manoj Kumar in WP 941,  
1045, 1051, 1058, 1067 & 1074  
& 1075/26

For Respondents : Mr. P.S.Raman, AG, assisted by  
Mr. Stalin Abhimanyu, AGP for  
RR-2 & 3 in WP 6011/2025, for  
RR-1 to 5 & 8 in WP 13854/2025  
& for RR-2 & 3 in WP 24235/25  
Mr. P.Kumaresan, AAG, assisted  
by Mr. K.Karthik Jagannathan for  
TNPSC



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Mr. P.Balathandayuthan, Spl.GP  
for R-2 in WP 5185/25 & 1058,  
1074 & 1075/26

Ms. G.Vrinda for Mr.  
K.Srinivasan, SC/Spl.PP, for CBI  
Mr. R.Bharanidharan for TNPSC  
in WP 941, 1045, 1051, 1058,  
1067, 1074 & 1075/26

Mr. T.Sreenivasan, Spl. GP for  
R-2 in WP 941/26

Mr. Stalin Abhimanyu, AGP for  
R-2 in WP 1067, 1051 &  
1075//26

### **COMMON ORDER**

The present batch of writ petitions have been filed by the respective petitioners whose selection and the consequential appointment have been set at naught by cancelling the provisional selection and allotment made by the Commission/Tamil Nadu Public Service Commission (for short 'the Commission') citing malpractice alleged to have been committed by the petitioners in securing their appointment and also the impugned order removing the petitioners from service is put in issue before this Court.

2. Shorn of unnecessary details, the brief facts necessary for considering the present issue could be summarised thus :-



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Pursuant to the selection and appointment of the petitioners to the post of Assistant/Personal Clerk in the Combined Civil Services Examination – II 2017-2018 (Non-Interview Post) (Group-II A Services) in the Tamil Nadu Secretariat Service/Tamil Nadu Ministerial Service, the respective petitioners joined the said post. Upon completion of the mandatory period of probation, the service of the petitioners were regularised. While some of the petitioners were arrested and upon their arrest the said petitioners were suspended, the other petitioners were suspended, which suspension of the petitioners was on various dates. The petitioners, who were arrested had obtained bail. Thereafter, the petitioners filed representation seeking revocation of their suspension by filing representation before the Commission. Since no orders were passed on the same writ petitions were filed seeking direction to the respondent to pass orders and inspite of directions issued by this Court to consider the representation of the petitioners in the light of G.O. (Ms.) No.81, Human Resources Management Department, however, the representation of the petitioners were rejected holding that revocation cannot be complied with citing that CBI investigation is under progress. Aggrieved by the same dismissed the petitioners preferred writ petitions seeking quashment of the plea for rejection of suspension and seeking reinstatement in which this Court directed the respondent to reinstate the



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petitioners in service. In spite of the said order, vide the respective impugned proceedings, the petitioners were removed from service aggrieved by which the present writ petitions have been preferred.

3. The learned counsel appearing for the respective petitioners in unison submitted that the recruitment process relating to selection and allotment of the candidates had come to an end by 2018 and the petitioners, who were selected and allotted to the various departments have been appointed in the posts way back in the year 2018 and their probation was approved in the year 2020 and their services were regularised. However, out of blue, the order of suspension has been passed in the year 2020, much after regularisation on the ground of alleged malpractice alleged to have been committed by the respective petitioners in the selection process.

4. It is the submission of the learned counsel that this Court, considering the prolonged suspension of the petitioners from service had, in the year 2023, passed the order directing the respondent to consider the representation of the petitioners for reinstatement, which, however, was rejected citing the pending CBI enquiry.



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5. It is the submission of the learned counsel that the rejection order was challenged, which resulted in an affirmative direction by this Court to reinstate the petitioners, whilst only to be removed from service by the appointing authority pointing out that CBI enquiry is pending. Further, the provisional selection of the petitioners itself was cancelled by invalidating the OMR answer sheets by the Commission and rejecting the candidature of the petitioners.

6. It is the submission of the learned counsel that once the petitioners are appointed in Government service, their services can be terminated either by way of dismissal/removal/compulsory retirement only by following the Tamil Nadu Civil Services (Discipline & Appeal) Rules (for short 'the Rules') and the Commission, once it completes the process of selection and allotment would become functus officio for all purposes.

7. It is the further submission of the learned counsel that the petitioners have not been put through the rigours of the Rules before either passing the order of suspension and, thereafter, the consequential termination and merely on the basis of certain investigative report, 39 candidates were alleged to have



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obtained appointment by fraudulent means through malpractice and they have been removed from service. Once a person is appointed into a service and moreso the said individual is regularised in service, the individual can be terminated/removed/dismissed from service only in accordance with the Rules pertaining to a Government servant. However, curiously, with following the Rules, the petitioners have been removed from service without holding any enquiry and going through any disciplinary proceedings, which is grossly perverse, illegal and arbitrary.

8. It is the further submission of the learned counsel that there is gross violation of principles of natural justice as no opportunity was given to the petitioners to put forth their side of the case and merely placing reliance upon a report, alleged to have been filed by the CBI in the criminal case, the petitioners have been removed from service, which is erroneous.

9. It is the further submission of the learned counsel that merely on the basis of allegation, the petitioners have been removed from service and there is no iota of evidence that is placed before this Court or before the authority, which formed the basis of the removal of the petitioners from service, except stating



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the fact that the petitioners have obtained the appointment through fraudulent means and, therefore, their selection is *void ab initio*. It is the submission of the learned counsel that an opportunity ought to have been granted to the petitioners to submit their case and presuming that the petitioners have committed malpractice merely based on the report submitted by CBI is a clear violation of principles of natural justice.

10. It is the further submission of the learned counsel that even if the departmental action is premised on preponderance of probabilities, the petitioners having been appointed, a disciplinary enquiry is required to be undertaken and probability can be arrived at only on the basis of a duly constituted and consequential report of the said enquiry and in respect of an act, which is alleged to have taken place before the appointment of the petitioners, the appointment of the petitioners cannot be struck down by way of removal without any grant of opportunity.

11. It is the further submission of the learned counsel that pursuant to the order of removal the further proceedings of the Commission had come to be passed cancelling the provisional selection of the petitioners and invalidating the



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OMR answer sheets, which is highly improper as a judgment has been passed against the candidature of the petitioners even without trial, which is alien to the criminal justice system.

12. In fine, it is the submission of the learned counsel that the order of removal passed by the Government and the cancellation of the provisional selection of the petitioners by invalidating the OMR answer sheets without affording an opportunity to the petitioners is highly illegal, perverse, arbitrary and irrational and the same deserves to be interfered with by directing the reinstatement of the petitioner and also securing the provisional selection of the petitioners.

13. Per contra, learned Advocate General appearing for the Commission submitted that large-scale malpractice was noticed in a particular centre at Rameshwaram by the Commission leading to the lodging of the complaint and the resultant investigation, which was initially carried out by CB-CID, but later transferred to CBI on the basis of the orders of this Court.



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14. It is the further submission of the learned Advocate General that the enquiry by the 2<sup>nd</sup> respondent and the report along with the materials collected during the course of the investigation revealed that certain candidates with the connivance of the employees of the Commission had indulged in manipulating the OMR answer sheets, which was evident from the materials placed by the 2<sup>nd</sup> respondent.

15. It is the further submission of the learned Advocate General that based on the said investigation and since the whole process of recruitment was manipulated, more particularly in a particular centre at Rameshwaram, the Commission had undertaken the stand of cancelling the provisional allotment made to such of those persons, who had since been appointed on the basis of the recruitment drive conducted by the Commission by invoking its powers and on the basis of the provisions provided in the Recruitment Notification No.10/2017 dated 27.4.2017, through which the candidates were selected.

16. Referring to clause 13 (g) of the aforesaid notification, learned Advocate General submitted that unfair means were strictly prohibited in the aforesaid notification and if the candidates were found to have indulged in



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adopting unfair means, debarment was provided for under clause 19 (a) of Commission's Instructions to Applicants, which is applicable for the year 2017-2018. Therefore, the Commission, invoking its powers and finding infraction under clause 13 (g) and 19 (a) aforesaid, has cancelled the provisional allotment made to the petitioners and also debarred them from further appearing in any of the recruitment drives conducted by the Commission.

17. It is the further submission of the learned Advocate General that once the provisional allotment of the petitioners stood cancelled, the appointment made, which was a consequence of the provisional appointment also ceased to survive and, accordingly, the petitioners were removed from service and, therefore, the said removal from service cannot be said to be erroneous.

18. It is the further submission of the learned Advocate General that the malpractice and misconduct committed by the petitioners goes to the root of the recruitment process and once it is found that the petitioners indulged in malpractice to secure the appointment, there arises no necessity for the department to conduct any disciplinary proceeding to remove the petitioners from service when the 2<sup>nd</sup> respondent had cancelled the provisional allotment,



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the consequential appointment would not survive and the consequential removal cannot be said to be erroneous or perverse.

19. It is the further submission of the learned Advocate General that the selection of the petitioners have been obtained by fraudulent means and, therefore, their entry into service itself becomes void and non-est and the said selection itself is a nullity from inception and once the selection becomes *void ab initio*, the appointment cannot be sustained in the eyes of law and the petitioners cannot be permitted to hold the said post to which they were allotted and appointed.

20. It is the further submission of the learned Advocate General that the malpractice committed in the recruitment, though would not be construed as a misconduct committed in the course of employment and, therefore, the removal of the petitioners would not be governed by the provisions and relevant rules of the said appointing authority as the said misconduct was not a misconduct in the course of the service when the petitioners were not even Government servants and, therefore, the claim of the petitioners that they could be removed only by resorting to the procedure contemplated under the relevant rules is wholly



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misconceived. Rightly appreciating the aforesaid facts, the Commission has cancelled the provisional allotment and as a consequence thereof, the petitioners have been removed from service, which does not require any interference at the hands of this Court.

21. In fine, it is the submission of the learned Advocate General that the Commission has followed all the aforesaid procedures contemplated in the recruitment notification while cancelling the provisional appointment and the consequential removal of the petitioners by the appointing authority does not suffer the vice of any illegality or perversity and the same does not require any interference at the hands of this Court. Accordingly, he prays for dismissal of the present writ petitions.

22. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record. A comprehensive report in a closed cover has also been placed by the 2<sup>nd</sup> respondent before this Court with regard to the investigative process, which has been perused by this Court.



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23. The main contention advanced on behalf of the petitioners relate to the power of the Commission in cancelling the provisional allotment, as according to the petitioners, once the provisional selection and allotment is made and the candidates are appointed in a particular post, the Commission becomes *functus officio* and, therefore, no action can be taken by the Commission and if at all any action has to be taken against the petitioners, it could be only by the respective appointing authorities by resorting to the relevant rules by initiating disciplinary action against the alleged delinquents and not by the Commission.

24. The present case revolves around the malpractice alleged to have been committed by the petitioners in connivance with the employees of the Commission. According to the Commission, after publishing of the provisional selection list and subsequent to the appointment of the petitioners, in the year 2018, suspicion was cast on the manner in which certain appointments relatable to the petitioners might have been secured and, therefore, the Commission laid the complaint leading to a CB-CID enquiry and, thereafter, upon filing of a writ petition before the Madurai Bench of this Court, the matter was entrusted to be investigated by the CBI, viz., the 2<sup>nd</sup> respondent herein, which, thereupon, took up investigation and furnished a report dated 9.10.2024.



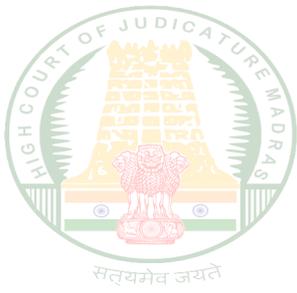
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25. From the evidence which was placed before the Commission by the 2<sup>nd</sup> respondent, the 2<sup>nd</sup> respondent had concluded that the petitioners had got themselves appointed by committing malpractice by adopting fraudulent means and with the connivance of the employees of the Commission. The gravamen of the allegations against the petitioners is that they have indulged in grave malpractice amounting to subversion of the conduct of the examination, which led to the Commission invalidating their OMR answer sheet and cancelling their provisional selection and rejecting their candidature vide the impugned order.

26. The following issues arise for consideration of this Court in the present petitions :-

- i) Whether the Commission is empowered to cancel the provisional selection and allotment of the petitioners when the entire selection process is completed and the petitioners have been appointed and their services were regularised.*



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- ii) *If the cancellation of selection is held to be bad, what is the recourse open to the Commission to deal with the allegations against the petitioners.*
- iii) *If the cancellation of selection is held to be bad, would the removal of the petitioners, by the appointing authorities, from service without following the procedure contemplated under the service rules, survive.*

27. To buttress their stand on the issue of cancellation of selection and invalidation of the OMR answer sheets, the respondents place reliance upon clause 13 (g) of Notification No.10/2017 dated 27.4.2017 and for better clarity, the same is quoted hereunder:-

*“Unfair means strictly prohibited : No applicants shall copy from the papers of any other applicants or permit his papers to be copied or give or attempt to give or obtain or attempt to obtain irregular assistance of any description.”*

28. The aforesaid clause 13 (g) would only relate to acts which are done by the candidates during the course of the examination. In the present case, the allegation against the petitioners relate to tampering of the OMR answer sheets

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after the same was handed over to the invigilators by conniving with the employees of the Commission. The said alleged act, though would fall within the meaning of malpractice, however, as the same is committed outside the exam hall, it cannot be brought within the ambit of clause 13 (g) of the Notification, as clause 13 (g) would only relate to acts, that are perpetrated in the exam hall. Therefore, the reliance placed on the said clause is wholly misconceived and the same is liable to be rejected.

29. Coming to the next provision on which the Commission claims to have power to cancel the provisional selection and allotment of the petitioner is on the basis of clause 19 (a) in the Commission's "Instructions to Applicants" applicable to the year 2017-2018, which provides for 'Debarment', which reads as under :-

*"Debarment : a) If an applicant attempts any tempering, alteration with the documents or certificates, he is liable to be debarred from appearing for any of the selections and examinations conducted by the commission and consequently from entry into public service itself."*

30. Even herein, clause 19 (a) relates to tampering/alteration of documents or certificates. However, the tampering/alteration of documents, which falls within clause 19 (a) would only be relatable to documents, which are



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obtained by the candidates and which are in possession of the candidates. It cannot be made relatable to the tampering/alteration of the answer sheets, as the said alleged acts, have been done when the said documents were in the custody of the Commission or its agency and, therefore, the said clause cannot be taken in aid of by the Commission to debar the petitioners.

31. If the Commission cannot resort to any of the aforesaid provisions, could be petitioners be allowed to go scot-free, inspite of the allegations levelled against them and investigation pointing a finger of suspicion against them and in such cases, what is the recourse that could be taken by the Commission is the next question that falls before this Court.

32. Issue, similar to the above, fell for consideration of the Apex Court in ***State of West Bengal – Vs – Baishakhi Bhattacharyya (Chatterjee) & Ors. (AIR 2025 SC 1882 :: MANU/SC/0438/2025)***, wherein, the Supreme Court, after discussing the legal position on the said subject and analysing a catena of case laws, more particularly, the decision in ***Inderpreet Singh Kahion & Ors. – Vs – State of Pubjab & Ors. (2006 (11) SCC 356)***, wherein three-pronged test has been adumbrated by the Apex Court, held as under :-



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*“7. This Court in several cases has examined the question when the entire selection process should be struck down in case of irregularities. It will be apposite to refer to some of the decisions as the ratio and reasoning, in our opinion, is clear and does not suffer from contradictions. In Sachin Kumar and Ors. v. Delhi Subordinate Service Selection Board (DSSSB) and Ors., MANU/SC/0145/2021 : 2021:INSC:147 : (2021) 4 SCC 631 this Court observed that determining when the examination process is vitiated by irregularities requires an in-depth fact-finding inquiry. The answer lies in examining whether the irregularities were systemic enough to undermine the sanctity of the process. In some cases, the irregularities may border on or even constitute fraud, which severely damages the credibility and legitimacy of the process. In such cases, the only option is to cancel the result entirely. These are situations where it is difficult to separate the tainted from the untainted participants, and the irregularities are widespread, indicating a malaise or fraud that has corrupted the process. On the other hand, there are cases where only some participants have committed irregularities. In such cases, it may be possible to segregate the wrongdoers from those who adhered to the rules. The innocent should not suffer for the actions of the wrongdoers. By segregating the guilty, the selection process for the untainted candidates can proceed to its logical conclusion. This aligns with the principle of equality of opportunity Under Article 16(1) of the Constitution of India, as well as the fundamental requirement of Article 14 of the Constitution, which mandates a fair, equitable, and reasonable process. Care must be taken to ensure that the innocent are not unfairly penalized alongside the wrongdoers by cancelling the entire process. To treat the innocent and the wrongdoers equally would violate Article 14 of the Constitution, as it would involve treating*



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*unequals equally. The innocent should not be punished for faults they did not commit. Finally, while the decision of the recruiting body is subject to judicial control, the body must retain a measure of discretion.*

8. Sachin Kumar (*supra*) refers to an earlier decision of three Judges of this Court in *Bihar School Examination Board v. Subhas Chandra Sinha and Ors.* MANU/SC/0069/1970 : 1970:INSC:59 : (1970) 1 SCC 648 where it was held that when the conduct of all examinees, or at least the vast majority, at a particular examination centre reveals the use of unfair means, it may not be necessary for the board to give individual opportunities of hearing to the candidates if the entire examination is being cancelled. This is not a case where anyone is charged with unfair means and would need to defend themselves. An examination vitiated by widespread unfair means falls into a separate category, so giving notice in individual cases is not required.

9. In *Board of High School and Intermediate Education, U.P., Allahabad v. Ghanshyam Das Gupta and Ors.* MANU/SC/0090/1962 : 1962:INSC:45 : AIR 1962 SC 1110 a Constitution Bench of this Court held that when there is a discovery of widespread unfair practices, such as the leakage of question papers or destruction of answer books, it may not be necessary to give each examinee an opportunity to be heard. While it may not be appropriate to completely whittle down the requirement of natural justice and fair play, a straitjacket formula cannot be applied when the examination was not properly conducted or when the majority of the examinees did not act as they should have. Therefore, insisting that the Board should hold a detailed inquiry into each individual case was considered incorrect. It was also observed that such an approach



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would delay the functioning of an autonomous body like the Board of High School and Intermediate Education.

10. In line with the above ratio, this Court in *Anamica Mishra and Ors. v. U.P. Public Service Commission, Allahabad and Ors.* MANU/SC/0026/1989 : 1989:INSC:339 : (1990) Supp SCC 692 has held that the cancellation of the entire recruitment process was not justified as there was no systemic flaw in the entire recruitment process, and the issue was only with regard to calling the candidates for interview. However, in *Madhyamic Shiksha Mandal, M.P. v. Abhilash Shiksha Prasar Samiti and Ors.* MANU/SC/1453/1998 : (1998) 9 SCC 236 the entire examination was cancelled in view of the report of mass copying and leakage of the question paper. In *Madhyamic Shiksha Mandal, M.P. (supra)*, the teachers did not object to the students entering the examination hall with books, indicating their complicity. It was held that the fact that some innocent students may have suffered in the given facts was inconsequential.

11. Similarly, in *Union of India and Ors. v. Rajesh P.U., Puthuvalnikathu and Anr.*, MANU/SC/0509/2003 : 2003:INSC:343 : (2003) 7 SCC 285 this Court examined a case where a Special Committee scrutinized the answer sheets of 134 successful and 184 unsuccessful candidates, identifying only 31 as involved in unfair practices. Based on this, the Court struck down the decision of the competent authority to cancel the entire recruitment process, deeming it extreme, unreasonable, and unnecessary given the circumstances. The Court applied the test of whether there were widespread, pervasive issues that had undermined the entire process and whether it was impossible to weed out those benefiting from the irregularities or illegalities.



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12. *In yet another decision in Inderpreet Singh Kahlon and Ors. v. State of Punjab and Ors. MANU/SC/2433/2006 : 2006:INSC:288 : (2006) 11 SCC 356 this Court elucidated three principles which must be adhered to when cancelling appointments. First, there must be satisfaction regarding the sufficiency of the material collected so as to enable the State to conclude that the selection process was tainted. Second, to determine whether the illegalities committed go to the root of the matter and vitiate the entire selection process, such satisfaction should be based on a reasoned and thorough investigation conducted in a fair and transparent manner. Third, there must be sufficient material to support the conclusion that the majority of the appointments were part of the fraudulent purpose or that the system itself was corrupt. This three-pronged test, as outlined by Sinha J., is appropriate and should be adhered to.*

13. *The precursor to Inderpreet Singh Kahlon (supra) involved raids that led to the recovery of large sums of cash from the house of the Chairman of the Punjab Public Service Commission. The allegations suggested that the Chairman - who served from 1996 to 2002 - had made several appointments between 1998 and 2001 for extraneous considerations, including monetary ones. The affected Appellants before this Court, whose services were terminated, comprised four categories of officers selected through four recruitment examinations held between 1997 and 2001. Two FIRs came to be registered against the Chairman and other officers of the Public Service Commission. However, among the selectees, an FIR was filed only against one. In this factual background, Sinha J. drew a distinction between a proven case of mass cheating in a Board Exam and an unproven charge of corruption in the context of appointment of a civil servant. The en masse termination order setting aside several selections spread over 3-4 years was reversed.*



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*This was an unprecedented case of mass termination, with a walloping impact and consequences. Applying the threefold factual and legal test, en masse termination was set aside. In this context, it was observed that termination orders should only be issued in cases where it is found to be impossible or highly improbable to separate the tainted cases from the non-tainted ones.*

\* \* \* \* \*

*18. In Vanshika Yadav v. Union of India and Ors. MANU/SC/0821/2024 : 2024:INSC:568 : (2024) 9 SCC 743 this Court observed that a holistic view must be adopted by assessing the extent of unfair means used and whether it is possible to separate the tainted candidates from the untainted ones. The court must ensure that allegations of malpractice are substantiated and that the material on record, including investigative reports, supports this conclusion. There must be at least some evidence for the court to reach such a conclusion. However, the standard of evidence need not be unduly strict. Specifically, the material on record need not point to a single, definitive conclusion that malpractice occurred at a systemic level. Nevertheless, there must be a real possibility of systemic malaise, as reflected in the material before the court.*

*19. The following principles emerge from the aforesaid discussion:*

- When an in-depth factual inquiry reveals systemic irregularities, such as malaise or fraud, that undermine the integrity of the entire selection process, the result should be cancelled in its entirety. However, if and*



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*when possible, segregation of tainted and untainted candidates should be done in consonance with fairness and equity.*

- *The decision to cancel the selection en masse must be based on the satisfaction derived from sufficient material collected through a fair and thorough investigation. It is not necessary for the material collected to conclusively prove malpractice beyond a reasonable doubt. The standard of evidence should be reasonable certainty of systemic malaise. The probability test is applicable.*

- *Despite the inconvenience caused to untainted candidates, when broad and deep manipulation in the selection process is proven, due weightage has to be given to maintaining the purity of the selection process.*

- *Individual notice and hearing may not be necessary in all cases for practical reasons when the facts establish that the entire selection process is vitiated with illegalities at a large scale.”*

33. From the above, it is clear that the three principles which must be adhered to when cancelling appointments are that, viz.,

- i) *There must be satisfaction regarding the sufficiency of the material collected so as to enable the State to conclude that the selection process was tainted;*



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- ii) *To determine whether the illegalities committed go to the root of the matter and vitiate the entire selection process and such satisfaction should be based on a reasoned and thorough investigation conducted in a fair and transparent manner; and*
- iii) *There must be sufficient material to support the conclusion that the majority of the appointments were part of the fraudulent purpose or that the system itself was corrupt.*

34. In the present case, firstly it is alleged that the selection process stood vitiated in a particular centre in Rameshwaram; secondly, it is alleged that the applicants/candidates who took the exams from the said centre, were candidates, who were from various parts of the State, which raised a doubt as to the veracity of the said candidates as they are alleged to have secured the leading ranks in the examination; thirdly, the answer sheets (OMR sheets) of the said candidates were found to have been tampered with, as was evidenced from the report of the 2<sup>nd</sup> respondent. The investigation and the materials collected through the said investigation have led to the cancellation of the provisional selection and allotment of the petitioners and also invalidating their OMR sheets and the subsequent debarment of the petitioners from participating in future selection process. However, the selection process of all the candidates in the said centre was not put in issue and it is also not clear as to the status of the



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other candidates who took the exams from the said centre and whether any candidate, who took the exam in the particular centre was selected and appointed and is still in the service of the State.

35. It is to be pointed out that the recruitment process was initiated in the year 2017 and results were declared on 7.3.2018 and, thereafter, the petitioners were allotted to various departments and the respective departments have also appointed the petitioners. Thereafter, in the year 2018, subsequent to the appointment of the petitioners, it is the case of the Commission that suspicion arose with regard to certain malpractice that might have been committed in the recruitment process, which led to the registration of the complaint and investigation by the CB-CID which was, thereafter, transferred to the CBI. In effect, the criminal machinery was set in motion on the basis of the complaint and the consequent registration of the FIR and filing of the charge sheet before the competent civil court, which charge sheet, it is still not clear, as to whether cognizance has been taken of the same. Though a report has been given to the Commission by the 2<sup>nd</sup> respondent pointing out the alleged tampering and malpractice committed by various persons, including the petitioners, more particularly from the centre at Rameshwaram, however, the materials which are



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placed before this Court only reveal that there are allegations, against the petitioners, but the said allegations cannot be taken at face value to hold that there is material, which warrants action being taken against the petitioners by the Commission, as even according to the Commission, it is alleged that the petitioners might have indulged in malpractice. Therefore, there is an iota of doubt even in the mind of the Commission, which would be cleared only after the completion of the criminal trial.

36. True it is that there is some material to infer that some malpractice might have happened while handling the OMR sheets and through the investigation allegation is made that the petitioners are involved by conniving with the officials of the Commission, but that allegation cannot be the basis for the Commission to cancel the provisional selection and allotment of the petitioners, as the complaint has emanated from the Commission and the criminal machinery has been set in motion and only the result of the criminal trial could form the basis for taking any action against the petitioners.

37. If large scale malpractice had happened and the entire selection process is cancelled, then the issue would have to be looked at differently. But



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when allegations have been raised against a particular group of individuals on the basis of the complaint and further investigation, which has resulted in the filing of the charge sheet, the Commission has to await the outcome of the trial to take any further action against the petitioners and they cannot act as the disciplinary authority and cancel the selection and allotment of the petitioners, moreso when only charge sheet has been filed against the petitioners, which is yet to be taken cognizance of by the criminal court and without going through the rigours of the criminal trial, the materials collected against the petitioners cannot be put against them by the Commission saying that the materials prove their culpability in the offence, as the said materials have to be tested at the time of trial. Therefore, the impugned order passed by the Commission in and by which the selection and allotment of the petitioners have been cancelled by invalidating the OMR answer sheet definitely requires to be interfered with, as upon the selection and allotment, without the criminal trial coming to a close, the position of the Commission would have to be held as *functus officio* and the Commission cannot cancel the provisional selection and invalidate the OMR answer sheet of the petitioners.



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38. Coming to the removal of the petitioners by the respective appointing authorities, who were initially under suspension, but who were, thereafter, directed to be reinstated on the orders of this Court, but were not reinstated and were removed from service, a sample of the relevant portion of the proceedings in and by which the petitioners have been removed from service proceeds thus :-

*“3) And whereas, the criminal case registered in Crime Branch CID had been transferred to Central Bureau of Investigation (CBI) for further investigation. The Central Bureau of Investigation in its investigation report has reported that all the 39 accused candidates obtained appointment of Group II-A Assistant in various departments of Government of Tamil Nadu through malpractices and is still holding the said posts. Since their selection & appointment for the Group IIA post is by fraudulent means, their selection is void ab initio. As such, the Central Bureau of Investigation has recommended to remove them from service. The government have also instructed to take action as recommended by CBI.”*

39. Based on the aforesaid reasoning, the impugned orders of removal of the petitioners from service had come to be passed. Would the aforesaid removal orders stand the test of judicial scrutiny, when the petitioners are approved probationers and their services have been regularised is the moot question that requires consideration of this Court.



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40. It is the time tested ratio of the Courts that the removal of an employee from service should be in accordance with the Rules governing the said employment. It could be stated without contradiction that every service rule provides for the manner in which an employee could be removed from service and the said service rules provide for a disciplinary mechanism by initiating a disciplinary proceeding and affording an opportunity of hearing to the employee through a full-fledged enquiry so as to enable the department to establish the charge and for the employee to refute the charge and get himself/herself absolved from the charge. Without following the said procedure, removing an employee from service for any allegation, howsoever grave the allegation may be, is grossly perverse and impermissible.

41. In the present case, the impugned orders passed by the respective Departments/appointing authorities reveal that based on the recommendation of the CBI to remove the petitioners from service for the grave malpractice alleged to have been committed by them, the Government had directed the appointing authorities to take action as recommended by CBI. This Court is at a loss to understand the purport and meaning of the directions of the Government.



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42. However, it is to be pointed out that the Government could only direct the appointing authorities to take action in accordance with the service rules pursuant to the communication of the CBI and there could be no affirmative direction by the Government to take action as recommended by CBI for removal of the petitioners, as the materials collected by CBI on the basis of which an opinion is formed to lay charge sheet against the petitioners have to be tested before the court of law. Therefore, even if any such direction has been given by the Government, as recorded in the impugned orders, the only inference that could be drawn from the said direction of the Government is that the appointing authorities were to follow the service rules and take action against the petitioners/employees and not merely remove the petitioners by relying on the recommendation of the CBI.

43. In the present case, it is borne out by record and not disputed by the respondents that the removal of the petitioners from service was without conduct of any disciplinary proceedings. Though the learned Advocate General submitted that the Commission could cancel the selection and allotment and invalidate the OMR answer sheets of the petitioners, however, the said



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contention has been rejected by this Court supra pointing out that such action has to await the decision of the criminal court.

44. However, the aforesaid direction would in no way preclude the appointing authorities to take action by way of disciplinary proceedings against the petitioners under the relevant service rules for any alleged delinquencies, which could be proved at the time of the enquiry that is taken against the petitioners, as the petitioners are full-time employees in public service and all acts performed by them are accountable. Therefore, the appointing authorities, if find fit, take action disciplinary action against the petitioners by following the provisions of the relevant service rules governing the conduct of the Government servant/petitioners herein and conduct an enquiry and action, if any, could only be taken on the basis of the outcome of the enquiry and not without any enquiry, as it would be nothing but violation of principles of natural justice.

45. In the present case, the respective appointing authorities, on the basis of the recommendations of CBI and on the basis of the directions of the Government, without following the procedure contemplated under the service



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rules, have removed the petitioners from service, which is grossly perverse, illegal, arbitrary and impermissible, which cannot be allowed to continue.

46. Further, it is to be pointed out that even at the time when the petitioners were under suspension, their prolonged suspension was deprecated by this Court by pointing out that certain other persons, who were also placed under suspension, their suspension was revoked, including that of the officials of the Commission who conducted the examination in the particular centre and carried the papers. The allegation against the petitioners in the present case is that they connived with the officials of the Commission in committing the malpractice. When the officials of the Commission who were suspended on allegations have subsequently been reinstated, keeping the petitioners under suspension, without resorting to any disciplinary proceedings, would be very much against the service rules and only in that backdrop, in the earlier round of litigation, this Court had directed their reinstatement, but curiously, without taking cue from the order passed by this Court, the appointing authorities have removed the petitioners from service without resorting to the procedure contemplated under the service rules. Therefore, the act of the appointing authorities in throwing the service rules to the wind by not following it while

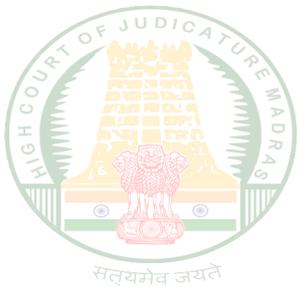


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deciding the case of the petitioners and removing them from service without following the due process of law and against the principles of natural justice definitely warrants interference with such orders, as the said orders not only suffers the vice of perversity, illegality and infirmity, but also is against the principles of natural justice and the provisions of the relevant service rules governing the service of the petitioners. Therefore, the said impugned orders deserve to be interfered with and if at all the appointing authorities deems it fit and proper to take action against the respective petitioners, the course open to them is to adhere to the provisions of the service rules and initiate action against the respective petitioners.

47. Further, it is borne out by record that charge sheet has already been filed before the Court, though it is not clear whether cognizance has been taken of the same by the concerned Court. In such view of the matter, considering the fact that the allegations made against the petitioner are grave in nature and that they are holding public employment and considering the fact that the concerned Court is before which the charge sheet is filed is not a party before this Court, this Court is inclined to issue a direction to the concerned Court to expedite taking cognizance of the offence and completing the trial as expeditiously as possible.



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48. For the reasons aforesaid, all the writ petitions are allowed with the following directions :-

- i) *The respective impugned orders passed by the Commission cancelling the provisional selection and allotment and invalidating the OMR answer sheet of the petitioners are set aside;*
- ii) *The impugned orders passed by the respective appointing authorities removing the respective petitioners from service are also set aside holding that the said orders are passed without following the service rules and in violation of principles of natural justice;*
- iii) *The respective appointing authorities are directed to reinstate the petitioners in service forthwith and upon such reinstatement, if so advised, the respective appointing authorities are at liberty to initiate disciplinary action against the respective petitioners for the delinquency, alleged to have been committed by the petitioners and proceed against the respective petitioners in accordance with the relevant service rules governing the petitioners;*
- iv) *If disciplinary proceedings have already been initiated against any of the petitioners, then the appointing authorities shall take steps to conclude the disciplinary proceedings initiated as expeditiously as possible in*



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*accordance with the relevant service rules governing the said petitioners;*

- v) The Commission is at liberty to proceed against the petitioners subject to the outcome of the criminal trial;*
- vi) Upon cognizance being taken of the charge sheet by the concerned Court, the trial court is directed to proceed with the said trial and complete the same as expeditiously as possible and the petitioners herein are directed to cooperate with the trial court for completion of the trial as expeditiously as possible;*
- vii) The CBI is directed to place a copy of this order before the concerned trial court before which the charge sheet is pending cognizance so as to enable the concerned Court to proceed forthwith with the matter in accordance with law;*
- viii) Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.*

**05.02.2026**

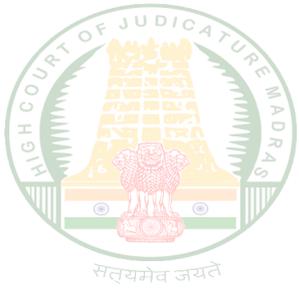
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GLN

**Note to Registry :**

Registry is directed to incorporate all the cause title along with the prayer in the drafted order while issuing order copy to the parties.

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1. The Secretary  
Tamil Nadu Public Service Commission  
Tamil Nadu Public Service Commission Road  
VOC Nagar, Chennai 600 003.
2. The Superintendent of Police  
Central Bureau of Investigation  
Anti Corruption Branch, Chennai.



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**M.DHANDAPANI, J.**

**GLN**

**PRE-DELIVERY ORDER IN  
W.P. NOS.2889 OF 2025, etc. Batch**

**Pronounced on  
05.02.2026**