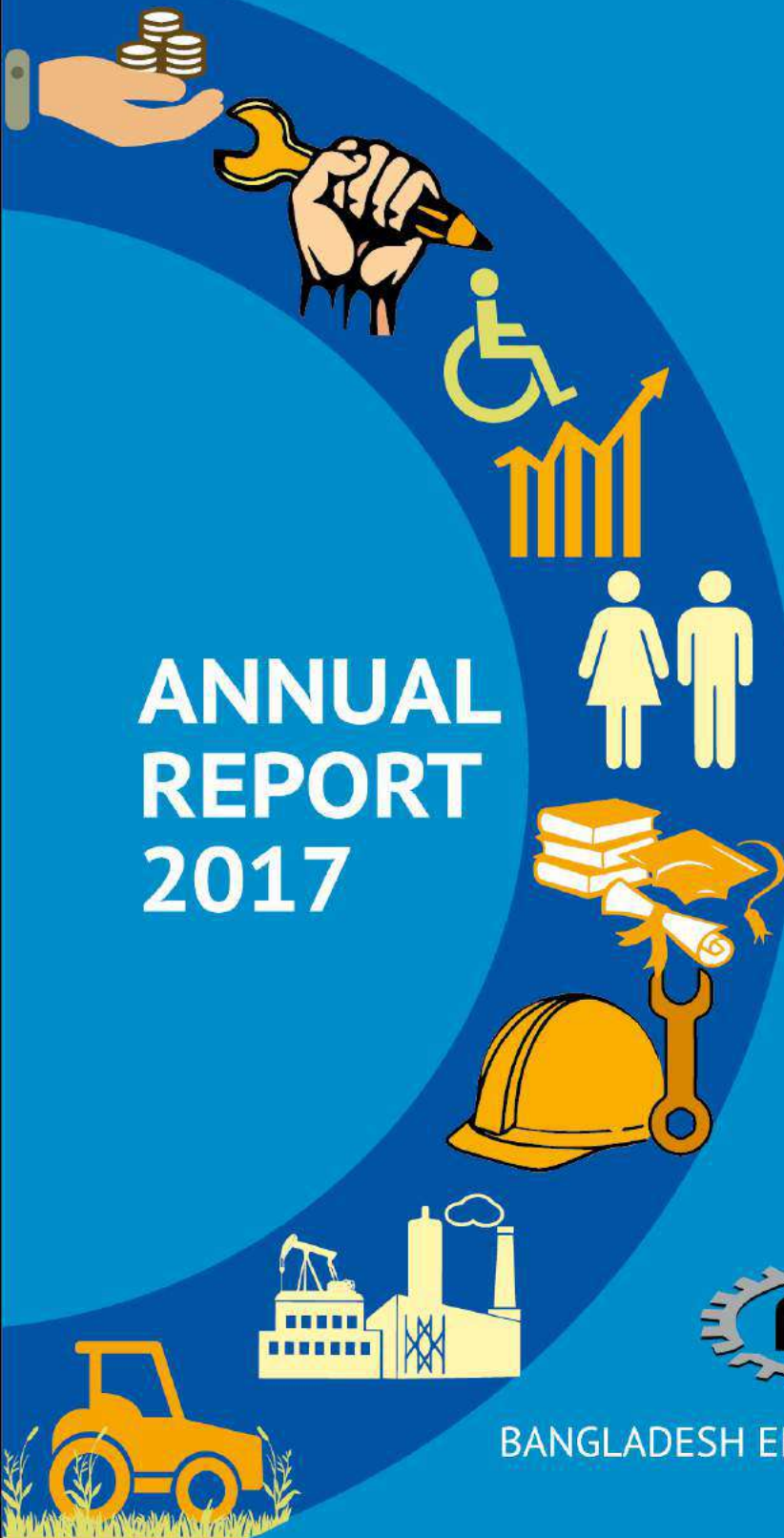


ANNUAL REPORT 2017



BANGLADESH EMPLOYERS' FEDERATION



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BEF COMMITTEE FOR 2017-2018

PRESIDENT

Mr. Kamran T. Rahman

VICE-PRESIDENT

Mr. Ardashir Kabir

MEMBERS OF THE COMMITTEE

Mr. Tahmid Ahmed

Mr. Tanvir Ahmed

Alhaj Kamal Uddin Ahmed

Mr. Miran Ali

Barrister Sumaiya Aziz

Ms. Farzana Chowdhury

Mr. Selim Chowdhury

Mr. M. Wahidul Haque

Mr. Mohammad Hatem

Mr. Kh. Asadul Islam

Mr. S. Humayun Kabir

Mr. Mahmud Hasan Khan (Babu)

Mr. Munawar Misbah Moin

Mr. Quazi Mohammad Shahed

Mr. Mohammad Shahjahan

Mr. Sakif Ariff Tabani

Mr. Muhammad Shams-uz Zoha

SECRETARY-GENERAL

Mr. Farooq Ahmed

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PROCEEDINGS OF THE TWENTIETH ANNUAL GENERAL MEETING

Proceedings of the 20th Annual General Meeting of Bangladesh Employers' Federation (BEF) held in the Conference Hall on the 5th Floor of the Chamber Building, 122-124, Motijheel C/A, Dhaka-1000 on Monday, 30 July 2018 at 1:30 p.m.

Mr. Kamran T. Rahman, President of the Federation was in the Chair.

The following members of the federation were present:

Sl. No	Name of the Member-Firm	Name and Designation of the Representative Attending the Meeting
01.	ACI Formulations Limited	Mr. Khandaker Ishtiaq Ahmed Marketing Manager
02.	Advanced Chemical Industries Limited	Mr. Khandaker Ishtiaq Ahmed Marketing Manager
03.	Alliance Capital Asset Management Limited	Mr. Kh. Asadul Islam Managing Director & CEO
04.	American Life Insurance Company	Mr. Syed Hammadul Karim General Manager, Bangladesh
05.	Bangladesh Jute Spinners Association	Mr. Mohammad Shahjahan Chairman
06.	Bangladesh Frozen Foods Exporters Association (BFFEA)	Mr. S. Humayun Kabir Director
07.	Bangladesh Garment Manufacturers and Exporters Association (BGMEA)	Mr. Md. Munir Hossain Director
08.	Bangladesh Knitwear Manufacturers & Exporters Association (BKMEA)	Mr. Mohammad Hatem Former 1 st Vice President
09.	Bengal Glass Works Ltd.	Mr. Tahmid Ahmed Director
10.	The Commercial Bank of Ceylon, PLC	Mr. Mostofa Anowar Sohel Head of Human Resource
11.	Consumer Product Ltd.	Mr. Md. Omar Faruque General Manager
12.	Delta Life Insurance Company Ltd.	Mr. M. Mosharof Hossain Joint Vice President (HRD)
13.	Expo Freight Limited	Mr. Md. Ariful Islam Head of Human Resource
14.	Kapna Tea Co. Limited	Mr. Kamran T. Rahman Managing Director
15.	Kedarpur Tea Company Limited	Mr. Ardashir Kabir Director
16.	Khadim Ceramics Limited	Mr. Abdullah Al-Rashid Asst. Manager (HR)

17.	Kumudini Welfare Trust of Bengal (BD) Ltd.	Commander M. Rizaul Karim BN, (Retd.)
18.	Leathergoods and Footwear Manufacturers & Exporters Association of Bangladesh (LFMEAB)	Ms. Kazi Roushan Ara Executive Director
19.	Micro Industries Development Assistance and Service (MIDAS)	Dr. A.S.M Mashi-Ur-Rahman Managing Director
20.	Mirpur Ceramic Works Limited	Mr. Abdullah AL-Rashid Asst. Manager (HR)
21.	Modern Industries Bangladesh Ltd.	Mr. Syed Tareque Md. Ali Managing Director
22.	Posh Garments Limited	Mr. Wasim Zakariah Director
23.	Pubali Jute Mills Limited	Mr. Kamran T. Rahman Chairman & Managing Director
24.	Rahimafrooz Batteries Ltd.	Mr. Mohammed Shahidul Islam Head of Regulatory Affairs
25.	Sathgao Tea Estate	Mr. Ardashir Kabir Managing Partner
26.	Square Fashions Limited	Mr. Anjan Kumar Paul General Manager, HR
27.	Square Pharmaceuticals Limited	Mr. Anjan Kumar Paul General Manager, HR
28.	Square Textiles Limited	Mr. Anjan Kumar Paul General Manager, HR
29.	Square Toiletries Limited	Mr. Anjan Kumar Paul General Manager, HR
30.	Tiffiny's Wear Ltd.	Mr. Md. Omar Faruque General Manager
31.	Vision Technologies Limited	Mr. Anjan Kumar Paul General Manager, HR
32.	Women Entrepreneurs' Association, Bangladesh	Ms. Nilufur Karim President Ms. Sharmin Jahan General Secretary



There being a quorum, the Chairman called the Twentieth Annual General Meeting (AGM) to order.

The Chairman then stated that the notice for the AGM along with other requisite enclosures like the annual report, audited accounts, etc., that had been circulated to all the members, be taken as read. There being no dissent, the notice was taken as read.

The Chairman mentioned that the annual report circulated with the notice for the AGM contained the report of yearly activities of the Federation during the year ended on the 31st December, 2017, but some of the important events and activities that took place during the period, January – July, 2018 but not covered in the annual report should be briefly touched upon before formally taking up the agenda for the meeting.

The Chair then stated that the Federation had successfully organized a workshop which was first of its kind in Bangladesh on “Human Rights, Sustainability Reporting and Responsible Business Conduct – What does business need to know?”. The workshop was jointly organized by International Organisation of Employers (IOE), BEF and European Union (EU) at Lakeshore Hotel, Dhaka during 4-5 February 2018. Mr. Anisul Huq, M.P., Hon'ble Minister, Ministry of Law, Justice and Parliamentary Affairs inaugurated the workshop as the Chief Guest. Mr. Md. Ashraf Shameem, Additional Secretary, Ministry of Labour and Employment, Mr. Enamul Hoque Chowdhury, Member, National Human Rights Commission Bangladesh, Mrs. Erika Hasznos, First Secretary (Political), EU Delegation to Bangladesh, Ms. Linda Kromjong, Secretary-General, IOE graced the event with their presence in the inaugural session. The president of BEF made the introductory remarks and set the tone. There were national and international resource persons to facilitate the 2-day workshop which was attended by 40 selected participants, representing BEF member firms, development partners, think tanks, and the media.

The Chairman also mentioned the growing concern on business and human rights issues worldwide in recent years especially since 2011 when UN had adopted its resolution 17/4, i.e., Guiding Principles on Business and Human Rights. Thereafter, most of the member countries endorsed this guiding principle with the commitment to follow. The move started vigorously in developed and developing industrial countries. However, Bangladesh is in no way out of the purview as its supply chain is mostly globally linked particularly for manufacturing sectors namely RMG, Leather & leather goods, and other processed goods. Hence, it was also necessary for Bangladesh to make its industry aware of increasing concerns on business and human rights in the industry. With that pretext, BEF had taken the initiative to organize the workshop. The resource persons touched upon topics like Responsible Business Conduct, Stakeholder Expectations, UN Guiding Principles on Business and Human Rights, Introduction into Sustainability Reporting, the IOE-GRI Guidance and Publications, and Employers' Organizations Role. They also focused on both, creating awareness and enabling an environment for human rights, sustainable reporting, and responsible business as well as encouraging disclosure procedure and social inclusion of all. They advocated pursuing the government to implement a National Sustainability Reporting and Responsible Business Policy.

The Federation continued its role as a member of the Minimum Wage Board for RMG sector constituted to review the minimum wage of workers of RMG sector. The last review was held in 2013. This initiative was taken by employers of RMG sector proactively to review the minimum wage. It was a very good strategic move to maintain harmonious industrial relations in the sector. However, the Board had two sittings where the proposals from both employers and workers had been received. As per newspaper report, employers had proposed the

minimum wage for the current 7th or equivalent grade to be Tk 6,360/- and the workers had submitted their proposal for the same grade to be Tk 12,020/-. Now the minimum wage Board would negotiate and recommend a minimum wage for government's approval. This would have a great impact on the overall socio-political scenario of the country considering that the national election was at the corner.

The Chairman mentioned that BEF organizes coordination meetings for the Industry Skill Councils (ISCs) on regular basis to strengthen the capacity of the ISCs. The purpose of these coordination meetings is to discuss various challenges faced by the ISCs and to facilitate their smooth functioning. The first coordination meeting of the ISCs for the year 2018 was held on 26 April 2018 at the Conference room of NSDC Secretariat. The meeting discussed on the progress review of a long-term action plan for ISCs, skills development including on-the-job training and entrepreneurship development, publishing list of occupations and AGM of all ISCs, and etc.

The Chair then stated that Bangladesh came under the global spotlight after the tragic Rana Plaza incident and since then, had been under pressure from the EU, Canada, USA and other development partners for the improvement of labor rights and working conditions etc., in the workplace especially in RMG sector. These pressures were being exercised through various observations made by ILO at different times and also during Sustainability Compact meeting. Bangladesh was placed under a special paragraph by the Committee on Application of Standards (CAS) of ILO during the 105th session of the International Labour Conference (ILC) in 2016. Subsequently, as a follow up, Bangladesh government particularly the Ministry of Labour and Employment had made serious commitments to address these observations made by the CAS to improve the standards of labor rights and working conditions in the RMG sector during the next session, i.e., 106th session of the ILC held in June 2017 with a time-bound roadmap that all concerns would be addressed before the 107th session of ILC in June 2018.

Meanwhile, government, employers, and workers had taken collectives steps to address the observations made by CAS. In order to effectively defend Bangladesh and to project the steps taken upon those observations, BEF played a key role and did important background works through liaison and coordination with ILO Dhaka Office, ILO Headquarters Geneva, International Organisation of Employers, Geneva, Ministry of Labour and Employment, Ministry of Foreign Affairs, Ministry of Law, Justice and Parliamentary Affairs and Ministry of Commerce to undertake a comprehensive preparation along with required changes necessary in the Bangladesh Labour Act, 2006 so that all observations are taken care of. As a way forward to that preparation, at the request of BEF, the Ministry of Foreign Affairs organized an interactive session on 10 May 2018 to apprise the foreign diplomats on the steps taken by Bangladesh Government for ensuring labor rights and working conditions. The President and the Secretary-General of the Federation attended the meeting and made a presentation. The meeting was organized to inform the diplomats of the decisions taken on the amendment of Bangladesh Labour Act (BLA) 2006 on the trade union registration threshold bringing it down from current 30% to 20% and amendment of EPZ law. In the amended EPZ law, the Department of Inspection of Factories and Establishments (DIFE) would be empowered to inspect the factories situated inside EPZ in line with BLA. Besides, the policy for setting up Workers Welfare Association in the factories of EPZ would also be in line with BLA. Diplomats from major development partners attended the meeting. This move was a preparatory to the International Labour Conference 2018.

With fairly commendable preparation, Bangladesh delegation constituted of tripartite members attended the 107th Session of the International Labour Conference (ILC) held in Geneva from 28 May to 8 June 2018. BEF played a very critical role in lobbying for the country and turning the situation into our favour. This might have yielded that this year Bangladesh was not shortlisted by the Committee on Application of Standards (CAS). We had been able to project to Committee on Application of Standards that the overall situation and the country's position had improved to a desirable level. As a result, Bangladesh was not required to defend herself for specific reasons of non-compliance under any ILO Convention. It was the best and the most sound situation for us for the last 4 years. This was possible mainly due to extensive liaison and coordination done by employer delegations of Bangladesh behind the screen especially the BEF President and the Secretary-General through using their good offices and sound relationship with IOE and ILO.

The Chairman also informed that the International Organisation of Employers (IOE) had reviewed its yearly subscriptions which had been increased in a progressive manner at a rate of 1.5% per annum up to 2023. The impact would be an increase of CHF 167 in the first year, i.e., in 2019 and CHF 837 (approximately) in 2023.

Next, the Chair stated that in order to strengthen its network abroad, BEF organized some social events in Geneva in connection with the ILC. A dinner was hosted by BEF in honor of Ms. Linda Kromjong, immediate past Secretary-General of IOE. Another lunch was hosted by BEF inviting key officials of IOE, ACTEMP, ILO and other guests. A total of 37 guests including the State Minister for Labour and Employment, Bangladesh and the Secretary, Ministry of Labour and Employment along with a few senior officials from the Ministry attended the lunch. It was well appreciated by all important members across the globe. The event was hosted at the Delegates Restaurant on the 8th floor at the Palais des Nations, Geneva on 4 June 2018.

The Chairman mentioned BEF's involvement in undertaking various projects with ILO and other organizations including development partners. BEF currently had been implementing a project under the Skills for Employment Investment Program (SEIP). SEIP is a Multi-tranche Financing Facility (MFF) program supported by the Asian Development Bank (ADB) and Swiss Agency for Development and Cooperation (SDC) and is executed by the Finance Division under the Ministry of Finance. This project would end in September 2018. In order to explore new opportunities under SEIP, the President and the Secretary-General had a meeting with Mr. Jalal Ahmed, the Executive Project Director of SEIP and also an Additional Secretary, Ministry of Finance, on 17 May 2018 at the Program office. The purpose of the meeting was to renew BEF's working relationship with the SEIP project and to submit a project proposal on bridging industry-academia gap by introducing factory level training for the graduate students of different public and private universities, who would be entering the job market in the near future. Mr. Jalal Ahmed indicated that SEIP would look into the proposal and would try to get BEF engaged wherever opportunities arose.

Then the Chair continued that the 4th review meeting of the Bangladesh Sustainability Compact was held on 25 June 2018 at Brussels followed by an important seminar on responsible sourcing on 26 June 2018. The Compact was launched in the wake of the 2013 Rana Plaza tragedy and brought together the EU, the US, Canada, the International Labour Organization (ILO) and Bangladesh. It aims at bringing lasting improvements to labor rights and factory safety in the ready-made garment industry of Bangladesh. The Secretary-General attended the compact review meeting as part of the government delegation led by the Hon'ble Minister for Commerce Mr. Tofail Ahmed, M.P. The review meeting ended well with a positive note.

Agenda No.1:

“That the Report of the proceedings of the Committee of the Federation for the period from the 1st January to 31st December 2017 be and is hereby passed and accepted.”

Mr. Mohammad Hatem, Former 1st Vice-President, Bangladesh Knitwear Manufacturers & Exporters Association (BKMEA) seconded it, which was passed unanimously.

Agenda No. 2:

Then at the request of the Chair, Mr. Ardashir Kabir, Vice President, BEF moved the Resolution No. 2:

“That the Income and Expenditure Accounts for the year ended on the

31st December 2017 and the Balance-Sheet as at that date, as audited and certified by the Federation’s Auditors, be received and passed.”

Mr. Tahmid Ahmed, Director, The Bengal Glass Works Limited seconded it, which was passed unanimously.

Agenda No. 3:

Then again, at the request of the Chair, Mr. Ardashir Kabir moved the Resolution No. 3:

“That Messrs. A. Qasem & Co., Chartered Accountants, be and are hereby appointed as the Federation’s Auditors for the year 2018-2019 at the remuneration of TK. 45,000/-”

Mr. Kh. Asadul Islam, Managing Director and CEO of Alliance Capital Asset Management Limited seconded the resolution which was passed unanimously.

Agenda No. 4:

Then, the Chair took up the Agenda No. 4 related to filling up vacant seats and informed the meeting that there were only 3 (Three) valid candidates against 5 (Five) vacant seats representing the Ordinary members and 2 (Two) valid candidates against 2 (Two) vacant seats representing Group members. Hence, election was not required.

The Election Board declared the following persons (in alphabetical order) ipso facto elected to the Federation’s Committee for the term, 2018–2020 under Rule 12 of the Bangladesh Employers’ Federation (Election of the Members of the Committee) Rules, 1998 (as of the last amendment in 2018), which was last adopted by the BEF Committee at its meeting held on 28 March 2018, subject to approval at this AGM:

Ordinary Members:

01.	Mr. Tahmid Ahmed	Director The Bengal Glass Works Limited
02.	Mr. Selim Chowdhury	Managing Director G4S Secure Solutions Bangladesh (P) Limited
03.	Mr. Kh. Asadul Islam	Managing Director & CEO Alliance Capital Asset Management Limited

Group Members

01.	Mr. Munir Hossain	Director Bangladesh Garment Manufacturers & Exporters Association
02.	Mr. Kedar Lele	Executive Committee Member Foreign Investors' Chamber of Commerce & Industry

Then the Chairman announced the composition of the new Committee of the BEF for 2018-2019 (in alphabetical order):

PRESIDENT

Mr. Kamran T. Rahman

Managing Director
The Kapna Tea Company Limited

VICE-PRESIDENT

Mr. Ardashir Kabir

Managing Partner
Sathgao Tea Estate

Ordinary Members: (In alphabetical order)

01.	Mr. Tahmid Ahmed	Director The Bengal Glass Works Limited
02.	Mr. Tanvir Ahmed	Director Envoy Textiles Limited
03.	Mr. Miran Ali	Managing Director Remi Farms Limited
04.	Ms. Farzana Chowdhury	Managing Director & CEO Green Delta Insurance Co. Ltd.
05.	Mr. Selim Chowdhury	Managing Director G4S Secure Solutions Bangladesh (P) Limited
06.	Mr. Kh. Asadul Islam	Managing Director & CEO Alliance Capital Asset Management Limited
07.	Mr. Munawar Misbah Moin	Director, Rahimafrooz Batteries Limited
08.	Mr. Sakif Ariff Tabani	Managing Director, Khadim Ceramics Limited

Group Members: (In alphabetical order)

01.	Alhaj Kamal Uddin Ahmed	General Member, Bangladesh Ship Breakers and Recyclers Association
02.	Barrister Sumaiya Aziz	Director, Bangladesh Textile Mills Association
03.	Mr. Mohammad Hatem	Former 1st Vice-President, Bangladesh Knitwear Manufacturers & Exporters Association
04.	Mr. Md. Munir Hossain	Director, Bangladesh Garment Manufacturers & Exporters Association
05.	Mr. S. Humayun Kabir	Director, Bangladesh Frozen Foods Exporters Association
06.	Mr. Kedar Lele	Executive Committee Member, Foreign Investors' Chamber of Commerce & Industry
07.	Mr. Mohammad Shahjahan	Chairman, Bangladesh Jute Spinners Association
08.	Mr. Muhammad Shams-uz Zoha	Chairman, Bangladesh Jute Mills Association

The Chair then formally moved the following resolution –

“That election of the 3 (Three) Ordinary members, and 2 (Two) Group members, to the Federation's Committee for the term, 2018-2020, as per the report of the Election Board, be confirmed.”

Mr. Syed Tareque Md. Ali, Managing Director of Modern Industries (Bangladesh) Limited seconded the proposal which was passed without dissent.

Then the Chair, on behalf of all members of the Federation, sincerely thanked Mr. M. Anis Ud Dowla, Chairman of the Election Board and A.K.M. Rafiqul Islam, FCA, and Mr. Hasan Mahmood, FCA, Members of the Election Board for providing their valuable time in conducting the election procedures.

At the same time, the Chair also expressed his gratitude to Mr. Syed Manzur Elahi, Chairman of the Appeal Board and Mr. Najmul Huq, and Mr. Akhter Matin Chaudhury, FCA, Members of the Appeal Board for having agreed to serve on this Board.

Thus the formal agenda of the 20th Annual General Meeting was concluded.

In the conclusion, The Chair thanked all the members of the Committee for their active support while discharging the responsibilities during the tenure and proposed a vote of thanks to all members of the Committee for their kind support in upholding employers' interest in the local forum and at the international level. The success had been possible because all members of the Committee extended due cooperation and worked as key team players. Without their support, solidarity, counsel, and advice, it would have been difficult for the Federation to achieve what it did.

He then congratulated the newly elected Committee Members and welcomed them to contribute to the fruitful deliberations of the Committee in the coming days.

The Chair also thanked the members of the BEF Secretariat for their excellent work of maintaining the quality of output of the Federation.

Then at the request of the Chair, Mr. Ardashir Kabir, Vice President of the Federation proposed a vote of thanks.

In the end, the Chair declared the 20th AGM officially over at around 2:15 P.M. and invited the attendees to join for lunch.

Sd/-

(Kamran T. Rahman)
CHAIRMAN OF THE MEETING

Sd/-

(Farooq Ahmed)
SECRETARY-GENERAL

ANNUAL REPORT (JANUARY – DECEMBER 2017)

The Committee of Bangladesh Employers' Federation has the pleasure of submitting to its members the following Annual Report for the year 2017.

During the period, from January to December, 2017, the Federation continued its efforts to uphold the interests of the employers at all levels. The Federation held several meetings with the Ministry of Labour and Employment on issues like industrial relations, wage, employment, and industrial relations in various industrial sectors, functional effectiveness of the Crises Management Core Committee, situation of the remittance inflow, skills development, and etc. The Federation regularly shared its views/opinions on growth, employment generation, social protection and social dialogue, productivity improvement, occupational safety and health, gender equality at workplace, social compliance, etc. with various national/international organizations including government. The Federation represented the employers in the Minimum Wage Board on a regular basis and made effective negotiations on fixation of minimum wages of concerned sectors which had been referred to the Board by the government.

On the international front, the Federation held meetings with the International Labour Organization (ILO), the International Organisation of Employers (IOE), the Confederation of Asia-Pacific Employers (CAPE), South Asian Forum of Employers (SAFE) and the Overseas Human Resources and Industry Development Association (HIDA) of Japan. In these meetings, the Federation projected the need for capacity building and technical assistance for rendering better services to the members, and for effective strategy formulation for the employers' organizations in the developing economies for facing the challenges of human resource development, and workplace safety. The Federation also underscored the need for employment creation, social protection and safety net for the more vulnerable groups of workers, and for mainstreaming the physically challenged persons and women in the job market.

At the national level, the Federation actively took part in various consultation meetings of the National Skills Development Council (NSDC), and continued to coordinate the activities of Industry Skills councils (ISCs), Tripartite Consultative Council (TCC) meeting and ILO's Better Work Programme in the RMG sector of Bangladesh. The Federation continued taking part in various national level seminars, symposiums, workshops, etc., on labor related issues, particularly on skills development, labor standards, occupational safety and health, etc., and represented the interests of the employers.

The representatives of the Federation also took part in various international and national level training programs, workshops, and seminars. The Federation organized and facilitated a number of training programs for member-firms and other stakeholders on various issues of industrial relations, human resources development, workplace safety, regulatory compliance, and related topics.

1. MEETINGS WITH MINISTERS AND SENIOR GOVERNMENT OFFICIALS



During the period, the Federation held several meetings with the Hon'ble Minister for the Ministry of Law, Justice and Parliamentary Affairs, the Hon'ble State Minister for the Ministry of Labour and Employment, and with the Secretary, Ministry of Labour and Employment. The Federation highlighted different points and drew the Government's attention as and when required.

2. REVIEW OF THE LABOR SITUATION

The Federation Committee regularly reviewed and prepared reports on the labor situation prevailing in the country, and appraised the members. The Federation also took note of a number of incidents including frequent strikes and agitations of workers that took place during the year, mostly in the garments sector. The Federation also discussed the progress of the Minimum Wages Board to determine the minimum wage in selected sectors, which had been referred to the Board.

3. SEMINAR ON "APPRENTICESHIP IN BANGLADESH: CHALLENGES AND WAY FORWARD": OUTCOME



A seminar on "Apprenticeship in Bangladesh: Challenges and Way Forward" was held on 23 February, 2017 at BEF Conference Hall. The seminar was a continuation of Dhaka Skills Declaration. This was the 2nd event of Dhaka Skills Declaration. The first one was organized on 17 December, 2016 on inclusion of persons with disability in the mainstream of the workforce and activation of Bangladesh Business and Disability Network

(BBDN). The seminar was well attended by the participants from those companies who were implementing apprenticeship programs. The discussion came up with the following suggestions:

- a. Building awareness program of the benefits of apprenticeship;
- b. Ensuring job placement for the apprentices on completion of training;
- c. Employers contribution as well as resource mobilization from other sources;
- d. Certification of training received;
- e. Strengthening regulatory and legal instruments; and
- f. Identification and recognition of appropriate authority for coordinating apprenticeship programs in the country, etc.

The seminar also recommended that a set of concrete recommendations should be sent to NSDC and the Ministry of Labour and Employment.

4. 56TH MEETING OF THE TCC: OUTCOME:

The 56th meeting of the Tripartite Consultative Council (TCC) was held on 18 April, 2017. The 56th meeting of the TCC was held after 22 months. As per usual practice, TCC meeting should be held preferably once in every quarter. The meeting discussed the steps to be taken to face the concerns raised by the Bangladesh Sustainability Compact partners which would be discussed during the 3rd review meeting to be held in Dhaka on 18 May, 2017. The TCC also decided that from now on, meeting would be held regularly.

5. DISCUSSION ON “CAPACITY BUILDING OF MANAGEMENT PROFESSIONALS: WAY FORWARD FOR BANGLADESH”: OUTCOME



Bangladesh Employers' Federation and Centre for Policy Dialogue jointly organized a discussion on “Capacity Building on Management Professionals: Way Forward for Bangladesh” on 26 April, 2017 at the BEF Conference Hall. Professor Dr. Gowher Rizvi, International Relation Affairs Adviser to the Hon'ble Prime Minister was the chief guest while Dr. Muhammad Abdul Moyeen, PhD, Professor and Chairperson, Department of Organization Strategy and Leadership, Faculty of Business Studies, University of Dhaka was the special guest. A large number of business leaders including present and past presidents of BEF, entrepreneurs, representatives and HR

Managers from various business organizations, industrialists and professionals were present in the discussion. After the welcome remarks, a presentation was made by Dr. Khondaker Golam Moazzem, Research Director, CPD. The launching of the report on “Dhaka Summit on Skills, Employability, and Decent Work 2016” followed that. Discussions and a Question Answer session took place after that. The event was concluded by a vote of thanks by the BEF Vice President. The valuable recommendation to form a public-private task force in order to formulate a national strategy to introduce management education with specific objectives and industry needs was noted by the BEF Committee.

6. SEMINAR ON “PROMOTION OF DISABILITY INCLUSION IN THE WORKPLACES” HELD IN RAJSHAHI: OUTCOME

The seminar on “Promotion of Disability Inclusion in the Workplaces” jointly organized by Bangladesh Employers’ Federation (BEF) and Rajshahi Chamber of Commerce and Industry (RCCI) was held on 23 April, 2017 at RCCI, Rajshahi. The discussion was well attended by relevant stakeholders in Rajshahi. The President of Rajshahi Chamber of Commerce and Industry presided over the meeting. The primary objective was to create awareness among potential employers and also enterprises to absorb Persons With Disabilities (PWDs) in their respective enterprises. More such events would be organized in other cities other than Dhaka.

7. CALLING OF AN EXTRAORDINARY GENERAL MEETING:

An Extraordinary General Meeting (EGM) was called on 31 July, 2017 for amending the first paragraph of clause 13(3)(i) of the Constitution of BEF regarding retirement of the members of the Committee representing Ordinary members.

“All elected members of the Committee shall hold office for a term not exceeding two years. They will retire after two annual terms and shall not be eligible to seek re-election for two annual terms. Their respective organisations except the group members will also not be eligible to nominate anyone else from their organisations to seek election for two annual terms.”

After amendment, the text was proposed to be as under:

“All elected members of the Committee shall hold office for a term of two years and shall retire on completion of the two years term. On completion of the term of two years, members representing Ordinary members shall be eligible to seek re-election for another 2 years term and their respective organizations shall also be eligible to nominate them or any other persons from their organizations to contest the election for another 2 years term. After completion of consecutive 2 terms covering a period of four years, members representing Ordinary members shall not be eligible to contest the elections in the next 2 years and their respective organizations also shall not be eligible to nominate anyone else of their organizations to contest the next two elections.”

The Committee, after discussion, decided to hold the Extraordinary General Meeting on 31 July, 2017 just before the Annual General Meeting and approved the texts of the EGM notice along with its enclosure.

8. THIRD FOLLOW-UP MEETING ON BANGLADESH SUSTAINABILITY COMPACT

The outcome of the 3rd follow-up meeting on Bangladesh Sustainability Compact held at Radisson Blu Water Garden Hotel on 18 May, 2017. The meeting discussed on recent increase in trade union registrations in Dhaka Division, work towards the development of standard operating procedures (SOPs) to better process applications for trade union registration, strengthening of Department of Inspection for Factories and Establishment (DIFE), formation of the Remediation Coordination Cell (RCC) and investment in factory safety with the initial implementation of corrective action plans. The partners recognized occupational Safety and health, amendment of the Bangladesh Labour Act (BLA), draft EPZ labour Law, the significant contributions of the Bangladesh Accord on Fire and Building safety (the Accord), and Alliance for Bangladesh Workers Safety (the Alliance) to ensure factory safety in RMG factories and for their commitment to sustainable sourcing from Bangladesh.

9. OUTCOME OF THE 106th SESSION OF THE ILC

The outcome of the 106th Session of the International Labour Conference (ILC) was held in Geneva from 5 to 16 June, 2017. Bangladesh was placed under special paragraph during International Labour Conference (ILC), 2016. Therefore, 2017 ILC was crucial for Bangladesh to show definitive improvement in safety, compliance, labor standards, workers' rights and other regulatory issues. There were 4 specific observations by the Committee on Application of Standards of ILO. This year, the delegation was led by the Hon'ble Minister for the Law, Justice and Parliamentary Affairs Mr. Anisul Huq, M.P. The employers' delegation was led by the BEF President Mr. Salahuddin Kasem Khan. The employers played a crucial role in showcasing good sides of Bangladesh situation for which Bangladesh could successfully come out of the special paragraph. The government had to make serious commitment to undertake significant steps in addressing the concerns of the Committee on Application of Standards of ILO. The BEF President and the BEF Vice President Mr. Golam Mainuddin had also shared their views on the issue.

10. ILO GOVERNING BODY ELECTION FOR THE TERM 2017-2020: ELECTION OF BEF SECRETARY-GENERAL AS A DEPUTY MEMBER OF THE GOVERNING BODY:

In the ILO Governing Body Election held during the 106th International Labour Conference (ILC), the Secretary-General, BEF representing the Employers' Group in South Asia was elected as a Member of the ILO Governing Body for the 3-year term, 2017-2020.

11. MEETING WITH THE HON'BLE MINISTER OF STATE FOR LABOUR AND EMPLOYMENT: OUTCOME:

A meeting of the newly elected office-bearers of BEF with the Hon'ble Minister of State for Labour and Employment, Mr. Md. Mujibul Haque, MP was held at his office on 6 August, 2017. It was primarily a courtesy call on with the Hon'ble State Minister for Labour and Employment. The Minister was accompanied by senior officers of the Ministry. During the discussion, the following issues came up and both side exchanged their views:

- a. Amendment of BLA 2006;
- b. Introduction of new EPZ law;
- c. Holding regular meeting of TCC;
- d. Other associated issues.

12. MEETING WITH THE HON'BLE MINISTER FOR LAW, JUSTICE AND PARLIAMENTARY AFFAIRS: OUTCOME

A meeting of the newly elected office-bearers of BEF with the Hon'ble Minister for Law, Justice and Parliamentary Affairs was held at his office on 6 August, 2017. The newly elected office bearers were very warmly received by the Minister, who also requested the Secretaries of two Divisions under his Ministry to join him. The Minister was keen to know about the activities of BEF. He recalled the role played by the employer members during the last International Labour Conference (ILC) held in June 2017 where the Minister himself was the Leader of the Bangladesh delegation. The Minister also emphasised the need for timely response of the ILO obligations which should be addressed by the government in consultation with the social partners. The Minister further emphasised to strengthen capacity of government, employers' and workers' organisations to deal with ILO matters in a more professional manner. The Minister also expressed that he would be happy to visit BEF on any occasion in future.

13. 58TH AND 59TH MEETING OF THE TRIPARTITE CONSULTATIVE COUNCIL (TCC): OUTCOME

The 58th meeting of the Tripartite Consultative Council (TCC) was held at BRAC CDM, Rajendrapur, Gazipur on 12 August 2017. The government was under obligation to ILO to amend certain clauses of the Bangladesh Labour Act 2006 to make it more pragmatic and user friendly. This obligation came up as a result of the special paragraph received by Bangladesh during the 105th session of the International Labour Conference 2016 by the Committee of Application of Standards of ILO. Thereafter, a tripartite Committee was formed to review the amendment proposal. Thereafter, TCC met at Rajendrapur BRAC CDM to review the proposals. There were as many as 42 amendment proposals by BEF.



The 59th meeting of the Tripartite Consultative Council (TCC) was held on 17 August, 2017 at the BEF Conference Hall. The TCC meeting was a follow up of the previous TCC meeting. This TCC meeting was also attended by the Hon'ble Minister for Commerce Mr. Tofail Ahmed, M.P.

14. VISIT OF DR. THANNALECHIMY HOUSSET, ADVISER, ASIA AND THE PACIFIC REGION, IOE

Dr. Thannalechimy Housset, Adviser, Asia and the Pacific Region, International Organisation of Employers (IOE) visited Bangladesh during 13-16 September, 2017. It was her first visit to Bangladesh Employers' Federation. Though it was practically a one day visit, however, she was given a detailed briefing about BEF activities. During this short visit, she was also able to visit a factory. The BEF President discussed the Rohingya issues and the efforts being taken by Bangladesh government in this regard with her. She noted and sympathised with the refugees.

15. JOB FAIR – BANGLADESH BUSINESS AND DISABILITY NETWORK



A Job Fair was jointly organized by Bangladesh Business and Disability Network (BBDN) in partnership with Campaign for Popular Education (CAMPE), Bangladesh and Access Bangladesh Foundation on 9 December, 2017. The outcome of the Job Fair had drawn interest of the key stakeholders, the participants and the policy makers. Mr. Abul Kalam Azad, Principal Coordinator SDG Affairs, PMO attended the event as the chief guest and the Secretary in Charge, Ministry of Labour and Employment Ms. Afroza Khan, BEF President Mr. Kamran T. Rahman and BGMEA President, Mr. Md. Siddiqur Rahman attended the event as special guests. 72 appointment letters were issued on the spot. Besides, another 79 persons with disabilities (PWD) got job through that job fair. The main purpose of the job fair was to bring the PWD into the mainstream workforce and create awareness among the potential employers.

16. NATIONAL PUBLIC PRIVATE DIALOGUE ON CAPACITY BUILDING OF MANAGEMENT AND TECHNICAL PROFESSIONALS IN BANGLADESH FOR INCLUSIVE GROWTH: OUTCOME



Bangladesh Employers' Federation (BEF), in collaboration with National Skills Development Council (NSDC) and United Nations Development Programme (UNDP) Bangladesh Office, organized a high profile national public private dialogue (PPD) on "Capacity Building of Management and Technical Professionals in Bangladesh for Inclusive Growth" on 3 December 2017 at Lakeshore Hotel, Gulshan, Dhaka. Mr. M A Mannan, MP, Hon'ble Minister of State for Ministry of Finance and Ministry of Planning was the chief guest.



A large number of business leaders including present and past presidents of BEF, entrepreneurs, representatives and HR Managers, media from various business organizations, industrialists and professionals were present in the dialogue. After the inaugural session, two presentations were made by Professor Shibli Rubayat Ul Islam, Dean, Faculty of Business Studies, University of Dhaka on the Capacity Needs Assessment Study in Session 1 and Dr. Selim Raihan, Professor of Economics, University of Dhaka, and Executive Director, SANEM on Strategic Roadmap for Private Sector Capacity Building to Ensure Job-led Inclusive Growth in Session 2. The technical session was chaired by Mr. Salahuddin Kasem Khan, Former President, BEF. Discussions and a Question Answer session took place after that. The event was concluded by a vote of thanks by the BEF Vice President. As one of the deliverables, BEF prepared the final draft report on "Capacity Needs Assessment for Enhancing Management and Professional Capacity of the Private Sector in Bangladesh." UNDP Bangladesh was keen to make a publication, and undertake other activities of media campaign, using print and electronic media, for sensitization of the donors, the government, and the private sector.

17. QUARTERLY COORDINATION MEETING OF ISC'S

Three quarterly coordination meetings of Industry Skills Councils (ISCs) were held on 7 March, 21 May, and 21 August in 2017. BEF had been playing a coordinating role in strengthening the capacities of ISCs. As such, BEF had been organizing quarterly meetings inviting members of all ISCs to discuss their challenges and way forward. The following major issues were discussed in the meeting:

- a. Financial constraints of ISCs;
- b. Strengthening the capacity of the ISCs
- c. Fund raising for the ISCs, bridging communication gap with ECNSDC, and standardisation of NTVQF
- d. Formulation of business plan for ISCs; and
- e. Registration of ISCs and current status.



I. MEMBERSHIP:

New Member:

During the period, the following organizations joined the Federation as new members:

Ordinary Members:

- Momtex Expo Limited
- Graphics Textiles Limited
- Passion Jeans Limited
- Posh Garments Limited
- Green Textile Limited

Group Members:

- Leathergoods And Footwear Manufacturers & Exporters Association of Bangladesh
- Foreign Investors Chamber of Commerce and Industry

II. MANAGING COMMITTEE

At the commencement of the year, i.e. on the 1st January, 2017, the managing Committee of the Federation comprised of the following:

PRESIDENT

Mr. Salahuddin Kasem Khan

Managing Director
A.K. Khan & Company Limited

VICE-PRESIDENT

Mr. Golam Mainuddin

Chairman
British American Tobacco Bangladesh Co. Ltd.

MEMBERS OF THE COMMITTEE

Ordinary Members: (In alphabetical order)

01.	Mr. Tahmid Ahmed	Director The Bengal Glass Works Limited
02.	Ms. Shusmita Anis	Managing Director ACI Formulations Limited
03.	Barrister Imtiaz Uddin Ahmad Asif	Managing Director & Chief Executive Alltex Industries Limited
04.	Mr. Abul Bashar	Dy. Managing Director Prime Composite Mills Limited
05.	Mr. Selim Chowdhury	Managing Director G4S Secure Solutions Bangladesh (P) Limited
06.	Mr. Kh. Asadul Islam	Managing Director & CEO Alliance Capital Asset Management Limited
07.	Mr. Mohammed Shariful Islam	Chief Human Resource Officer GrameenPhone Limited
08.	Mr. Adnan N. Rahman	Director, Pubali Jute Mills Limited
09.	Ms. Sadaf Saaz Siddiqi	Director, Sidko Apparels Limited

Group Members: (In alphabetical order)

10.	Mr. M. Shah Alam	Sr. Vice-Chairman, Bangladeshiyo Cha Sangsad
11.	Mr. M. Jamaluddin	Director Bangladesh Textile Mills Association
12.	Mr. Mahmud Hasan Khan (Babu)	Vice President, Bangladesh Garment Manufacturers & Exporters Association
13.	Mr. Md. Golam Mostafa, MBA	Sr. Vice President Bangladesh Frozen Foods Exporters Association
14.	Mr. Mohammed Mahbubur Rahman Patwari	Executive Committee Member Bangladesh Jute Mills Association
15.	Mr. A.H. Aslam Sunny	1st Vice President Bangladesh Knitwear Manufacturers & Exporters Association

ADVISER TO THE COMMITTEE

Mr. Kamran T. Rahman

SECRETARY-GENERAL

Mr. Farooq Ahmed

The following members were to retire on the eve of the 19th A.G.M. in July 2017:

Ordinary members

01.	Ms. Shusmita Anis	Managing Director ACI Formulations Limited
02.	Barrister Imtiaz Uddin Ahmad Asif	Managing Director & Chief Executive Alltex Industries Limited
03.	Mr. Abul Bashar	Dy. Managing Director Prime Composite Mills Limited
04.	Mr. Salahuddin Kasem Khan	Managing Director A.K. Khan & Company Limited
05.	Mr. Golam Mainuddin	Chairman, British American Tobacco Bangladesh Co. Ltd.
06.	Mr. Adnan N. Rahman	Director Pubali Jute Mills Limited
07.	Ms. Sadaf Saaz Siddiqi	Director, Sidko Apparels Limited
08.	Mr. Mohammed Shariful Islam	Chief Human Resource Officer GrameenPhone Limited

Group members

(1)	Mr. M. Shah Alam	Sr. Vice-Chairman, Bangladeshiyo Cha Sangsad
(2)	Mr. M. Jamaluddin	Director Bangladesh Textile Mills Association
(3)	Mr. Md. Golam Mostafa, MBA	Sr. Vice President Bangladesh Frozen Foods Exporters Association
(4)	Mr. Mohammed Mahbubur Rahman Patwari	Executive Committee Member Bangladesh Jute Mills Association
(5)	Mr. A.H. Aslam Sunny	1st Vice President Bangladesh Knitwear Manufacturers & Exporters Association

The Committee noted that of the 8 retiring Ordinary members, 7 members, i.e., Ms. Shusmita Anis, Barrister Imtiaz Uddin Ahmad Asif, Mr. Abul Bashar,

Mr. Salahuddin Kasem Khan, Mr. Golam Mainuddin, Mr. Adnan N. Rahman and Ms. Sadaf Saaz Siddiqi would not be eligible to seek re-election for the next two annual terms, i.e., 2017-2018 and 2018-2019. Their respective representative organizations also would not be eligible to nominate anyone else to seek election for the next two annual terms. Mr. Mohammed Shariful Islam, being a co-opted member, would retire at the 19th AGM and he as well as his representative organization would remain eligible to contest in the next election.

The Committee also noted that all the above 5 Group members would retire on completion of their two-year term, 2015-2017 and would not be eligible to seek re-election for the next two annual terms. Their representative organizations, would, however, remain eligible to nominate anyone else to contest in the next election.

Besides the above 13 (thirteen) vacancies, 3(three) seats [1(one) seat from the Ordinary members and 2(two) seats from the Group members] remained vacant in 2016-2017, for which election would be required.

In all, election would be needed for 16 (sixteen) vacancies [9 (nine) vacancies from Ordinary members and 7(seven) vacancies from Group members].



The Management Committee of the Federation as on 21 August 2017 (after the 19th AGM held on 31 July, 2017) was as follows:

PRESIDENT

Mr. Kamran T. Rahman

Managing Director
The Kapna Tea Company Ltd.

VICE-PRESIDENT

Mr. Ardashir Kabir

Managing Partner
Sathgao Tea Estate

COMMITTEE MEMBERS

Ordinary Members: (In alphabetical order)

01.	Mr. Tahmid Ahmed	Director The Bengal Glass Works Limited
02.	Mr. Tanvir Ahmed	Director Envoy Textiles Limited
03.	Mr. Miran Ali	Managing Director Remi Farms Limited
04.	Ms. Farzana Chowdhury	Managing Director & CEO Green Delta Insurance Co. Ltd.
05.	Mr. Selim Chowdhury	Managing Director G4S Secure Solutions Bangladesh (P) Limited
06.	Mr. Kh. Asadul Islam	Managing Director & CEO Alliance Capital Asset Management Limited
07.	Mr. Munawar Misbah Moin	Director Rahimafrooz Batteries Limited
08.	Mr. Quazi Mohammad Shahed	Chief Human Resource Officer, GrameenPhone Limited
09.	Mr. Sakif Ariff Tabani	Managing Director, Khadim Ceramics Limited

Group Members: (In alphabetical order)

01.	Alhaj Kamal Uddin Ahmed	General Member, Bangladesh Ship Breakers and Recyclers Association
02.	Barrister Sumaiya Aziz	Director, Bangladesh Textile Mills Association
03..	Mr. M. Wahidul Haque	Committee Member, Bangladeshiyo Cha Sangsad
04.	Mr. Mohammad Hatem	Former 1st Vice-President, Bangladesh Knitwear Manufacturers & Exporters Association
05.	Mr. S. Humayun Kabir	Director, Bangladesh Frozen Foods Exporters Association
06..	Mr. Mahmud Hasan Khan (Babu)	Vice President, Bangladesh Garment Manufacturers & Exporters Association
07.	Mr. Mohammad Shahjahan	Chairman, Bangladesh Jute Spinners Association
08.	Mr. Muhammad Shams-uz Zoha	Chairman, Bangladesh Jute Mills Association

III. SUB-COMMITTEES

As constituted by the Managing Committee, the following 14 (fourteen) Sub-Committees functioned during the term, August 2017 – July, 2018:

1. FINANCE & MEMBERSHIP SUB-COMMITTEE

01.	Mr. Ardashir Kabir (Chairman)	Sathgao Tea Estate
02.	Mr. Tahmid Ahmed	The Bengal Glass Works Limited
03..	Mr. Syed Tareque Md. Ali	Modern Industries (Bangladesh) Limited
04.	Mr. Abul Bashar	Prime Composite Mills Limited
05.	Ms. Farzana Chowdhury	Green Delta Insurance Co. Ltd.
06..	Mr. Najmul Huq	Sadat Jute Industries Ltd.
07.	Mrs. Sabrina Islam	Osman Textiles Limited
08.	Mr. Golam Mainuddin	British American Tobacco Bangladesh Company Limited
09.	Mr. Mohammed Mahbubur Rahman Patwari	Bangladesh Jute Mills Association

10.	Mr. Adnan N. Rahman	Pubali Jute Mills Limited
11.	Ms. Luna Shamsuddoha	Dohatec New Media

2. LABOUR RELATIONS SUB-COMMITTEE

01.	Mr. M. Anis Ud Dowla (Chairman)	Advanced Chemical Industries Limited
02.	Mr. Asif Ibrahim	Newage Garments Limited
03..	Mr. M. Jamaluddin	Bangladesh Textile Mills Association
04.	Mr. Ardashir Kabir	Bangladeshiyo Cha Sangsad
05.	Mr. Mahmud Hasan Khan (Babu)	Bangladesh Garment Manufacturers and Exporters Association
06..	Mr. Golam Mainuddin	British American Tobacco Bangladesh Co. Ltd.
07.	Mr. Syed Nasim Manzur	Apex Footwear Limited
08.	Mr. Mohammed Mahbubur Rahman Patwari	Bangladesh Jute Mills Association
09.	Mr. Mohammad Shahjahan	Bangladesh Jute Spinners Association
10.	Mr. A.H. Aslam Sunny	Bangladesh Knitwear Manufacturers & Exporters Association

3. LABOUR LAW SUB-COMMITTEE

01.	Mr. Mohammad Hatem (Chairman)	Bangladesh Knitwear Manufacturers & Exporters Association
02.	Mr. M. Shah Alam	Bangladeshiyo Cha Sangsad
03.	Mr. Miran Ali	Remi Farms Limited
04.	Mr. M. Anis Ud Dowla	Advanced Chemical Industries Limited
05.	Barrister Imtiaz Uddin Ahmad Asif	Alltex Industries Limited
06.	Mr. Najmul Huq	Sadat Jute Industries Ltd.
07.	Mr. Md. Nurul Islam	American Life Insurance Company
08.	Mr. M. Jamaluddin	Bangladesh Textile Mills Association
09.	Ms. Nihad Kabir	Kedarpur Tea Company Ltd.
10.	Mr. Golam Mainuddin	British American Tobacco Bangladesh Co. Ltd.
11.	Mr. Md. Golam Mostafa, MBA	Bangladesh Frozen Foods Exporters Association
12.	Mr. Muhammad Shams-uz Zoha	Bangladesh Jute Spinners Association

4. LABOUR COURTS SUB-COMMITTEE

01.	Mr. S. Humayun Kabir (Chairman)	Bangladesh Frozen Foods Exporters Association
02.	Mr. M. Shah Alam	Bangladeshiyo Cha Sangsad
03.	Ms. Shusmita Anis	ACI Formulations Limited
04.	Barrister Intiaz Uddin Ahmad Asif	Alltex Industries Limited
05.	Mr. Selim Chowdhury	G4S Secure Solutions Bangladesh (P) Ltd.
06.	Mr. Mohammad Hatem	Bangladesh Knitwear Manufacturers & Exporters Association
07.	Mr. M. Jamaluddin	Bangladesh Textile Mills Association
08.	Mr. A.S.M. Mainuddin Monem	Abdul Monem Sugar Refinery Ltd.
09.	Mr. Md. Golam Mostafa, MBA	Bangladesh Frozen Foods Exporters Association
10.	Mr. Mohammed Mahbubur Rahman Patwari	Bangladesh Jute Mills Association
11.	Mr. Muhammad Shams-uz Zoha	Bangladesh Jute Spinners Association

5. SELECTION SUB-COMMITTEE

01.	Mr. Tahmid Ahmed (Chairman)	The Bengal Glass Works Limited
02.	Mr. Tanvir Ahmed	Envoy Textiles Limited
03.	Mr. Syed Tareque Md. Ali	Modern Industries (Bangladesh) Ltd.
04.	Mr. Kh. Asadul Islam	Alliance Capital Asset Management Limited
05.	Mr. Md. Nurul Islam	American Life Insurance Company
06.	Mr. S. Humayun Kabir	Bangladesh Frozen Foods Exporters Association
07.	Mr. Munawar Misbah Moin	Rahimafrooz Batteries Limited
08.	Mr. Adnan N. Rahman	Pubali Jute Mills Limited
09.	Mrs. Sadaf Saaz Siddiqi	Sidko Apparels Ltd

6. SEMINAR SUB-COMMITTEE

01.	Mr. Sakif Ariff Tabani (Chairman)	Khadim Ceramics Limited
02.	Mr. Tahmid Ahmed	The Bengal Glass Works Limited
03.	Mr. Najmul Huq	Sadat Jute Industries Ltd.
04.	Mr. Ardashir Kabir	Bangladeshiyo Cha Sangsad
05.	Mr. S. Humayun Kabir	Bangladesh Frozen Foods Exporters Association
06.	Mr. Habibullah N. Karim	Technohaven Company Ltd.

07.	Mr. Mahmud Hasan Khan (Babu)	Bangladesh Garment Manufacturers and Exporters Association
08.	Mr. A. S. M. Mainuddin Monem	Abdul Monem Sugar Refinery Limited
09.	Mr. Adnan N. Rahman	Pubali Jute Mills Limited
10.	Ms. Luna Shamsuddoha	Dohatec New Media
11.	Ms. Sadaf Saaz Siddiqi	Sidko Apparels Limited

7. WAGES CONSULTATIVE SUB-COMMITTEE (DHAKA REGION)

01.	Mr. M. Wahidul Haque (Chairman)	Bangladeshiyo Cha Sangsad
02.	Mr. Md. Monsoor Ahmed	Bangladesh Knitwear Manufacturers & Exporters Association
03.	Mr. Mir Nasir Hossain	Mir Ceramic Limited
04.	Mr. Md. Nurul Islam	American Life Insurance Company
05.	Mr. Golam Mainuddin	British American Tobacco Bangladesh Company Limited
06.	Mr. A. S. M. Mainuddin Monem	Abdul Monem Sugar Refinery Limited
07.	Mr. Md. Golam Mostafa, MBA	Bangladesh Frozen Foods Exporters Association
08.	Mr. Mohammad Shahjahan	Bangladesh Jute Spinners Association
09.	Mr. Sakif Ariff Tabani	Khadim Ceramics Limited
10.	Mr. Muhammad Shams-uz Zoha	Bangladesh Jute Mills Association

8. MINIMUM WAGES RELATED SUB-COMMITTEE

01.	Mr. Mohammad Hatem (Chairman)	Bangladesh Knitwear Manufacturers & Exporters Association
02.	Mr. A. Matin Chowdhury	Malek Spinning Mills Limited
03.	Mrs. Sabrina Islam	Osman Textiles Limited
04.	Mr. M. Jamaluddin	Bangladesh Textile Mills Association
05.	Mr. Ardashir Kabir	Bangladeshiyo Cha Sangsad
06.	Mr. M. Humayun Kabir, FCA	Bangladesh Jute Spinners Association
07.	Mr. Mahmud Hasan Khan (Babu)	Bangladesh Garment Manufacturers and Exporters Association
08.	Mr. Kaihan N. Rahman	Pubali Jute Mills Limited
09.	Mr. Mohammad Shahjahan	Bangladesh Jute Spinners Association

9. PUBLIC RELATIONS SUB-COMMITTEE

01.	Mr. Selim Chowdhury (Chairman)	G4S Secure Solutions Bangladesh (P) Ltd.
02.	Mr. Tahmid Ahmed	The Bengal Glass Works Limited
03.	Mr. Miran Ali	Remi Farms Limited
04.	Barrister Sumaiya Aziz	Bangladesh Textile Mills Association
05.	Mr. M. Wahidul Haque	Bangladeshiyo Cha Sangsad
06.	Mrs. Sabrina Islam	Osman Textiles Limited
07.	Mr. Ardashir Kabir	Bangladeshiyo Cha Sangsad
08.	Mr. Syed Nasim Manzur	Apex Footwear Ltd
09.	Mr. Sakif Ariff Tabani	Khadim Ceramics Limited

10. SAFETY AND WORKING CONDITIONS SUB-COMMITTEE

01.	Mr. Tanvir Ahmed (Chairman)	Envoy Textiles Limited
02.	Mr. Mohammad Hatem	Bangladesh Knitwear Manufacturers & Exporters Association
03.	Mr. Najmul Huq	Sadat Jute Industries Ltd.
04.	Mr. S. Humayun Kabir	Bangladesh Frozen Foods Exporters Association
05.	Mrs. Laila Rahman Kabir	Kedarpur Tea Company Limited
06.	Mr. Habibullah N. Karim	Technohaven Company Limited
07.	Mr. Golam Mainuddin	British American Tobacco Bangladesh Co. Ltd.
08.	Mr. Kaihan N. Rahman	Pubali Jute Mills Limited
09.	Ms. Sadaf Saaz Siddiqi	Sidko Apparels Limited

11. TRAINING AND HUMAN RESOURCE DEVELOPMENT SUB-COMMITTEE

01.	Mr. Kh. Asadul Islam (Chairman)	Alliance Capital Asset Management Ltd.
02.	Alhaj Kamal Uddin Ahmed	Bangladesh Ship Breakers and Recyclers Association
03.	Mr. Abul Bashar	Prime Composite Mills Limited
04.	Ms. Farzana Chowdhury	Green Delta Insurance Co. Ltd.
05.	Mr. A. Matin Chowdhury	Malek Spinning Mills Limited
06.	Mr. Ardashir Kabir	Bangladeshiyo Cha Sangsad
07.	Mr. Salahuddin Kasem Khan	A.K. Khan & Co. Ltd.
08.	Mr. Kaihan N. Rahman	Pubali Jute Mills Limited
09.	Mr. Sakif Ariff Tabani	Khadim Ceramics Limited
10.	Mr. Muhammad Shams-uz Zoha	Bangladesh Jute Spinners Association

12. WOMEN IN DEVELOPMENT SUB-COMMITTEE

01.	Ms. Farzana Chowdhury (Chairperson)	Green Delta Insurance Co. Ltd.
02.	Ms. Shusmita Anis	ACI Formulations Limited
03.	Barrister Sumaiya Aziz	Bangladesh Textile Mills Association
04.	Mrs. Simeen Hossain	Transcom Limited
05.	Mrs. Sabrina Islam	Osman Textiles Limited
06.	Mr. Ardashir Kabir	Sathgao Tea Estate
07.	Ms. Ayesha Kabir	Women Entrepreneurs' Association, Bangladesh
08.	Ms. Nihad Kabir	Kedarpur Tea Company Ltd.
09.	Ms. Rokeya Quader	Desh Garments Limited
10.	Mrs. Zeenat Rahim	Rahimafrooz Batteries Limited
11.	Ms. Sadaf Saaz Siddiqi	Sidko Apparels Limited

13. SOCIAL DEVELOPMENT SUB-COMMITTEE

(DECENT WORK FOLLOW-UP AND ILO DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK AND ITS FOLLOW-UP)

01.	Mr. Mahmud Hasan Khan (Babu) [Chairman]	Bangladesh Garment Manufacturers and Exporters Association
02.	Mr. Tahmid Ahmed	The Bengal Glass Works Limited
03.	Mr. Syed Tareque Md. Ali	Modern Industries (Bangladesh) Limited
04.	Mr. A. Matin Chowdhury	Malek Spinning Mills Limited
05.	Mr. Mohammad Hatem	Bangladesh Knitwear Manufacturers & Exporters Association
06.	Mr. Ardashir Kabir	Bangladeshiyo Cha Sangsad
07.	Mr. S. Humayun Kabir	Bangladesh Frozen Foods Exporters Association
08.	Mr. Munawar Misbah Moin	Rahimafrooz Batteries Limited
09.	Ms. Rokeya Quader	Desh Garments Limited
10.	Mr. Adnan N. Rahman	Pubali Jute Mills Limited
11.	Ms. Luna Shamsuddoha	Dohatec New Media
12.	Ms. Sadaf Saaz Siddiqi	Sidko Apparels Limited

14. IMPROVING SAFETY, WORKING CONDITIONS AND IR IN THE RMG SECTOR SUB-COMMITTEE

01.	Mr. Miran Ali (Chairman)	Remi Farms Limited
02.	Mr. Tanvir Ahmed	Envoy Textiles Limited
03.	Alhaj Kamal Uddin Ahmed	Bangladesh Ship Breakers and Recyclers Association
04.	Barrister Sumaiya Aziz	Bangladesh Textile Mills Association
05.	Mr. Asif Ibrahim	Newage Garments Limited
06.	Mr. Kh. Asadul Islam	Alliance Capital Asset Management Limited
07.	Mrs. Sabrina Islam	Concorde Garments Limited
08.	Mr. Munawar Misbah Moin	Rahimafrooz Batteries Limited
09	Ms. Rokeya Quader	Desh Garments Limited
10.	Ms. Sadaf Saaz Siddiqi	Sidko Apparels Limited
11.	Ms. Luna Shamsuddoha	Dohatec New Media
12.	Ms. Sadaf Saaz Siddiqi	Sidko Apparels Limited

IV. SECRETARIAT

Mr. Farooq Ahmed continued as the Secretary-General and the CEO of the Federation during the Year 2017.

V. BANGLADESH EMPLOYERS' FEDERATION'S REPRESENTATIONS AT VARIOUS BODIES (AS ON DECEMBER 2017):

01.	Executive Committee of International Organisation of Employers, Geneva	Mr. Kamran T. Rahman, President, BEF Substitute: Mr. Farooq Ahmed, Secretary-General, BEF
02.	Governing Body of Bangladesh Institute of Management	Mr. Ardashir Kabir Vice-President, BEF
03.	Bangladesh Technical Education Board	Mr. Kazi Saifuddin Ahmed, Labour Adviser, BEF
04.	Bangladesh Minimum Wages Board	Mr. Kazi Saifuddin Ahmed, Labour Adviser, BEF
05.	Tripartite Consultative Council (TCC) on Labour Matters of the Ministry of Labour and Employment	(1) The President Bangladesh Employers' Federation

		<p>(2) The Vice-President, Bangladesh Employers' Federation.</p> <p>(3) Mr. Farooq Ahmed, Secretary-General, BEF</p> <p>(4) The President, Bangladesh Garment Manufacturers and Exporters Association.</p> <p>(5) The President, Bangladesh Knitwear Manufacturers and Exporters Association.</p> <p>(6) The Chairman, Bangladeshiyo Cha Sangsad</p> <p>(7) The Chairman, Bangladesh Jute Spinners Association</p> <p>(8) The Chairman, Bangladesh Jute Mills Association.</p> <p>(9) The President, Bangladesh Aushad Shilpa Samity.</p> <p>(10) The President, Bangladesh Textile Mills Association.</p> <p>(11) Mr. Miran Ali, Managing Director, Remi Farms Limited.</p> <p>(12) Mr. M. Anis Ud Dowla, Chairman, Advanced Chemical Industries Ltd.</p>
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		<p>(13) Mr. Sakif Ariff Tabani, Managing Director, Khadim Ceramics Limited.</p> <p>(14) Mr. S. Humayun Kabir, Director, Bangladesh Frozen Foods Exporters Association.</p> <p>(15) Ms. Farzana Chowdhury, Managing Director & CEO, Green Delta Insurance Co. Ltd.</p> <p>(16) Alhaj Kamal Uddin Ahmed, General Member, Bangladesh Ship Breakers and Recyclers Association.</p> <p>(17) Mr. Munawar Misbah Moin, Director, Rahimafrooz Batteries Limited.</p> <p>(18) Mr. Syed Nasim Manzur, Managing Director, Apex Footwear Ltd.</p> <p>(19) Mr. Quazi Mohammad Shahed, Chief Human Resource Officer, Grameenphone Ltd.</p> <p>(20) Mr. Kazi Saifuddin Ahmed, Labour Adviser, BEF.</p>
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Sd/-
(Kamran T. Rahman)
PRESIDENT

Sd/-
(Farooq Ahmed)
SECRETARY-GENERAL

TRAINING & CAPACITY BUILDING INITIATIVES IN 2017



A. Participation in HIDA / AOTS / ITC- ILO / other International Organisation's Training Programmes:

The Federation nominated a number of participants to different training programmes conducted by The Overseas Human Resources and Industry Development Association (HIDA), Japan / The Association for Overseas Technical Cooperation and Sustainable Partnerships (AOTS), Japan / ITC – ILO Turin, Italy / and other International Organisations:

SL. No.	Name of Participant	Designation & Name of the Firm	Training Programme	Place & Duration
01.	Mr. Farooq Ahmed	Secretary-General, BEF	"HIDA's workshop of joint study" and the " Bilateral Consultation Meeting"	10-13 January 2017 Hanoi, Vietnam
02.	Mr. Md. Ziaur Rahman	General Manager (Admin. & HR), Aramit Limited	HIDA programme "The Role of Executives for Better Industrial Relations in Global Era (ERGE)"	23 January to 3 February 2017 Tokyo, Japan
03.	Mr. Mohammad Masud Karim	Head of Training (Human Resources), Advanced Chemical Industries Limited	HIDA "Management Training Program – [ERMT]".	08-15 March 2017 Osaka, Japan
04.	Mr. Absal Shaquib Quoreshi	Secretary, BEF	GIZ supported Employment Injury Protection and Rehabilitation (EIPRP) project planning workshop"	29 January to 06 February 2017 Kuala Lumpur, Malaysia
05.	Mr. Santosh Kumar Dutta	Joint Secretary, BEF	JILAF "International Tripartite Meeting on Supporting Grassroots Activities through the International Employer's and Worker's Network (SGRA)"	23-24 February, 2017 Lao PDR during
06.	Mr. M. Shah Alam	Member of the Committee, BEF, and Senior Vice Chairman, Bangladeshiyo Cha Sangsad	6th "SAFE" meeting	20-22 February, 2017 Kathmandu, Nepal
07.	Mr. A N M Saifuddin	Director, BGMEA	Regional workshop on consultation, cooperation and collective bargaining in the RMG sector in Asia	15-16 March, 2017 Bangkok, Thailand
08.	Mr. Md. Mahbubul Islam	Employee Relations Senior Specialist, BanglaLink Digital Communications Limited	HIDA Program on Industrial Relations and Human Resource Management (ERHR1]	19 -30 June 2017 Tokyo, Japan
09	Mr. Md. Sharif Hossain	Manager Engineering, Duncan Products Ltd	AOTS/HIDA Program on "Occupational Safety and Health Management and Work Environment Improvement [ERWM]"	25 September to 6 October, 2017 Tokyo, Japan

SL. No.	Name of Participant	Designation & Name of the Firm	Training Programme	Place & Duration
10.	Mr. Md. Obaydur Rahman	Manager HR & Admin, The Bengal Glass Works Limited	AOTS Program on Industrial Relations and Human Resource Management for Executives [ERHE]	09 - 20 October, 2017 Tokyo, Japan
11.	Mr. A N M Saifuddin	Director, BGMEA	Training course on "Building effective labour dispute prevention and resolution systems" (A9010353)	23-27 October, 2017 Turin, Italy
12.	Mr. Tahmid Ahmed	Committee member, BEF	IV Global Conference on the Sustained Eradication of Child Labour	14-16 November, 2017 Buenos Aires, Argentina
13.	Mr. A N M Saifuddin	Director BGMEA	ILO's International Conference on "Social Dialogue and the Future of Work"	23-24 November, 2017 Athens, Greece
14.	Mr. Absal Shaquib Quoreshi	Secretary, BEF	ILO's "South Asia Sub-Regional Bipartite Knowledge Sharing Workshop on Domestic Workers and Home-based Workers Working conditions, policy interventions, and trade union organizations"	29-30 November, 2017 Kathmandu, Nepal

B. Bangladesh Employers' Federation's Participation in Seminars / Workshops / Symposiums and other National / International Affairs:

(1) Participation in Seminars/Workshops/Symposiums:

1. Training on Gender Equality and Diversity issues for ILO constituents organized by ILO Country Office for Bangladesh on 29 January 2017 at Hotel Pan Pacific Sonargaon.
2. Final evaluation workshop of the ILO Programme on Improving Working Conditions in the Ready Made Garment Sector in Bangladesh organized by ILO Country Office for Bangladesh on 9 March 2017 at Pan Pacific Sonargaon Hotel.
3. National Level Workshop on Study Findings of Job Reservation Policies for Indigenous and Tribal People in the civil service in Bangladesh organized by ILO Country Office for Bangladesh on 16 March 2017 at Pan Pacific Sonargaon Hotel.
4. Launching ceremony of a major campaign to enhance awareness of Occupational Safety and Health in the ready-made garment sector. The campaign theme was " Safe Workplaces, onwards Bangladesh". The event was organized by ILO Country Office for Bangladesh on 30 March 2017 at Westin Hotel.
5. Launching ceremony of the Remediation Coordination Cell (RCC) for the Bangladesh RMG Industry organized by DIFE and ILO Country Office for Bangladesh on 14 May 2017 at Pan Pacific Sonargaon Hotel.
6. Workshop on - the ILO & ADB's Employment Diagnostic and the World Bank's Jobs Diagnostic - organized by Planning Commission (GED) along with World Bank and ILO on 05 June 2017 at Pan Pacific Sonargaon Hotel.

- 7. Training of Trainers (ToT) on Workplace Improvement in Small Enterprises (WISE) organized by ILO Country Office for Bangladesh during 13-15 June 2017 at Technical Teachers Training College (TTTC), Tejgaon, Dhaka.
- 9. Discussion event to mark the World Day against Child Labour organized by MoLE, ILO & National Human Rights Commission on 20 June 2017 at Pan Pacific Sonargaon Hotel.
- 10. Consultation Workshop on the ILO Development Cooperation modalities in support of the Sustainable Development Goals organized by ILO Country Office for Bangladesh on 08 August 2017 at Hotel Nascent Gardenia, Baridhara, Dhaka.
- 11. Seminar on extension of the Strategic Sector Cooperation Project held on 13 August 2017 at Hotel Six Seasons, Gulshan -2, Dhaka.
- 12. Stakeholders Workshop on Green Jobs organized by ILO Country Office for Bangladesh on 20 September 2017 at Hotel Pan Pacific Sonargaon.
- 13. Multi stakeholder workshop on Social Protection for Workers: Framing the campaign goals for 2020 organized by OSHE foundation on 03 October 2017 at the Seminar Hall of the Daily Star, Karwan Bazar, Dhaka.
- 14. Stakeholder Consultation Meeting on Skills 21 Project organized by ILO Country Office for Bangladesh on 07 November 2017 at ILO Skills Programme Office at IDB Bhaban, Dhaka.
- 15. Stakeholder Consultation Workshop on BMET Action plan for Skills Development and Migration Management organized jointly by BMET and IOM on 07 November 2017 at Hotel Pan Pacific Sonargaon.
- 16. Briefing and advocacy programme on Gender, Equality and Diversity (GED) Mainstreaming issues organized by ILO Country Office for Bangladesh on 04 December 2017 at the conference room of ILO CO, Dhaka.

(2) Bangladesh Employers' Federation's representations at various International Seminars / Workshops / Conferences:

During the year 2017, representatives of the Federation participated in the following international seminars/workshops/conferences:

- (i) Mr. Absal Shaquib Quoreshi, Secretary, Bangladesh Employers' Federation attended the "GIZ supported Employment Injury Protection and Rehabilitation (EIPRP) project planning workshop" held during 29 January - 06 February 2017 in Kuala Lumpur, Malaysia
- (ii) Mr. M. Shah Alam, Member of the Committee, Bangladesh Employers' Federation attended the 6th "SAFE" meeting held during 20-22 February 2017 in Kathmandu, Nepal
- (iii) Mr. Santosh Kumar Dutta, Joint Secretary, Bangladesh Employers' Federation attended the JILAF "International Tripartite Meeting on Supporting Grass Roots Activities through the International Employers' and Workers' Network (SGRA)" held during 23-24 February 2017 in Lao PDR
- (iv) Mr. Farooq Ahmed, Secretary-General, Bangladesh Employers' Federation attended the ILO's "Inter-Regional Experts Forum on Skills and Migration in the South Asia - Middle East Corridor" held during 25-26 July 2017 in New Delhi, India
- (v) Mr. Absal Shaquib Quoreshi, Secretary, Bangladesh Employers' Federation joined the "Study tour - Insurance

Scheme for Migrant Workers” held during 27- 31 July 2017 in Manila, Philippines

(vi) Mr. Md. Moslem Uddin, Senior Officer, Bangladesh Employers’ Federation joined the “Study tour - Insurance Scheme for Migrant Workers” held during 2-6 July 2017 in Colombo, Sri Lanka

(vii) Mr. Joha Jamilur Rahman, Training Coordinator, Bangladesh Employers’ Federation attended the ILO’s Gender Forum on “Addressing violence and harassment against women and men in the garment industry” held during 2-4 October 2017, in Vietnam

(viii) Mr. Farooq Ahmed, Secretary-General, Bangladesh Employers’ Federation attended the ILO’s “Interregional consultation on labour migration and mobility from Asia/Africa to the Middle East” held during 4-5 October 2017 in Beirut, Lebanon

(ix) Mr. Farooq Ahmed, Secretary-General, Bangladesh Employers’ Federation, Mr. A N M Saif Uddin, Director, BGMEA, Managing Director, M S Wearing Apparels Ltd., Mr. Mizanur Rahman Chowdhury, Director, BGMEA & Managing Director, Mim Sweaters Ltd. attended the “ILO-Sweden Multi-Stakeholder Regional Meeting on Promoting Decent Work in Garment Sector Supply Chains in Asia” held during 10-11 October 2017 in Bangkok, Thailand

(x) Mr. Farooq Ahmed, Secretary-General, Bangladesh Employers’ Federation attended the ILO workshop on the “Employment Injury Insurance scheme of Bangladesh” held on 4 November 2017, at ILO Geneva

(xi) Mr. Tahmid Ahmed, Member of the Committee, Bangladesh Employers’ Federation attended the ILO’s “Global Conference on Child Labour” held during 14-16 November, 2017 in Buenos Aires, Argentina

(xii) Mr. A N M Saif Uddin, Director, BGMEA, Managing Director, M S Wearing Apparels Ltd. attended the ILO’s “International Conference on Social Dialogue and the Future of Work” held during 23-24 November 2017 in Athens, Greece

(xiii) Mr. Md. Nazrul Islam Chowdhury, Senior Officer – Regulatory Affairs, Bangladesh Employers’ Federation joined the “Study Tour to Social Security Organization (SSO)” in Thailand organized by GIZ held during 27 November - 01 December 2017 in Bangkok, Thailand

C. Bangladesh Employers’ Federation (BEF) - Joint programs with ILO, HIDA, AOTS, JILAF and other National and International Organizations

Following joint activities were undertaken during the year 2017:

1. “BEF - JILAF Joint Seminar of the SGRA Project” organized jointly by: Bangladesh Employers’ Federation (BEF), Japan International Labour Foundation (JILAF), JILAF - SGRA Project in Bangladesh in Chittagong on 06 December 2017

BEF was closely associated with the policy formulation process of the JILAF SGRA Project in Bangladesh and played its due role in this regard. As a part of its role, BEF as per work plan of the JILAF SGRA project in Bangladesh organized an awareness development job seminar.

The objectives of the job seminar were to provide opportunities for exchanging views and information with the employers and employers’ representatives to promote productive employment for the workers trained under JILAF-SGRA project.

At the opening ceremony of seminar, Mr. Farooq Ahmed, Secretary-General, BEF, welcomed all present on the occasion and briefed the session on the background and objectives of the event and moderated and facilitated the event. Mr. Farooq Ahmed also informed the seminar of the availability of workers trained on different trades under SGRA project. Mr. Mahbubul Alam, President, The Chittagong Chamber of Commerce and Industry graced the seminar as the chief guest and delivered the inaugural address. He extended heartiest thanks to the representatives of the trade bodies, business houses and industrial concerns who were present in the seminar. He hoped that employers would be interested in creating job opportunities for the SGRA trained workers. Mr. Md. Mojibur Rahman Bhuiyan, President (Acting), International Trade Union Confederation – Bangladesh Council (ITUC-BC) also spoke on the occasion and highlighted the importance of labour-management cooperation for productivity improvement of any business houses and industrial concerns.

In the technical session of the seminar, Mr. Syed Masudur Rahman, Chief Representative, JILAF-SGRA Project in Bangladesh presented a detailed information about the particulars of the workers trained on various trades such as - electric installation & maintenance, sewing machine operation, welding, I. T. support system, tailoring, block-batik, driving, computer operation, and freeze-air conditioner servicing. He gave a detailed information of the number of workers trained on different trades particularly in and around Chittagong area. He also exchanged views with the employers representatives and provided satisfactory information in response to the queries raised by the participants.

Guests and representatives from The Chittagong Chamber of Commerce and Industry (CCCI), Bangladesh Garment Manufacturers & Exporters Association (BGMEA), Bangladesh Knitwear Manufacturers & Exporters Association (BKMEA), Chittagong Stock Exchange, employers organizations, women entrepreneurs association, JILAF, BEF, ITUC-BC, RWG members (Chittagong region) and other distinguished guests attended the job seminar.

Employers and employers representatives from 21 companies and industry groups, women entrepreneurs, small and medium enterprises, workers organizations, project officials joined the job seminar. Around 50-60 representatives / participants representing various sectors of trade and industry, such as: garment, knitwear, shipbuilding, steel rerolling, hotel and tourism, food and bakery, paints, refinery, cement, tea garden, small and medium enterprise and other sectors attended the seminar. All the participating representatives were provided with the detailed information document and particulars of the workers trained on different trades under SGRA project

BEF successfully organized the job seminar as planned. To achieve the objectives, BEF arranged all the necessary logistics and support services as well. This was an opportunity to know information about skills and knowledge of the availability of workers trained under SGRA project. JILAF, ITUC-BC and related quarters provided their support services for successful completion of the event.

D. Job Fair Organized by Bangladesh Employers' Federation (BEF) and Bangladesh Business Disability Network (BBDN)

- 1. The Chittagong Chamber of Commerce and Industry (CCCI), BEF, Young Power in Social Action (YPSA) and BBDN jointly organized a seminar on "Promotion of Disability Inclusion at the Workplace".**



সেমিনারে বক্তব্য রাখছেন চেম্বার সভাপতি মাহবুবুল আলম, পাশে প্রধান অতিথি সালাহুদ্দীন কাসেম খান ও চেম্বার সহ-সভাপতি সৈয়দ জামাল আহমেদ।

In his speech Mr. Salahuddin Kasem Khan urged the business community and the government of Bangladesh to start by recruiting at least 1% of employees with disabilities and to slowly increase the number. He further proposed that CCCI form a committee on disability inclusion. During the open discussion session, establishment of a job placement desk for people with disabilities was also proposed.

In his speech, President CCCI Mr. Mahbubul Alam mentioned the need to change attitudes towards people with disabilities. He proposed that the skills of people with disabilities be evaluated for the workplace and identify any gaps that need to be remedied. He urged employers to appoint people with disabilities and materialize the idea of a tax rebate for organizations that are inclusive.

Five persons with disabilities who graduated from Chittagong University were offered jobs in different organizations instantly in the seminar.

At a follow up seminar it was reported that those who received jobs through this event have been performing very well, which has inspired more employers to hire people with disabilities in Chittagong.

2. Job fair opens door to world of work for 150 persons with disabilities on the 9th December 2017, Dhaka



Over 150 persons with disabilities successfully found employment at BBDN's job fair. Organized by BBDN in partnership with Campaign for Popular Education (CAMPE) and Access Bangladesh Foundation, the event brought together 20 employers with over 250 young people with disabilities looking for jobs.

Amongst those taking part was Ratan Chandra Shutrathar, pictured above. A bout of typhoid when he was a baby left Ratan's legs disabled. However, Ratan was able to complete his education and applied for a job at the Urmi Group as a data entry operator. Ratan received his appointment letter at the fair while Labour Secretary Afroza Khan also committed to provide a wheel chair to assist Ratan's mobility.



Prior to the event, a process took place that saw those looking for work matched closely with suitable employers. This critical task was undertaken by BBDN Resource Members CRP, Access Bangladesh Foundation, UCEP and Leonard Cheshire Disability Bangladesh. Of those who attended the fair, 79 received letters of appointment as a result of the earlier matchmaking. A further 72 received on-the-spot appointments after having impressed the recruiting companies during the event.

Special thanks for the success of the job fair goes to Convener of the Job Fair Working Committee & ED **CRP**: Mr. Shafiqul Islam **Access Bangladesh Foundation**: Mr. Albert Mollah, Ms. Taslim Zahan Bithi, Mr. Litan Baruri, Md. Jahangir Alam **CAMPE**: Md. Enamul Haque, Ms. Urmila Sarker **Leonard Cheshire Disability Bangladesh**: Dr. Farhana Ahmed, Mr. Mominur Rahman, Ms. Selina Begum **UCEP**: Mr. Omar Faruk, Mr. Rashedul Hassan **BEF**: Mr. Moslem Uddin **BBDN**: Mr. Imranur Rahman **CDD**: Mr. Fatme Hasnain



President BEF Mr. Kamran T. Rahman delivers his speech.

Co-Chair of EC BBDN Ms. Sadaf Saaz Siddiqui makes her statement.



BBDN Member CRP, Executive Director Mr. Shafiq Islam hands over an appointment letter to a successful candidate.

Speaking at the opening of the fair Md. Siddiqur Rahman, President of the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) said, “These specially-abled people are highly motivated to join the workplace. Companies should train them and put them in positions where their passion lies.”

Meanwhile, Labour Secretary Ms. Afroza Rafi Khan, highlighted the need for similar job fairs for people with disabilities to be held in remote areas where there were few employment opportunities for people with disabilities. In response, Murteza Khan, Co-Chair of EC BBDN gave his commitment to organize fairs in different divisions of Bangladesh with the next to be held in Chittagong.

Mr. Abul Kalam Azad, Chief Coordinator for Sustainable Development Goals (SDG) Affairs, Prime Minister's Office was present as the Chief Guest and urged further analysis of the situation of employment for people with disabilities and to identify the critical areas where interventions are needed to ensure employment.

The Following employers participated in the Job Fair:

- **Grameenphone**
- **Akhtar Group**
- **Fakir Knitwears**
- **Square Pharmaceuticals**

- **Shin Shin Group**
- **Gazi Group**
- **Urmi Group**
- **Envoy Textiles**

- Microfiber Group
- Chittagong Grammar School
- Vintage Denim
- Onnorokom Electronics
- ACI
- Dutch Bangla Pack

- Branding Bangladesh
- Rural Sun Power
- Coats Bangladesh
- Sinobangla
- Bangladesh Electrical Industries Odyssey

Inauguration of the Job Fair for Person with Disabilities by Mr. Abul Kalam Azad, SDG Affairs Coordinator, Prime Minister's Office.



Ms. Afroza Khan, Secretary, Ministry of Labor delivers her speech.



BBDN Founder Member, Chittagong Grammar School representative Mr. Amitave Ghosh receives a certificate of appreciation from Md. Siddiquir Rahman, President BGMEA for participating at the job fair.



BBDN Founder Member Square Pharmaceuticals receives a certificate of appreciation from Mr. Kamran T. Rahman, President BEF for participating at the job fair.

3. Memorandum of Understanding (MoU) Signing between BEF and Other Organizations:

(i) MoU between DU ie-Lab and BEF on proposed CREATIVE Bangladesh project:

BEF and Dhaka University Innovation and Entrepreneurship Lab (DU ie-Lab) signed an MoU on their proposed CREATIVE Bangladesh project.

(ii) MoU signed between UNDP Bangladesh and Bangladesh Employers' Federation (BEF) to enhance the private sector's strategic capacity for inclusive growth:

A Memorandum of Understanding (MoU) was signed between UNDP Bangladesh and Bangladesh Employers' Federation (BEF) to enhance the private sector's strategic capacity for inclusive growth. Mr. Sudipo Mukerjee, the Country Director of UNDP Bangladesh and Mr. Salahuddin Kasem Khan, President of BEF signed the MoU on behalf of their respective organizations. A number of senior officials from the UNDP and members of the BEF were present at the ceremony held on 29 July, 2017 at BEF office in Motijheel, Dhaka. The MoU is expected to pave way for increased engagement of the UNDP with the employers of the private sector in Bangladesh with a view to achieving the Sustainable Development Goal (SDG 8) for decent work and inclusive economic growth.

The private sector of Bangladesh is facing myriad of challenges including lack of leadership and management skills at the mid and senior level limiting desired private sector growth and impacting employment creation negatively as private sector is the major provider of jobs in the country. Through this partnership, UNDP will pool international expertise to support private sector leadership and management skills development and in setting up a center for excellence for strategic management and leadership training for the private and public sector mid and senior level executives.

(iii) MoU signed between BRAC and Bangladesh Employers' Federation (BEF) for the project: Training program on Occupational Health and Safety (OHS) and Soft Skills under ADB-SEIP, SD-16 project:

A Memorandum of Understanding (MoU) was signed between BRAC and Bangladesh Employers' Federation (BEF) to improve the knowledge of trainers and instructors of public and private TVET institutions on Occupational Safety & Health in six priority industrial sectors identified under SD-16. The project was sponsored by the ADB-SEIP, SD-16 project, Ministry of Finance, Bangladesh Government and organized by the Bangladesh Employers' Federation (BEF) in collaboration with BRAC. A number of senior officials from the BRAC and BEF were present at the ceremony held on 24 January 2017 at BRAC office, Dhaka.

The MoU is expected to pave way for establishing a partnership between mentioned organizations for preparing training modules and capacity development package on Occupational Health and Safety (OHS) and Soft Skills for six sectors (IT, RMG & Textile, Leather & Footwear, Construction, Light Engineering and Ship-building).

BRAC SDP was the "Lead Organization" and BEF was the "Partner Organization".

E. BEF's Own Training Activities

During 2017, BEF's Training Unit conducted the following training activities:

1. Bangladesh Employers' Federation (BEF) organized a "Training program on Occupational Health and Safety (OHS) and Soft Skills under ADB-SEIP, SD-16 project". The objective of the program were to improve the knowledge of trainers and instructors of public and private TVET institutions on Occupational Safety & Health in six priority industrial sectors identified under SD-16. The project was sponsored by the ADB-SEIP, SD-16 project, Ministry of Finance, Bangladesh Government and organized by the Bangladesh Employers' Federation (BEF) in collaboration with BRAC. The program ran during the period from May 2017 to December 2017 at the Conference Hall of the Chamber Building, 122-124, Motijheel C/A., Dhaka- 1000.

The target participants were trainers/Instructor from TTC, TSC, YTC, BGMEA, BKMEA, BTMA, LFMEAB, BEOIA, BACI and others who are involved with SEIP project from 6 industry sectors including RMG & Textile, Leather & Footwear, Information technology, Construction, Light engineering, and Ship building. A total of 434 participants (Male- 378 and Female- 56) attended in the training program and 22 batches completed. The participants of the training have been found highly enthusiastic during the whole training period. Since all the participants are engaged as trainers, this program has improved their capacity to transfer their learning on OSH issues to their respective training recipients from the 6 industrial sectors in form of trickle down effect.

2. Bangladesh Employers' Federation (BEF) organized a "Training on Disciplinary Action, Grievance Handling and Departmental Enquiry" during 27-28 February, 2017 at the Conference Hall of the Chamber Building, 122-124, Motijheel C/A., Dhaka- 1000. The objectives of the program were to update information of disciplinary action and departmental enquiry, develop the skills on identification of applicable Labour Law for disciplinary action, identify the best practices of Grievance handling, develop awareness on the essential regulatory issues in dealing with workforce in the industrial scenario and develop the skill to handle disciplinary cases and employee grievances. A total of 33 (Male- 26 and Female – 07) participants participated in the training from 20 organizations. Mr. Barrister Omar Bin Harun Khan, Advocate, Supreme Court of Bangladesh, was the Resource Person of the training program. The program was evaluated through structured questionnaire. The training contents included traditional enquiry/modern enquiry, misconduct, punishment and disciplinary proceedings, grievance handling, different forms and reporting formats and procedures, how to make a good draft of show cause notice/charge Sheet, amendment of charge sheet, additional charge sheet and etc.

3. Bangladesh Employers' Federation (BEF) organized a "Training on Bangladesh Labour Law 2006 and Bangladesh Labour Rules 2015" during 13-14 May, 2017 at the Conference Hall of the Chamber Building, 122-124, Motijheel C/A., Dhaka- 1000. The objectives of the program were to update knowledge of Bangladesh Labour Law 2006 and Bangladesh Labour Rules 2015 among the executives responsible for managing human resources/workforce, develop the skill on identification of applicable Labour Law 2006 for industrial relations related to compliance issues, develop awareness on the essential regulatory issues in dealing with workforce in the industrial scenario, develop the skill to handle disciplinary cases and employee grievances and develop skill to initiate steps to avoid mistakes in light of regulatory requirements. A total of 34 (Male- 31 and Female – 03) participants attended the training from 16 organizations. The program was evaluated through structured questionnaire. Mr. Adv. Jafrul Hasan Sharif, Member of drafting committee of Bangladesh Labour Rules 2015 and Chairman of Attorneys of a legal and management consulting firm, was the Resource Person of the training program. The contents of the training included introduction to Bangladesh labour Law 2006 and Bangladesh labour Rule 2015, classification of workers, employers, misconduct, punishment and disciplinary proceedings, employer and employee control under section 28 (ka), appointment of juvenile worker, health, safety and welfare, function and eligibility of welfare officer, formation and function of Safety committee and so on.

B. Monthly Meeting/ Workshop for the Officers of the Member-Firms

Bangladesh Employers' Federation organizes meeting/workshop every month for the officers of the member-firms dealing with labour laws, administrative matters, human resources, service conditions, occupational health and safety and various other subjects under the Labour Laws of Bangladesh. It is generally held on Tuesday of the last week of every month at the Conference room of the Federation. The officers directly benefit from attending the workshop. Neither the participating officers nor the member-firms are to pay fees for the workshop.

Four or five agenda of the workshop are sent to the member-firms at least one week ahead of the workshop. This facilitates lively discussion on the agenda containing labour law and occupational safety issues. The participating officers can discuss any other issue in respect of their organizations concerning labour laws and their application. The workshop is conducted by the Labour Adviser of the Federation.

The Federation organized 11 workshops in the previous year where more than 286 officers of the member-firms attended and took part in discussion.



D. Affiliation with World Bodies

The Federation continued to be affiliated with the International Organisation of Employers (IOE), and was a member of the Cofederation of Asia Pacific Employers (CAPE).

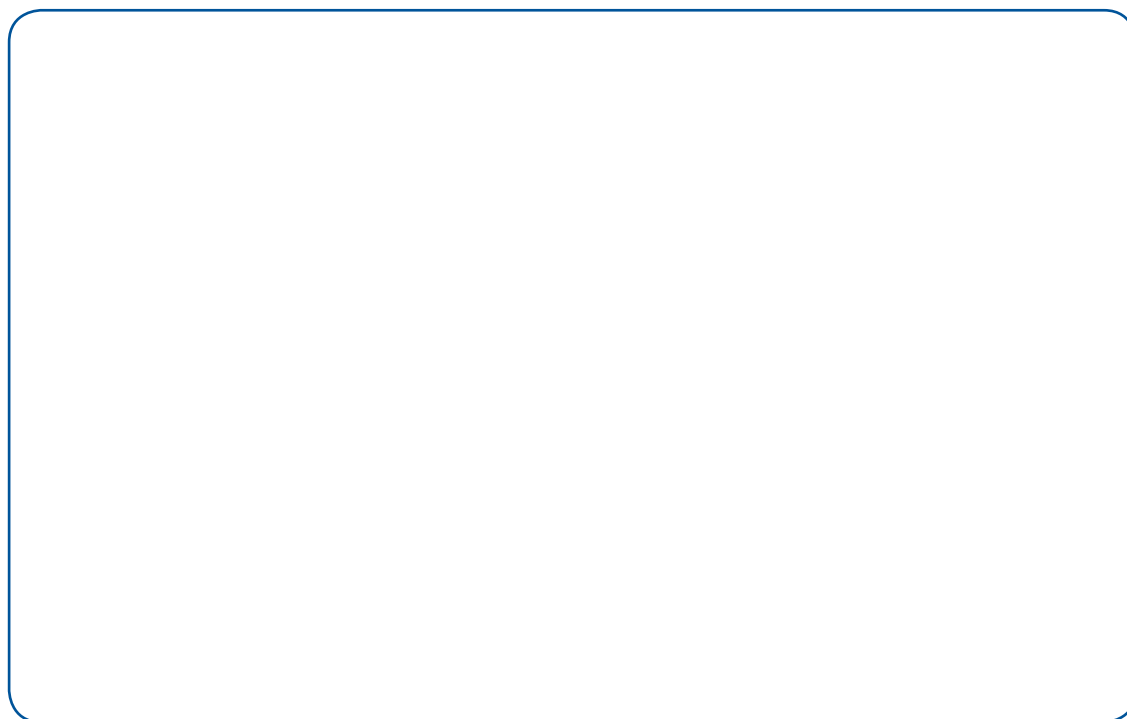
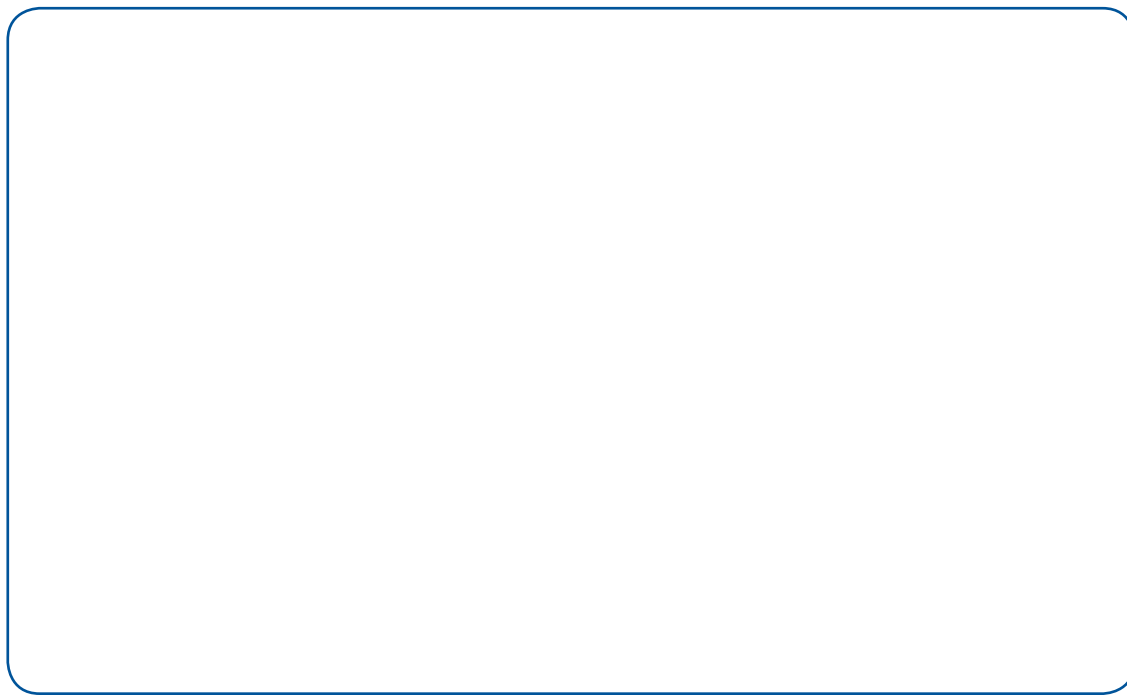


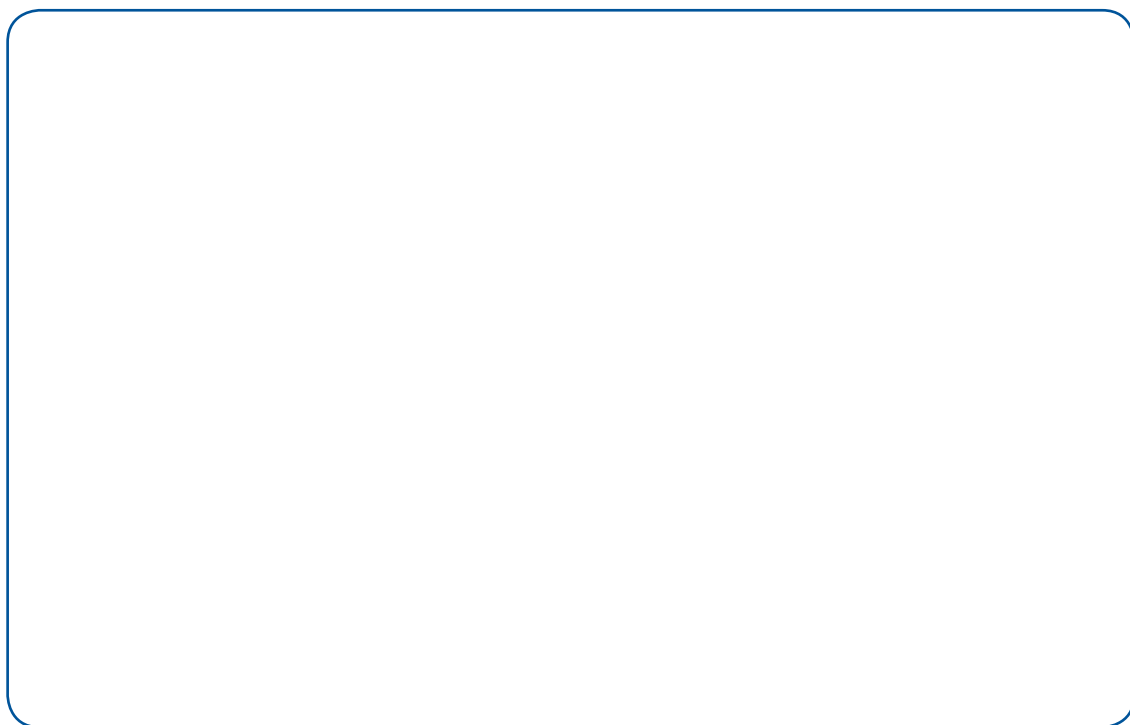
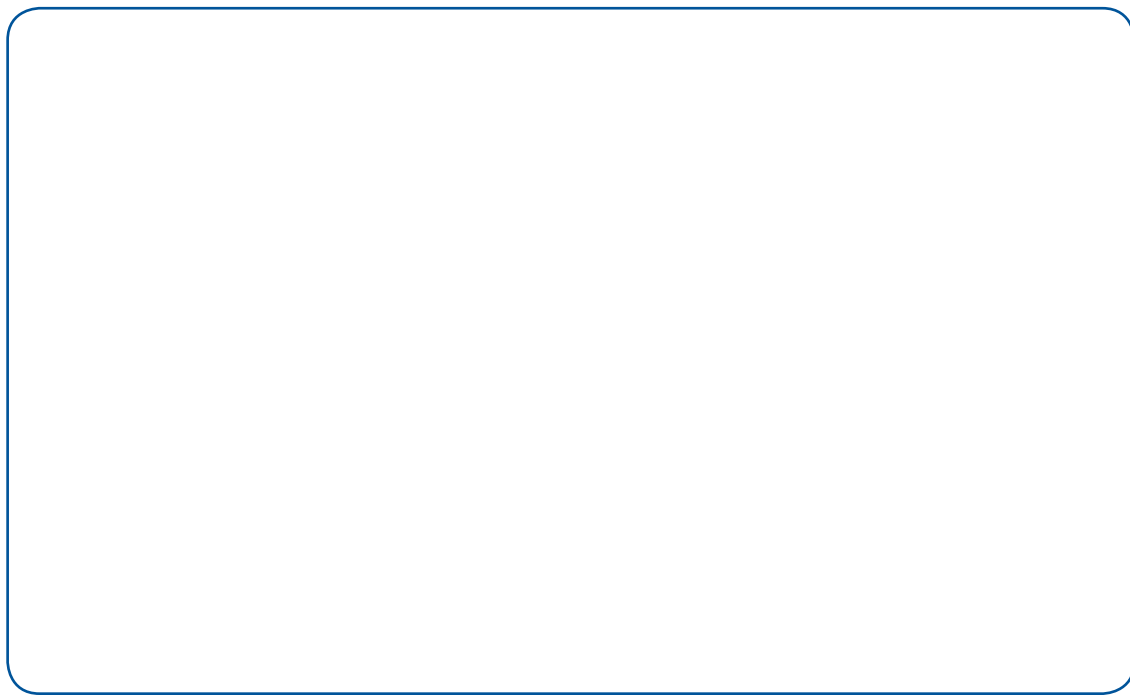
Snapshots from Training Activities 2017

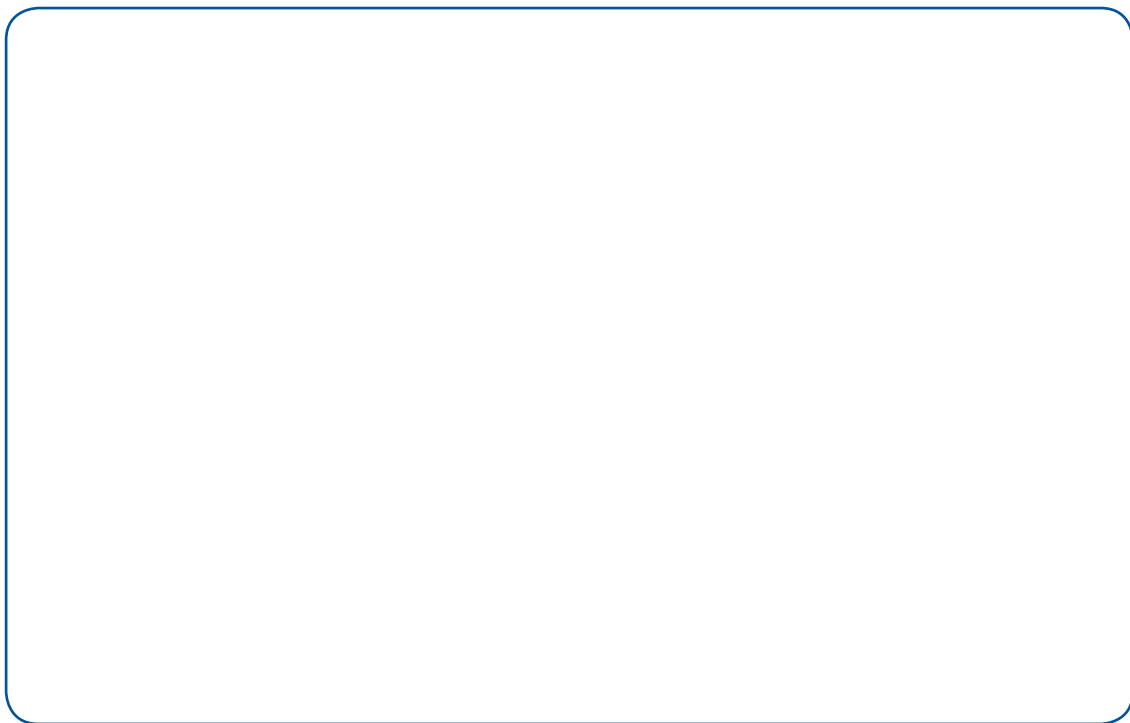
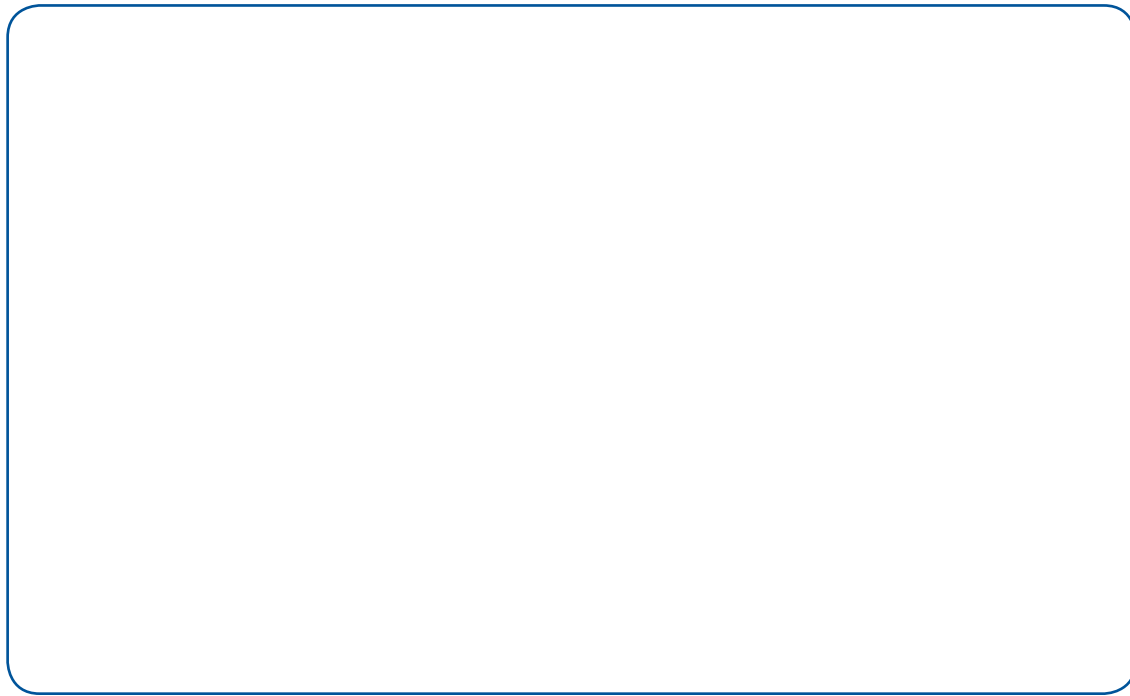












REPRESENTATIVES ON THE LABOUR COURTS

শ্রম আদালত:

আদালতের নাম	মালিক প্রতিনিধি
১ম শ্রম আদালত, ঢাকা	১। জনাব মোঃ তোফাজ্জল হোসেন উপ-মহাব্যবস্থাপক (আইন) বাংলাদেশ পাটকল কর্পোরেশন আদমজ কোর্ট ১১৫-১২০, মতিঝিল বা/এ, ঢাকা-১০০০।
	২। জনাব মোঃ ফজলুল হক উপ-মুখ্য পরিকল্পনা ব্যবস্থাপক বিআইডব্লিউটিসি ৫, দিলকুশা বা/এ, ঢাকা-১০০০।
	৩। জনাব মোঃ রফিকুল ইসলাম জয়েন্ট সেক্রেটারী (লেবার) বাংলাদেশ গার্মেন্টস ম্যানুফ্যাকচারার্স এণ্ড এক্সপোর্টার্স এসোসিয়েশন (বিজিএমইএ) বিজিএমইএ কমপ্লেক্স (৪র্থ তলা) ২৩/১, পান্থপথ লিংক রোড, কাওরানবাজার ঢাকা-১২১৫।
	৪। জনাব মোঃ মনিরুল ইসলাম হেড অফ হিউম্যান রিসোর্সেস এণ্ড লিগ্যাল ম্যাটার্স সোস্যাল মার্কেটিং কোম্পানী এসএমসি টাওয়ার, ৩৩ বনানী সি.এ., ঢাকা-১২১৩।
	৫। জনাব এ, কে, এম, ফিরোজ আলম ডাইরেক্টর, হিউম্যান রিসোর্সেস গ্লোক্সিমিথক্লাইন বাংলাদেশ লিমিটেড হাউজ # ২এ, রোড # ১৩৮, গুলশান-১ ঢাকা-১২১২।
	৬। জনাব মোহাম্মদ সিরাজুল ইসলাম জেনারেল ম্যানেজার, এডমিন এণ্ড কমপ্লায়েন্স এইচ, আর, টেক্সটাইল মিলস লিঃ ৪ কর্নোপাড়া, সাভার, ঢাকা।

২য় শ্রম আদালত, ঢাকা	১। জনাব মোঃ আব্দুল মান্নান ব্যবস্থাপক (বোর্ড ও কোঃ) সিসি বিজেএমসি ১১৫-১২০, মতিঝিল বা/এ, ঢাকা-১০০০।
	২। জনাব নূর মোহাম্মদ আইন কর্মকর্তা ও উপ-মুখ্য ক্রয় ব্যবস্থাপক বিআইডব্লিউটিসি ৫, দিলকুশা বা/এ, ঢাকা-১০০০।
	৩। জনাব মোঃ শহীদুল হক জেনারেল ম্যানেজার (এডমিন এণ্ড কমপ্লায়েন্স) মেডলার এ্যাপারেলস লিঃ প্লট নং-৪, দারুস সালাম রোড, সেক্টর-১ মিরপুর, ঢাকা-১২১৬।
	৪। জনাব জে, এইচ শাহেদী এসিসটেন্ট-ভাইস প্রেসিডেন্ট এইচ আর এণ্ড এডমিন জি-৪ সিকিউরিটি সার্ভিসেস বাংলাদেশ (প্রাঃ) লিঃ হাউজ # কে ১, সারওয়াদ্দী এভিনিউ, বারিধারা ঢাকা-১২১২।
	৫। জনাব আব্দুস সালাম ডেপুটি জেনারেল ম্যানেজার ওপেক্স এণ্ড সিনহা টেক্সটাইল গ্রুপ ৮২, মহাখালী সি.এ., ঢাকা-১২১২।
	৬। জনাব কমল সরকার সিনিয়র ম্যানেজার এইচ, আর কমপ্লায়েন্স এণ্ড এডমিন তানাজ ফ্যাশন লিমিটেড ২১৬, শামীম কমপ্লেক্স, সতীশ রোড, গাজিপুরা টংগী, গাজীপুর।

৩য় শ্রম আদালত, ঢাকা	১। জনাব এম, এ, ওহাব ম্যানেজার (এডমিন) পূবালী জুট মিলস্ লিঃ ৬৬, দিলকুশা বা/এ, ঢাকা-১০০০।
	২। জনাব মোস্তফা আব্দুদায়েন ম্যানেজার (এডমিন) প্রাইম কম্পোজিট মিলস্ লিঃ সেনা কল্যাণ ভবন (৯ম তলা) ১৯৫, মতিঝিল বা/এ, ঢাকা-১০০০।
	৩। জনাব নারায়ন চন্দ্র লোধ ইস্টেট অফিসার কুমুদিনী ওয়েলফেয়ার ট্রাস্ট অব বেঙ্গল (বিডি) লিঃ ৭২, সিরাজ-উদ-দৌলা রোড নারায়নগঞ্জ-১৪০০।
	৪। জনাব মোঃ মাহফুজুর রহমান সিনিয়র ম্যানেজার কমপ্লায়ান্স ডি,বি, এল গ্রুপ বিজিএমইএ কমপ্লেক্স (১৩ তলা), ২৩/১, পান্থপথ লিংক রোড কাওরান বাজার, ঢাকা-১২১৫।
	৫। জনাব শারফুদ্দীন আহমেদ শরীফ ম্যানেজিং ডাইরেক্টর ফেয়ারমেন লিমিটেড ৯/ডি, শ্যামলী, হাউজ # ডি-২/৪, রোড # ১ শ্যামলী, ঢাকা।
	৬। জনাব মোঃ বিল্লাল হোসেন হেড অফ এইচ আর এণ্ড কমপ্লায়ান্স ফেন্সি ফ্যাশন সুইটারস লিঃ (হান্নান গ্রুপ) ১১৫৩-৫৪, শহীদ সিদ্দিক রোড বোর্ড বাজার, গাজীপুর।

১ম শ্রম আদালত, চট্টগ্রাম	১। জনাব গাজী মোহাম্মদ ফসিউল আলম উপ-মহাব্যবস্থাপক (উৎপাদন ও লিয়াজো কর্মকর্তা) বিজেএমসি সান্তার চেম্বার ৯৯, আখ্য়াবাদ বা/এ, চট্টগ্রাম।
	২। জনাব এ, এম,এম, সাজ্জাদ ম্যানেজার, এডমিন এণ্ড লেবার রিলেশন বার্জার পেইন্টস বাংলাদেশ লিঃ ৪৩/৩, চট্টেশ্বরী রোড, চট্টগ্রাম।
	৩। জনাব গোলাম মোস্তফা জেনারেল ম্যানেজার (টি ইস্টেটস) এম, এম, ইস্পাহানী লিঃ ইস্পাহানী বিল্ডিং শেখ মুজিব রোড, আখ্য়াবাদ বা/এ চট্টগ্রাম।
	৪। জনাব মোহাম্মদ মহসিন চৌধুরী সিনিয়র ডেপুটি সেক্রেটারী বাংলাদেশ পোশাক প্রস্তুতকারক ও রপ্তানীকারক সমিতি (বিজিএমইএ) জীবন বীমা ভবন (৩য় তলা) ৫৬, আখ্য়াবাদ আ/এ, চট্টগ্রাম।
	৫। জনাব খন্দকার সাইদুর রহমান এসিসটেন্ট জেনারেল ম্যানেজার (এইচআরডি) অজিম গ্রুপ ১২-১৩ পি, কালুরঘাট বা/এ, চট্টগ্রাম।
	৬। জনাব এ, জেড, এম, তাবারক উল্লাহ উপদেষ্টা (ইন্ডাস্ট্রিয়াল রিলেশন) বিজিএমইএ আঞ্চলিক অফিস জীবন বীমা ভবন (৩য় তলা) ৫৬, আখ্য়াবাদ আ/এ, চট্টগ্রাম।

২য় শ্রম আদালত, চট্টগ্রাম	১। জনাব মোঃ এনায়েত উল্লাহ উপ-ব্যবস্থাপক (প্রশাসন) হাফিজ জুট মিলস বার আওলিয়া, ঢাকা ট্রাংক রোড, চট্টগ্রাম।
	২। জনাব এ এন এম সাইফুদ্দীন চেয়ারম্যান স্ট্যান্ডিং কমিটি (লেবার ও ফ্যারার) বিজিএমইএ জীবন বীমা ভবন (৩য় তলা) ৫৬, আখাবাদ আ/এ, চট্টগ্রাম।
	৩। জনাব মোঃ শাহেদুর রহমান ম্যানেজার (ডেভেলপমেন্ট ও কো-অর্ডিনেশন) ব্রাক টি ইন্সটিটিউশন প্রগ্রেসিভ টাওয়ার ১৮৩৭, শেখ মুজিব রোড, চট্টগ্রাম।
	৪। জনাব মোহাম্মদ মহিউদ্দীন চেয়ারম্যান, বোর্ড অফ ডাইরেক্টরস এণ্ড চীফ এক্সিকিউটিভ অফিসার বি,এল,পি, ওয়ারম ফ্যাশন লিঃ রহমান টাওয়ার ১, রেলগেট, মুবাদপুর, চট্টগ্রাম।
	৫। জনাব এস, এম, শাহনেওয়াজ জেনারেল ম্যানেজার (এইচ আর এণ্ড এডমিন) ক্লিফটন গ্রুপ ৪নং জুবিলি রোড, জীবন ভবন, চট্টগ্রাম।
	৬। জনাব কাজী জামিল আহমাদ জেনারেল ম্যানেজার (কমপ্লায়ান্স) ভলিয়েন্ট গার্মেন্টস লিঃ ৫৭২ স্ট্যান্ড রোড, চট্টগ্রাম।

শ্রম আদালত, রাজশাহী	<p>১। জনাব মোঃ সোহরাব আলী সহ-সমন্বয় কর্মকর্তা (প্রশাসন) রাজশাহী জুট মিলস্ কাঁটাখালী, রাজশাহী।</p>
	<p>২। জনাব মোঃ আবু বাককার আলী প্রেসিডেন্ট রাজশাহী চেম্বার অব কমার্স এণ্ড ইণ্ডাস্ট্রি চেম্বার ভবন, স্টেশন রোড রাজশাহী।</p>
	<p>৩। জনাব মোঃ হারুনুর রশীদ ডাইরেक्टर রাজশাহী চেম্বার অব কমার্স এণ্ড ইণ্ডাস্ট্রি চেম্বার ভবন, স্টেশন রোড রাজশাহী।</p>
	<p>৪। জনাব কবিরুর রহমান খান ডাইরেक्टर রাজশাহী চেম্বার অব কমার্স এণ্ড ইণ্ডাস্ট্রি চেম্বার ভবন, স্টেশন রোড রাজশাহী।</p>

শ্রম আদালত, খুলনা	১। জনাব এস, এম এ হালিম ডেপুটি ম্যানেজার (এডমিন) নওয়াপাড়া জুট মিলস্ লিঃ নওয়াপাড়া, যশোর।
	২। জনাব আব্দুল হারিম তালুকদার সমন্বয় কর্মকর্তা (শ্রম ও কল্যাণ) কার্পেটিং জুট মিলস রাজঘাট, যশোর।
	৩। জনাব মোঃ শাফীউল্লা খান জেনারেল ম্যানেজার লকপুর ফিশ প্রসেসিং কোঃ লিঃ চর রূপসা, বাগমরা, রূপসা, খুলনা।
	৪। জনাব এস এম শাহিনুল আলম অফিসার ক্যাশ সোনালী ব্যাংক লিঃ খুলনা কর্পোরেট ব্রাঞ্চ, খুলনা।
	৫। জনাব লুৎফর রহমান তালুকদার ম্যানেজার (এডমিন) বাংলাদেশ ক্যাবল শিল্প লিঃ শিরমণি, খুলনা।
	৬। জনাব শাহ আলম সিকদার এ্যাসিস্টেন্ট ম্যানেজার (এডমিন) খুলনা নিউজপ্রিন্ট মিলস্ লিঃ খালিশপুর, খুলনা।

IMPORTANT COURT CASES ON LABOUR MATTERS:

HIGH COURT DIVISION

(Special Original Jurisdiction)

Writ Petition No. 4412 of 2014.

Tariq-ul-Hakim J

Farid Ahmed Shibli J

Surendra Kumar Sinha J

Jahurul Islam (Md)..... Petitioner

vs

Bangladesh, represented by the Secretary, Ministry of Local Government, Rural Development and Co-operatives and others..... Respondents

Judgment

September 16th, 2015

Tariq-ul-Hakim J : Rule Nisi has been issued calling upon the respondents to show cause as to why the respondents should not be directed to appoint and absorb the petitioner into the revenue budget to the Local Government

Engineering Department (LGED) under the Ministry of Local Government, Rural Development and Co-operatives and/or pass such other or further order or orders as to this Court may seem fit and proper should not be passed.

2. Facts relevant for disposal of this Rule is that on 13-5-1985 the petitioner was appointed as a Coolie of Zilla Parishad, Rajshahi on daily wage basis. Subsequently, on 21-8-1989 he was appointed in the Local Government Engineering Bureau on daily wage basis for the maintenance of various vehicles of the said Bureau. Thereafter on 1-2-1992 the petitioner was temporarily appointed as road-roller driver in the project titled ' Polli Unnoyan Prokalpa-7' under the Local Government Engineering Bureau in the District of Nababgonj in the national Pay Scale of Taka 1,200 -7/60- 1620-EB-11 x 65-2335. Thereafter the petitioner has been working under different projects of the Local Government Engineering Department.

Lastly in 2003, he was working for the project titled "Polli Unnoyan Prokalpa* Abokathamo Unnoyan-26' under the office of the Executive Engineer, Local Government Engineering Department vide Memo No. LGED/ CE/E-96/2001/8163/l(6) dated 14-8-2003. The said project ended in the year 2012 and the petitioner was not transferred to any other project but he was informed that the project was complete and his service was no longer required. As such after over 20 years of service at the prevailing National Pay Scale under the Ministry of Local Government, Rural Development and Co-operatives the petitioner's service was terminated.

3. It is further stated that the petitioner was 25 years old when he was appointed under the National Pay Scale in the office of the Local Government Engineering Bureau and at the age of 46 years he was terminated from service as a result of which he is not eligible to get employment any where else . It is further stated that many of the employees in the project titled Polli Unnoyan Prokalpa Abokathamo Unnoyan-26' where the petitioner was lastly employed Ms been regularized in the revenue budget. In fact there appears to be a practice of the Government to regularize employees in various projects of the LGED

in the revenue budget of the Local Government, Rural Development and Co-operatives. The petitioner therefore claims a legitimate expectation to be regularized and absorbed in the revenue budget . The petitioner made several representations to the Local Government, Rural Development and Co-operatives for appointing him in various posts but he has not received any satisfactory response. Finally, the petitioner sent a Demand for Justice Notice on 9-3-2014 (Annexure-K) to the respondents through his learned Advocate to appoint/absorb him in the revenue budget of the Local Government Engineering Department under the Ministry of the Local Government, Rural Development and Co-operatives in accordance with directions of several decisions of the Appellate Division as well as of this Court but has received no satisfactory response,

4. Being aggrieved, the petitioner has come to this Court and obtained the present Rule. The Rule is being contested by the respondent No. 5 by filing Affidavit in Opposition where it has been stated inter alia that there is no suitable vacancy in the revenue budget of the Local Government Engineering Department and, as such, he is not entitled to be absorbed in the same . It has been further stated that in the case of Chief Engineer, LGED vs Kazi Mizanur Rahman reported in 17

iven) guide lines have been stated for absorbment of employees in the revenue budget including inter alia that whenever any vacancy in LGED is created in the revenue set up, it shall consider for absorption employees and/or officers of development projects within the meaning of section 2(ga) of the

hereinafter referred to as "the Rules", if the project in which she/he is working is completed and subject to the condition that such employees or officers have requisite qualifications for the said posts but in the instant case since there is no vacancy in permanent posts in the LGED as per the aforesaid guide lines the petitioner is not entitled to be considered to be absorbed in a permanent post in LGED.

5. It is further stated in the Affidavit-in-Opposition that the petitioner was never given assurance that

his service would be regularized after the end of the project which is evident from his appointment letter for various projects and* as such, there is no reason why the petitioner should be absorbed in the revenue budget. Thus as the petitioner's employment has come to an end and there being no vacancy in the permanent posts of LGED, he does not have any right for absorption or appointment in the revenue budget . It is denied that the petitioner has satisfied all the criteria stated in the case of Chief Engineer, LGED vs Kazi Mizanur Rahman reported in 17 BLC (AD) 91 and, as such, the petitioner has no right to claim absorption in the revenue budget .

6. Dr Chowdhury Ishrak Ahmed Siddiky , the learned Advocate for the petitioner submits thru the petitioner has been working continuously in temporary jobs for the last 20 years in the Local Government Engineering Department under the Ministry of Local Government. Rural Development and Co-operatives but all on a sudden at the age of 46 years he has been terminated and he is not being given any employment either temporarily or permanent in the LGED. The learned Advocate further submits that the petitioner having spent most of his life in the LGED as Road Roller Driver, it is difficult for him to find a job anywhere at the age of 46 years. Furthermore, since his junior colleague** who have been in the Local Government Engineering Department , have been appointed and regularized in the permanent set up the petitioner also has a legitimate expectation to be employed in the permanent set up of LGED. The learned Advocate further points out that petitioner has requisite qualifications for the post in which he is seeking absorption along with experience of 20 years as road roller driver without any complaint and, as such, he has a legitimate expectation to be absorbed in the revenue budget. The learned Advocate further submits that the petitioner has satisfied all the criteria listed by the Appellate Division in the case of Chief Engineer, LGED vs Kazi Mizanur Rahman reported in 17 BLC (AD) 91 for absorption. The learned Advocate for the petitioner has drawn our attention to an unreported judgment of this Court in Writ Petition No. 7658 of 2011 in the case of Mousumi Akhter vs Government of Bangladesh wherein the Lordships stated that there

are 2559 posts in the LGED under the Ministry of Local Government, Rural Development and Co-operatives and, as such, there will be no complication if the petitioners are regularized in the revenue budget of LGED. In the said case 146 petitioners were directed by this Court to be absorbed in permanent jobs and vacancies in LGED subject to satisfaction of criteria given in the ECNEC resolution. The said decision has not been interfered with by the Appellate Division.

7. In the instant case it appears that the petitioner has been working for different projects of the LGED under the Local Government, Rural Development and Co-operatives and suddenly his service has been terminated. The petitioner has annexed a number of documents showing that several other road rollers have been absorbed in the revenue budget in the said Ministry of Local Government, Rural Development and Cooperatives but for some reason the petitioner has not been so absorbed in the revenue budget. In the aforesaid unreported judgment in Writ Petition No. 7658 of 2011 it has been stated that there was an unambiguous direction from the Economic Committee of the National Economic Council (ECNEC) to the effect that subject to satisfaction of certain criteria, the project employees would be absorbed in permanent jobs. This resolution was taken on 10th January, 2008. Besides, through a gazette notification dated 20th June, 2005, signed by a Secretary to the Government at the order of the Hon'ble President, the authorities stated,

8. The aforesaid decision of ECNEC and the Government allows sufficient scope for persons to be employed in the revenue set up of the Ministry of Local Government. Rural Development and Co-operatives from amongst those persons who worked in the development project absorbed. In spite of the aforesaid guide lines, it appears that the respondents are adopting a policy of pick and choose. The Appellate Division of the Supreme Court of Bangladesh in the case of Chief Engineer, LGED vs Kazi Mizanur Rahman reported in 17 BLC (AD) 91 has given certain guide lines on the basis of which employees may be absorbed in the revenue budget from amongst those who worked in the development project. The guide lines are as follows

(i) Whenever any vacancy in the revenue set up LGED is created, it shall consider for absorption employees or officers from the development projects within the meaning of section 2 (ga) of the Rules, 2005, if the project in which she/he is working is completed subject to the condition that such employee or officer has requisite qualifications for the said post.

(ii) Whenever a vacant post is created in the revenue budget the LGED shall absorb/ transfer an employee or officer from the development project mentioned in clause (1) to fill up that post in accordance with Rules of 1985 and the ECNEC's decision dated 10th January. 2008.

(iii) An officer or employee shall be absorbed if she/he was appointed in the development project within the meaning of rule 2 (ka) of Rules, 2005 in accordance with the procedures prescribed for appointment in public employment.

(iv) An officer or employee must have requisite qualifications for the post in which he is seeking absorption.

(v) An officer or employee must have continuity in service in the project in which he is working,

(vi) An officer or employee must have satisfactory service record before his case is considered for regularization in the revenue budget.

(vii) If an officer and employee whose rank and status does not relate to the posts advertised by the impugned notifications on the day of its publication such officer or employee would not be eligible for consideration for absorption.

(viii) The employees and officers who have been working in the development projects mentioned in clause (1) on monthly pay basis would only be eligible for consideration for absorption in the revenue budget.

(ix) Unless and until vacancies in the revenue budget in the LGED created, the employees and officers of development projects mentioned in clause (1) cannot claim as of right to be absorbed in the revenue budget.

(x) While considering and selecting an employee or officer of the development project for absorption in the revenue budget, the appointing authority shall maintain strictly the prevailing quota system for employment in the public employment being followed by the Government.

(xi) The LGED shall consider the cases of those working on master roll basis for absorption in the revenue budget by phases if they have requisite qualifications subject to availability of vacancies according to their seniority.

9. In several decisions this Court has directed the authorities to absorb/appoint employees in the permanent set up from amongst those who have been working on temporary or master roll basis over a period of time provided that there is no contrary report against them. In the case of Ministry of Local Government, Rural Development and Co-operatives vacancies in permanent posts are all the time occurring due to huge nature of development projects undertaken by the said Ministry. After utilizing an employee for more than 20 years by taking his service and then not giving him any employment without assigning any reason is highly unfair and undesirable. This is arbitrary and mala fide exercise of power. In our view therefore the petitioner has a right to be employed either in the development budget or revenue budget provided his past employment history is satisfactory. The respondents are therefore directed to employ the petitioner in the revenue budget subject to satisfaction of criteria slated in the case of Chief Engineer, LGED vs Kazi Mizanur Rahman reported in 17 BLC (AD) 91. Of course, if there is no vacancy in the revenue set up of the respondents, the respondents are directed to

consider him for employment in the development budget as per decision in the case of the Government of Bangladesh vs Mil Anisur Rahman reported in 18 MLR (AD) 372.

10. Accordingly this Rule is made absolute.
There will be no order as to costs”
Ed.

Source: The Dhaka Law Reports (August 2016)

HIGH COURT DIVISION

(Special Original Jurisdiction)

Writ Petition No. 6103 of 2009

Hasan Foez Siddique J

Jahangir Hossain J

Honufa Begum and others
..... Petitioners
vs

Secretary, Ministry of Posts Telegraph and Telecommunication and others.....Respondents

Judgment August 7th, 2011

Jahangir Hossain J :

Upon an application Rule Nisi was issued calling upon the Respondents to show cause as to why the impugned order vide নথি নং- কর্ম-বি/এন-২/০৮ dated 11-5-2008 (Annexure-H) passed by the respondent

No. 3 dismissing a departmental appeal preferred by the petitioners challenging the order vide Memo No. Gd-1-1/96-97 dated No. 2-8-2007 (Annexure-E) passed by the Respondent No. 4 in a department proceeding imposing penalty upon the predecessor of the petitioners by treating his suspension period as leave as due in spite of releasing him from the charge of the proceeding and also the order vide নথি নং বি-১-১/কর্মচারী/অবসর/২০০৬ dated 24-9-2006 and নথি নং বি-১-১/কর্মচারী/অবসর/২০০৬ dated 1 9-8-2007 (Annexure-F and F- 1) sanctioning family pension and other service benefits without granting LPR should not be declared to have been made without lawful authority and are of no legal effect.

2. The facts for disposal of the Rule, in brief, are that the petitioners are the legal heirs of late Abdur Rob Chowdhury, an Ex-employee of the Postal Department, who joined the same in the year 1972. The Predecessor of the petitioners while in service, was posted at Sub Post Office, Khalifafhat, Noakhali and delivered his service at the address mentioned above from 10-4-1994 and 23-7-1996. During that time, a departmental proceeding was initiated against him upon false and baseless allegation and subsequently he was suspended from the post temporarily. Besides, a criminal case was also started against him upon the same self allegation and the appointing authority served a notice upon the predecessor of the petitioners who replied in writing in time to the same explaining the reasons thereof.

3. It has been further stated in the petition that during pendency of the criminal proceeding, departmental proceeding was suspended. In the criminal proceeding the predecessor of the petitioners was acquitted after holding trial of the case by the competent court. Against the order of acquittal the concerned authority preferred an appeal being Govt Appeal No.23 of 2003 before this Court. During pendency of the said government appeal the predecessor of the petitioners died of fatal disease on 13-1-2007 and subsequently the criminal appeal was abated at the instance of the authority concerned under section 431 of the Code of Criminal Procedure.

4. It is further stated that the concerned authority in respect of the family pension and other service benefit of the predecessor of the petitioners, sought a legal opinion from the learned government pleader through a letter vide Memo No. 3 1 7 dated 23-7-2007. The G P gave his opinion in favour of the petitioners. Thereafter, the respondent No. 4 issued a letter vide Memo No. Gd 1-1/96-97 dated 2-8-2007 in the caption of “দপাদেশ নামা” withdrawing the departmental proceeding against the predecessor of the petitioners but most arbitrarily granted leave as to be paid for his suspension period as penalty (Annexure-E to this writ petition). In the meantime, the predecessor of the petitioners had got 57 years age. As a result, he would have been placed on LPR

(leave preparatory to retirement) but the authority through letter vide নথি নং বি-১/কর্মচারী/অবসর/২০০৬ dated 24-9-2006 informing that no order as required to be issued for sending him on LPR. Thereafter, the respondent No. 4 through letter vide নথি নং বি-১/কর্মচারী/অবসর/২০০৬ dated 19-8-2007 sanctioned family pension without granting LPR. The petitioner No. 1 being wife of the deceased preferred an appeal against the said letters dated 2-8-2007, 24-9-2006 and 19-8-2007 respectively before the respondent No. 3 stating reasons thereof and further seeking for full pay with allowances and other service benefits treating the suspension period of the predecessor as usual duty and granting LPR in due course. But the appellate authority dismissed the appeal and affirmed the decision of the Respondent No. 4 through নথি নং বি-১/এন-০২/০৮ dated 11-5-2008 on misconception of law and non-consideration of the merit of the appeal. Thereafter, the wife (petitioner No. 1) of the predecessor made a representation before the Respondent No. 2 seeking remedy in respect of the same but the respondent informed her by issuing a letter vide নথি নং তদন্ত ৬-২/৯৬/১৬৮১ dated 15-10-2008 under signature of Respondent No. 5 that they had no jurisdiction to consider the prayer filed by her and further issued a letter by the Respondent No. 4 clarifying the leave to be granted for the suspension period of the deceased employee through Memo No. নথি নং বি-৩০৬ dated 22-2-2009 wherein it has been stated that from 14-8-1996 to 22-4-1998 the deceased employee was granted leave with full pay and 23-4-1998 to 9-6-2000, was granted leave with half pay and from 2-6-2000 to 30-9-2006 long six years three months granted leave without pay, which appears to be penalty upon him though the departmental proceeding was withdrawn by the authority. Thus, the heirs of the predecessor-employee, being petitioners moved this court with a petition and obtained the present rule.

5. Mr Aminul Islam, learned Advocate on behalf of the petitioners submits that the impugned orders (Annexures -H, E, F and F1 to this writ petition) Passed by the appellate authority and the appointing authority are arbitrary and mala fide and not tenable in the eye of law. He submits that the allegation brought by the concerned authority against the predecessor of the petitioners was vague and baseless. In fact, no offence or misconduct of deception was committed by the predecessor of the petitioners and the amount of cash shortage was duly deposited in the office of the Respondent No. 4 as the same was kept in his personal custody of being insecured inside the post office. He submits further that the predecessor of the petitioners got order of acquittal from the charge brought against him. Against which the government preferred an appeal in which he had been abated after his death. He submits farther that the departmental proceeding was also withdrawn by the concerned authority and subsequently, the concerned authority obtained the opinion as desired from the learned government pleader in respect of the service benefit of the petitioners wherein the learned pleader opined that the petitioners are entitled to get all benefits of the predecessor as per as usual course. He further submits that as per provision of Rule 247, 1st Part, Bangladesh Service Rules, if Departmental Proceeding is withdrawn after death of the person concerned, no penalty can be imposed upon a dead man who served as an employee in the republic. He finally submits that the heirs of the late employee have been passing the days with financial hardship on being deprived by the impugned orders preventing them from getting full payment of benefits and other allowances of the predecessor and the petitioners, finding no other alternative and efficacious remedy, moved this court and obtained present the rule which should be made absolute.

6. On the other hand, Mr Bishwjit Roy, the learned Deputy Attorney-General appearing on behalf of the Respondents submits that the petitioners are

not government employees and they are not in any way aggrieved persons, for which they can file a writ petition before this Court invoking Article 102 of the Constitution. He further submits that the petitioners as heirs of the late employee filed application before the appellate authority which was turned down narrating all the reasons therein. He lastly submits that the petitioners could file an application before the Administrative Tribunal if they were somehow aggrieved by the impugned letters. In fact, they did not have any right to file a writ petition before this Court. Accordingly, this rule should be discharged.

7. Heard the learned Advocates from both the parties and perused the petition along with annexures thereof, where from it transpires that the predecessor of the petitioners during his service in the republic at Khalifarhat, Noakhali upon an allegation of shortage of fund in the sub-post office, a departmental proceeding was initiated against him and on the same self allegation a criminal case was also started against him. During pendency of the criminal proceeding, the departmental proceeding was suspended but in trial of the criminal case he got an order of acquittal from charge brought against him when he was found not guilty of the offence by the competent court of law. Subsequently a government appeal was preferred by the authority concerned. During pendency of the Govt. appeal, the predecessor of the petitioners died of cancer and therefore, the departmental proceeding was also withdrawn by the concerned authority. But the authority treating the predecessor of the petitioners unusual servant of the republic, curtailed some service benefits which the petitioners are entitled to get as usual course of his service. It appears from the submission of the learned Deputy Attorney-General that the petitioners have not been aggrieved by the impugned letters as they are not servants in the service of the republic. Therefore, they don't have locus standi to file this writ petition before the court under Article 102 of the constitution. In view of the facts as above, let us

see sections 4 and section 7A of the Administrative Tribunal Act, 1980 which provides as under:

4. (1) An Administrative Tribunal shall have exclusive jurisdiction to hear and determine Applications made by any person in the service of the Republic 1[or of any statutory public authority] in respect of the terms and conditions of his service including pension rights, or in respect of any action taken in relation to him as a person in the service of the Republic 2[or of any statutory public authority]

(2) A person in the service of the Republic 3[or of any statutory public authority] may make an application to an Administrative Tribunal under sub-section (1), if he is aggrieved by any order or decision in respect of the terms and conditions of his service including pension rights or by any action taken in relation to him as a person in the service of the Republic 4[or of any statutory public authority];

Provided that no application in respect of an order, decision or action which can be set aside, varied or modified by a higher administrative authority under any law for the time being in force relating to the terms and conditions of the service of the Republic 1[for of any statutory public authority] or the discipline of that service can be made to the Administrative Tribunal until such higher authority has taken a decision on the matter:

2[Provided further that, where no decision on an appeal or application for review in respect of an order, decision or action referred to in the preceding proviso has been taken by the higher administrative authority within a period of two months from the date on which the appeal or application was preferred or made, it shall, on the expiry of such period, be deemed, for the purpose of making an application to the Administrative Tribunals under this section, that such higher authority has disallowed the appeal of the application:]

Provided further that no such application shall be entertained by the Administrative Tribunal unless it is made within six months from the date of making or taking of the order, decision or action concerned or making of the decision on the matter by the higher administrative authority, as the case may be.

(3) In this section “person in the service of the Republic 3[or of any statutory public authority]” includes a person who is or has retired or is dismissed, removed or discharged from such service, but does not include a person in the defence services of Bangladesh 4[or of the Bangladesh Rifles].

8. It appears from the provision of section 4 of the Administrative Tribunal Act that a servant if being aggrieved by any order of the concerned authority, shall have to go to the Administrative Tribunal for his remedy first, but the present petitioners have not that scope to file any application before the Administrative Tribunal as they were not in the service of the republic. Section 7A says:

2[7A. (1) Where a person is dismissed or removed from service and an application is made under section 4 against such removal or dismissal and that person dies during the pendency of the case, the right to sue of that applicant shall survive if his service had been pensionable under any law for the time being in force.

(2) Where the right to sue survives under sub-section (1), such legal representative of the deceased applicant who would have been entitled to the pensionary benefit at the event of the death or retirement of the deceased applicant may be substituted, upon an application, made to the Tribunal or, as the case may be, to the Appellate Division, within sixty days from the date of the death of the applicant.

(3) The legal representative of the deceased, as referred to in sub-section (2), shall be entitled to the pensionary benefit which would have been payable to that deceased if he had been removed or dismissed:

Provided that, such pensionary benefit shall not be payable unless the Tribunal or, as the case may be, the Appellate Division, declares the order of the dismissal or removal, as the case may be, as illegal or void:

Provided further that, for the purpose of this section, the applicant shall be deemed to have died or retired, as the case may be, on the day on which he was removed or dismissed.

9. It has been provided in section 7A that when an application against the dismissal or removal from service is pending before the Administrative Tribunal, if the employee or servant of the republic dies, than his/her heirs can be substituted in the pending proceeding as heirs of the deceased and right to so survive. But here there was no case pending against any dismissal or removal before the administrative tribunal when the employee died of Cancer. Therefore, no question of substitution can be raised for the heirs of the deceased.

10. On plain reading of these sections it appears that only the servant of the republic may apply before the Administrative Tribunal or his heirs may be substituted in the case if he dies during pendency of the case filed by him against his removal or dismissal from service. But there is no such case pending in the Administrative Tribunal at the time of his death. In such view of the fact, the petitioners do not have locus standi to file an application before the administrative tribunal as they are not servants in the republic.

11. In such a situation, the petitioners as heirs of the predecessor, have no other forum to seek relief rather to move this court with a writ petition invoking Article 102 of the constitution. It is pertinent here to refer the case of *Kazi Shamsunnahar vs Commandant RRF Khulna* reported in 2 BLC 569 where their Lordships observed that

“Admittedly, the deceased government servant was not removed from service prior to his death but he was removed from service just after his death resulting thereby the government servant died while

he was still in the service of the Republic for which the petitioners as heirs of the government servant are entitled to recover the service benefits as permissible under the law and the writ petition is maintainable.”

12. In the instant case there is no dispute that Abdur Rouf Chowdhury was neither convicted nor removed, nor dismissed from service before his death. So the penalty imposed by the authority concerned upon the dead man is not legal in the eye of law. It is apparent that the petitioners are admittedly heirs of the deceased-employee, having no other forum except to invoke writ jurisdiction under Article 102 of the Constitution and since the predecessor of the petitioners was acquitted from the charge brought against him by the competent court of law, there is no bar to the petitioners as heirs of the ex-employee in obtaining full service benefits as per service rules. Furthermore, as the departmental proceeding was withdrawn by the concerned authority the service of the predecessor of the petitioners was seemed to be treated as regular one and all service benefits of the predecessor to be recovered by the petitioners as his heirs.

13. In view of the discussion as above, we are inclined to hold that the impugned orders (Annexures-H, E, F and FI to this writ petition) are ex-facie illegal and the same have been passed without any lawful authority and are of no legal effect, therefore, the petitioners as heirs of late Abdur Rob Chowdhury are entitled to get all service benefits including pension and arrear, if any, as permissible in law,

In the result the rule is made absolute without order as to costs. The impugned orders (Annexures-H, E, F and FI to this writ petition) have been passed without lawful authority and are of no legal effect. The respondents are directed to pay full service benefits of late Abdur Rob Chowdhury to the petitioners as permissible under the law.

Ed.

Source: The Dhaka Law Reports (September, 2016)

HIGH COURT DIVISION

Writ Petition No. 731 of 2012

Tariq-ul-Hakim J

AKM Shahidul Huq J

Nurul Huda (Md)

..... Petitioner

vs Government of Bangladesh, represented by the
Secretary, Ministry of Power, Energy and Mineral
Resources Division, Dhaka and Others

..... Respondents

Judgment

September 14th, 2014

Tariq-ul-Hakim J : Rule Nisi has been issued calling upon the respondents to show cause as to why the impugned order dated 14-12-2011 issued by the respondent No. 4, General Manager (Admin) of Sylhet Gas fields Limited, retiring the petitioner from his service with effect from 21-7-2008 while terminating his service from 15-12-2011 counting the served out period of his remaining service till 15-12-2011 as extended period of service (Annexure A) should not be declared to have been passed without lawful authority and of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.

2. Facts relevant for disposal of this Rule is that the petitioner appeared in the Secondary School Certificate Examination (SSC) in 1972 from Nawabpur Government High School and successfully passed the SSC examination in the Second Division. In the said SSC certificate his date of birth was mentioned as 2-7-1957. On 7-4-1985 the petitioner applied for appointment as Laboratory Assistant in the office of the Respondent No. 3, Managing Director, Sylhet Gas Fields Limited, a subsidiary company of Petro-bangla and along with his application form he submitted a Certificate from by the Head Master, Nawabpur Government High School, Dhaka about qualifying in the SSC Examination, held in 1972. The SSC certificate was not issued by the concerned Education Board at that time. Subsequently when the SSC certificate was issued the petitioner's date of birth was mentioned

mistakenly as 22-7-1951 but the petitioner did not notice the date of birth wrongly stated in the SSC Certificate at the time. After completion of all formalities the petitioner was appointed to the post of Laboratory Assistant on 6 (six) months probationary period and due to his honest and dedicated hard work the petitioner earned reputation in his working place for which the authority confirmed his job after his probationary period and on 19-8-1996 the petitioner was promoted to the post of Sub-Assistant Technical Officer with effect from 1, July, 1996. The petitioner thereafter was promoted from one post to another as he was performing his job with satisfaction of his employer and his salary was accordingly increased from time to time.

3. It is stated that on 14-12-2011 the Respondent No. 4, General Manager, Sylhet Gas Fields Limited passed the impugned order retiring the petitioner from his service with effect from 21-7-2008 but allowed him to work for extended period from 15-12-2011 stating that as per application for appointment as submitted by the petitioner on 7-4-1985 his date of birth was 22-7-1951 on the basis of which he had reached his age of retirement on 21-7-2008 i.e. 57 years. The petitioner on 21-12-2011 filed an application to the Respondent No. 3, Managing Director, Sylhet Gas Fields Limited praying for withdrawal of the impugned order and for being reinstated in his service stating that the anomaly regarding his date of birth was created by a bonafide mistake but received no satisfactory response.

4. In a Supplementary Affidavit filed by the petitioner it is stated that the petitioner submitted his SSC certificate to the respondents and in the said certificate his date of birth was recorded as 22-7-1956. The administration of the respondents accepted the SSC certificate of the petitioner and recorded the date therein in the list of permanent employees of the company and thereby acknowledged the said date stated in the SSC certificate. Thereafter the petitioner even was promoted to the post of Deputy Manager (General Maintenance) on 10-1-2011 and the subsequent act of denying his date of birth as stated in the SSC certificate has aggrieved

the petitioner for which he has come to this Court and obtained the present Rule.

5. The Rule is being contested by the respondent No. 3 by filing Affidavit in Opposition stating inter alia that the petitioner made an application on 7-4-1985 with his bio-data and the respondent company, Sylhet Gas Fields Limited who appointed him as Laboratory Assistant at Kailashtilla Gas Field and issued a letter of appointment on 23-4-1985. The petitioner there after joined the employment by submitting a joining report on 25-4-1985. It is further stated that the petitioner only submitted a testimony and mentioned his date of birth as 22-7-1951 but did not submit his SSC certificate. The respondent company conducted medical examination on the petitioner and after examining the petitioner issued medical report dated 28-4-1985 and confirmed that his date of birth was 22-7-1951. Accordingly the petitioner's information was recorded in his personal file which was verified by the police and the medical examination report and the police report were accepted and signed by the petitioner and since then the petitioner had been serving the respondent company without any objection whatsoever in respect of his age and has been receiving salary and other benefits as per rules and regulations of the respondent company.

6. All on a sudden on 27-10-2004, after more than 19 years of appointment, the petitioner made an application to the Respondent No.3 along with a copy of the SSC certificate issued on 25-2-1973 stating his date of birth was 22-7-1956 and requested the authority to include the same in his personal record sheet. The respondent company is governed by its Employment Regulations, 2005 and remained silent about the acceptability of the petitioner's age. It is further stated that the Writ Petition is not maintainable as the petitioner made an application after 19 years of the said appointment and the same is not tenable in law and the impugned order calls for no interference by this Court.

7. Mr Manzil Murshid the learned Advocate for the petitioner has drawn our attention to annotated rules on Bangladesh Service Rules where it has been

stated in Rule 9 that in the case of Government jobs the date stated in the SSC certificate will be the actual date of birth of the declarant. In another place there is an explanation stating that if there is any confusion regarding date of birth then the date stated in the SSC certificate shall prevail. The learned Advocate therefore submits the confusion regarding the petitioner's date of birth in the instant case the date stated in the SSC certificate shall prevail over the date stated by the petitioner at the time of appointment in his declaration. The learned Advocate for the petitioner next submits that the petitioner had informed the respondent about the date stated in the SSC certificate and that the respondents did not reject the same, and as such they are bound to accept the same. Finally the learned Advocate submits that the petitioner had passed his SSC examination at the time he had joined the service of the Government and in such view of the matter, he should be given the benefit of age stated in the SSC certificate since the SSC certificate is not an afterthought.

8. Mr Tanim Hussain Shawon, the learned Advocate for the Respondent No. 3 submits that according to rule 9 of the Bangladesh Service Rules the date stated in the SSC certificate will be the date of birth of the employee in the Government service. The learned Advocate submits that explanation cited by the learned Advocate for the petitioner is not stated in the Bangladesh Service Rules and as such is not tenable. In this respect the learned Advocate for the respondent has drawn our attention to a decision of the Appellate Division in the case of Habibur Rahman Khan vs Bangladesh reported in 53 DLR (AD) 105 wherein it has been stated that declaration made by the declarant about his date of birth at the time of joining his service is binding upon him.

9. We have given our anxious consideration to the submissions of the learned Advocates.

10. Rule 9 of the Bangladesh Service Rules provides as follows:

"A declaration of age, made by an applicant for Government service at the time of, or for the purpose

of entry into Government service shall be deemed to be binding-on the person who has made it and no revision of such a declaration shall be allowed to be made by him at a later date for any purpose whatsoever”

11. Languages of the Rules are very clear and unambiguous. The date of birth stated by the petitioner in his application for employment was 22-7-1951. Subsequent change in the date of birth is not admissible under the aforesaid rules. We have sympathy for the petitioner that he had passed SSC examination by the date he had filed his application for appointment. There is no excuse why he did not provide correct date in the form. Having furnished this date stated in the SSC certificate after 19 years then claiming that the authority accented, it is no. excuse as there is no estoppel against statute. In the case, of *Habibur Rahman Khan vs Bangladesh reported in 53 DLR(AD) 105* the Appellate Division approved the rules of the Bangladesh Service Rules holding that even if rule 9 quoted above existed the declaration made with regard to the date of birth at the time of joining was binding upon the declarant and not upon the authority. It was subsequently found from the Matriculation Certificate of the petitioner that he was born on 21st April, 1936 and the petitioner failed to show any document that the age found in the Matriculation Certificate was incorrect. The High Court Division therefore rightly held that the declaration made under rule’ 9 could be modified by the employer on the basis of evidence to the contrary. The declaration does not put an embargo on the employer to look into the personal record of the declarant to see if the declaration made in the verification roll is correct or not. The petitioner having failed to prove that his date of birth as recorded in the Matriculation Certificate was wrong the High Court Division rightly held that the petitioner would retire as per section 4 of Acf XII of 1974 on completion of age 57 years on the basis of his age found in the Matriculation Certificate.”

12. In view of the aforesaid, we are of the view’ that the law states that a person is bound by the date of

birth he declares at the time he joins his employment in Government service in the absence of any SSC certificate. The law seems to be very clear on the point. In the instant case therefore the respondents have rightly treated the petitioner’s date of birth to be 22-7-1951. However the petitioner is entitled to get all his salary and retirement benefits for the period he worked including the extended period.

Accordingly the Rule is discharged without costs.

Ed.

Source: The Dhaka Law Reports (October 2016)

HIGH COURT DIVISION

Writ Petition No. 2252 & 1222 of 2009 with Writ Petition No. 8117 of 2005 with Writ Petition No.1182 of 2010 _____ Moyeenul Islam Chowdhury J _____

AKM Abdul Hakim J

Kazi Md Akhtaruzzaman and

others.....

Petitioners

vs

Bangladesh and others
.....Respondents

Judgment

August 11th, 2010

Moyeenul Islam Chowdhury J : As the questions of laws and facts involved in Writ Petition Nos. 2252 of 2009, 8117 of 2005, 1222 of 2009 and 1182 of 2010 are identical, those have been heard together and this consolidated judgment disposes of all of them.

2. In all the writ petitions, Rules Nisi were issued calling upon the respondents to show cause as to why sub-sections (2) (chha) and (3) of section 56 of the Jagannath University Act, 2005 (Annexure-RR’)

should not be declared to be ultra vires Articles 27, 29 and 31 of the Constitution and why the said sub-sections of section 56 of the Act should not be struck down as being without lawful authority and of no legal effect and why the respondents should not be directed to appoint and absorb the petitioners as teachers of the Jagannath University and/or such other or further order or orders passed as to this Court may seem fit and proper.

3. The case of the petitioners, as set out in the writ petitions, in short, is as follows:

The petitioners are Lecturers, Assistant Professors, Associate Professors and Professors of the Jagannath University on deputation. Previously they either joined or were transferred to the now-defunct Government Jagannath College. All of them are members of the Bangladesh Civil Service (BCS) (General Education) Cadre. The background of the Jagannath University is that in 1884 the Jagannath School was transformed into Dhaka Jagannath College. In 1968 the Government nationalized the said college. In 1975 graduation with honours and post-graduation degree courses were introduced in the college. Anyway, in view of the assurance of the Government, the Jagannath University Act, 2005 (hereinafter referred to as the Act of 2005) was enacted and the Government Jagannath College was upgraded to a university, namely, Jagannath University. Section 56 of the Act of 2005 was enacted with an ulterior motive to hold the university authority as hostage and to make money for a certain vested quarter who had close ties with the then Government. The impugned provisions embodied in Sub-sections (2)(chha) and (3) of section 56 the Act of 2005 violative of the fundamental rights of the petitioners enshrined in Articles 27, 29 and 31 of the Constitution. That being so, the impugned provisions are ultra vires the Constitution.

4. The Institute of Post-Graduate Medicine and Research (IPGMR) was established as the only institute for imparting higher education and extending research facilities on medical science. At one stage, the Government transformed the IPGMR into Bangabandhu Sheikh Mujib Medical University

(BSMMU) by dint of the Bangabandhu Sheikh Mujib Medical University Act, 1998. After transformation, the teachers and doctors of the IPGMR were absorbed in the service of the BSMMU as a matter of course. Likewise, after conversion of the Sher-e-Bangla Agricultural Institute, Dhaka into Sher-e-Bangla Agricultural University, Dhaka by Act No. 46 of 2001 (Sher-e-Bangla Agricultural University Act, 2001), the teachers of the Sher-e-Bangla Agricultural Institute were automatically absorbed in the service of the Sher-e-Bangla Agricultural University, Dhaka. Besides, the Bangladesh Institutes of Technology (BITs), Dhaka, Rajshahi, Khulna and Chittagong were transformed into Engineering and Technology Universities by promulgation of separate Acts and the erstwhile teachers of the BITs were absorbed in services of the Engineering and Technology Universities concerned automatically.

5. Be that as it may, after enactment of the Act of 2005, the services of the petitioners were placed at the disposal of the Ministry of Education. Some provisions were made therein with a view to providing a chance to the petitioners to remain as teachers of the newly-established Jagannath University for a limited period, that is to say, for a period not exceeding five years on deputation and after expiry of that period, their fate would depend upon the sweet will of the Ministry of Education. During the period of deputation, the petitioners holding the posts of Lecturers, Assistant Professors, Associate Professors and Professors with extra-ordinary educational qualifications are being treated as qualified enough to teach the students of different levels of the Jagannath University; but after the expiry of the said period of deputation, they will be disqualified to remain as teachers thereof. This is absolutely arbitrary and irrational. Apart from teaching the students, they have to discharge the functions of question-setters, moderators, examiners and so on and so forth. As teachers, they also function as Deans, Chairmen, Proctor and Assistant Proctors of the Jagannath University. Some of them are members of the Academic Council and Syndicate of the University. As deputationists, the petitioners have been imparting quality education to the students of different tiers of the same. Against this backdrop,

they have the legitimate expectation of being absorbed in the service of the University. But the impugned provisions of section 56 of the Act of 2005 are a stumbling-block to their wholesale absorption therein. So the impugned provisions are liable to be struck down.

6. The Jagannath University Authority has contested the Rules issued in all the writ petitions by filing Affidavits-in-Opposition. Their case, in brief, runs as follows:

Admittedly, the petitioners are in the service of the Republic by virtue of section 4 of the Services (Re-organization and Conditions) Act, 1975. It is also admitted that they belong to the BCS (General Education) Cadre and are on deputation in the service of the Jagannath University after its upgradation. The Act of 2005 transforming the now-defunct Government Jagannath College into a full-fledged University, that is to say, Jagannath University came into force on 20-10-2005. The Act of 2005 is a self-contained piece of special legislation. The Jagannath University is a statutory authority having its own seal. The petitioners were placed on deputation in the Jagannath University by an order of the President issues under Notification No. kvf 8-/2G-11/2005/349 dated 19-4-2006. The impugned provisions of section 56 (2) (chha) and (3) of the Act of 2005 are designed to attract meritorious and talented teachers to the Jagannath University. The period of deputation is a mere stop-gap arrangement. The petitioners who have the requisite qualifications and experiences may apply for appointment to the posts of Lecturers, Assistant Professors, Associate Professors and Professors, as the case may be. and if they are found competent, they will be appointed thereto by the University Authority. The objective of the embargo imposed upon wholesale absorption of the deputationists in the service of the Jagannath University is to maintain high standard of academic excellence with a view to competing with other universities of the world. It can not be said that the petitioners have been totally debarred from being appointed to various scholastic posts in the Jagannath University by the impugned provisions of section 56 the Act of 2005.

The Legislature in its wisdom enacts laws with specific intentions and objectives. Every university as an educational institution is a class by itself. Certain provisions in a statute creating one educational institution being different from certain provisions in another statute creating another educational institution can not mean that there is discrimination. The petitioners being in the service of the Republic fail to show how and in what manner their legal rights, if any, have been curtailed or infringed by the impugned provisions of section 56 the Act of 2005. Moreover, the impugned provisions are not violative of Articles 27, 29 and 31 of the Constitution. As members of the BCS (General Education) Cadre, the service conditions of the petitioners are regulated and controlled by Part IX of the Constitution. The service of the Jagannath University is altogether a new service. It has no nexus with any service of the Republic. In public interest, a duty is cast upon the Jagannath University Authority to appoint the most suitable persons as teachers thereof. The purpose and intention of appointment in the service of the Education Cadre and in the service of the Jagannath University being not same and similar, the petitioners, as of right, can not claim to be the teachers of the Jagannath University. Being in the service of the Republic, their controlling authority is the Ministry of Education. The order of deputation dated 19-4-2006 was made under the authority of the Act of 2005. The deputationists can not invoke the doctrine of legitimate expectation for their automatic wholesale absorption in the service of the Jagannath University in order to defeat or invalidate the relevant provisions of the Act of 2005. The impugned provisions of the Act of 2005 are very much constitutional. The bar to automatic wholesale absorption of the petitioners in the service of the Jagannath University slapped by the impugned provisions is not discriminatory. They have not stated in the writ petitions as to how they have been deprived of equal protection of law within their own class. All members of the BCS (General Education) Cadre including the petitioners form a separate and distinct class by themselves. The impugned provisions of the Act of 2005 have not made any discrimination or provided for any inequality amongst the members of that class. The

wholesale absorption of teachers in the services of other universities or educational institutions can not be equated with the demand of the wholesale absorption of the petitioners in the service of the Jagannath University. The question of discrimination can only be raised within the class itself, but it can not be raised beyond its periphery. As the impugned provisions are not violative of Articles 27, 29 and 31 of the Constitution, the Rules issued in the writ petitions are liable to be discharged with costs.

7. In the Supplementary Affidavit dated 7-3-2010, it has been stated that the Jagannath University Authority issued a notification contained in Reference JU/AD-13(08)74112 dated 9-5-2009 for appointment of Professors, Associate Professors, Assistant Professors and Lecturers in various departments of the university. According to the said notification, amongst others, Professor Dr Md Hasan Sorwardi, Dr Nasima Banu, Dr Md Rafiqul Islam, Dr Arun Kumar Goswami, SM Anwara Begum and others applied for the post of Professor in the department of political science. To utter dismay of all the petitioners, SM Anwara Begum who has an academic qualification of 2nd class at every stage of her academic career was offered the post of Associate Professor in the department of political science. This conduct of the University Authority betokens that it is working with an ulterior motive in derogation of the provisions of the Act of 2005. The University Authority is whimsically and arbitrarily appointing teachers of their own choice without following proper procedure. This exercise is making the entire appointment process a fishy one.

8. In the Supplementary Affidavit dated 26-4-2010, it has been averred that the petitioners have been teaching the students of Honours and Masters classes for several years to the satisfaction of all concerned. But the statutory bar to their automatic absorption as teachers in the service of the Jagannath University is unreasonable, arbitrary and preposterous.

9. In the Affidavit-in-Reply dated 31-5-2010, it has been mentioned that the Chittagong Veterinary College was dissolved and reestablished as

Chittagong Veterinary and Animal Sciences University by the Chittagong Veterinary and Animal Sciences University Act, 2006. As per the Act, the teachers of the dissolved Chittagong Veterinary College were absorbed, on certain terms and conditions, in the service of the Chittagong Veterinary and Animal Sciences University.

10. In the Supplementary Affidavit-in-Opposition dated 10-8-2008, it has been asserted that in accordance with the provisions of section 56(3) (ka) of the Act of 2005, a number of teachers on deputation like the petitioners applied to the University Authority in response to open advertisements for appointment to various posts on numerous occasions. Having been found qualified, they were given fresh appointments on regular basis in the service of the Jagannath University pursuant to section 56(3)(ga).

11. At the outset, Mr Abdul Wadud Bhuiyan, the learned Advocate appearing on behalf of the petitioners of Writ Petition No. 2252 of 2009 and Mr AF Hassan Ariff, the learned Advocate appearing on behalf of the petitioners of Writ Petition No. 1222 of 2009, submit that the petitioners did not have a square deal in the matter of enactment of the impugned provisions of section 56 (2) (chha) and (3) of the Act of 2005 in view of the fact that the teachers of the erstwhile Muhammadan Anglo-Oriental College, Aligarh, JPGMR, Sher-e-Bangla Agricultural Institute and BITs, Dhaka, Rajshahi, Khulna and Chittagong were automatically absorbed in the services of the upgraded universities concerned; but curiously enough, the petitioners being the teachers of the now-defunct Government Jagannath College have been meted out discriminatory treatment by the impugned provisions and that being so, the same are liable to be struck down as being ultra vires Articles 27, 29 and 31 of the Constitution.

12. Both Mr Abdul Wadud Bhuiyan and Mr AF Hassan Ariff further submit that there are no 'intelligible differentia' or 'permissible criteria' between the teachers of the Jagannath University and those of the BSMMU and the Technical Universities and in such view of the matter, the petitioners should have been

absorbed in the service of the Jagannath University as a matter of course and this having not been done by reason of the impugned provisions, the same are without lawful authority and of no legal effect.

13. Mr Abdul Wadud Bhuiyan as well as Mr AF Hassan Ariff also submit that in the facts and circumstances of the case, the petitioners are entitled to invoke the doctrine of legitimate expectation for their automatic absorption as teachers in the service of the Jagannath University.

14. Both Mr Abdul Wadud Bhuiyan and Mr AF Hassan Ariff next submit that prior to upgradation of the Government Jagannath College, the petitioners were similarly situated like those of the IPGMR, Sher-e-Bangla Agricultural Institute and BITs, Dhaka, Khulna, Rajshahi and Chittagong and in the absence of any distinguishing yardstick between the ex-teachers of the Jagannath College and those of the IPGMR, Sher-e-Bangla Agricultural Institute and BITs, the non-absorption of the petitioners in the service of the newly-established Jagannath University is absolutely unreasonable, illogical and arbitrary.

15. Both Mr Abdul Wadud Bhuiyan and Mr AF Hassan Ariff further submit that the impugned provisions of section 56 of the Act of 2005 have been made with the malafide intention of depriving the petitioners of their automatic absorption in the service of the Jagannath University.

16. Both Mr Abdul Wadud Bhuiyan and Mr AF Hassan Ariff also submit that the teachers of the Jagannath University and those of the BSMMU and the Technical Universities form a class by themselves and since they are similarly situated, they can not be treated dissimilarly or differently; but in the instant case, the petitioners, though belonging to the same class of teachers, have been meted out differential treatment infringing the provisions enshrined in Articles 27, 29 and 31 of the Constitution and this being the position, the impugned provisions must be knocked down.

17. Both Mr Abdul Wadud Bhuiyan and Mr AF Hassan Ariff next submit that there may be classifications,

but the classifications must have a reasonable and just relation to the objective sought to be achieved by the Act of 2005.

18. Mr Abdul Wadud Bhuiyan also submits that even without striking down the impugned provisions of section 56 of the Act of 2005, the petitioners may get the reliefs sought for, if the Court so desires.

19. In particular, Mr AF Hassan Ariff submits that the automatic non-absorption of the petitioners in the service of the Jagannath University is an exception and this exception has been made by the Legislature without any rational basis and given this scenario, they can not be victimized by the impugned discriminatory provisions of the Act of 2005.

20. In support of the above submissions, both Mr Abdul Wadud Bhuiyan and Mr AF Hassan Ariff rely upon the decisions in the cases of the Director General, NSI vs Md Sultan Ahmed, 1 BLC (AD) 71; Hamidul Hug Chowdhury vs Bangladesh represented by the Secretary, Ministry of Information and Broadcasting, Government of the People's Republic of Bangladesh, 34 DLR 190; Sheikh Abdus Sabur vs Returning Officer, District Education Officer-in-Charge, Gopalganj, 41 DLR (AD) 30; Bangladesh Agricultural Development Corporation represented by the Chairman, Krishi Bhavan, 49-51, Dilkusha Commercial Area, Dhaka vs Md Shamsul Haque Mazumder, 14 MLR (AD) 197; Jibendra Kishore Achary vs Province of East Pakistan, 9 DLR (1957) SC 21; Mohammad Hanif Quareshi vs State of Bihar, AIR 1958 SC 731; EP Royappa vs State Tamil Nadu, 4 SCC 366; DS Nakara vs Union of India, AIR 1983 SC 130 and an unreported decision of this Court rendered in the case of AKM Fazlul Karim vs Bangladesh represented by the Secretary, Ministry of Law, Justice and Parliamentary Affairs in Writ Petition No. 2874 of 2008.

21. Mr Abdur Rab Chaudhury, the learned Advocate appearing for the petitioners of Writ Petition No. 8117 of 2005, contends that the petitioners have decades of teaching experience and from that standpoint, there is no earthly reason for their non-absorption in the service of the Jagannath University.

22. Mr Abdur Rab Chaudhury further contends that the Act of 2005 has the effect of implied retrospectivity, though purportedly it has been given prospective effect and in that view of the matter, the impugned provisions have no legs to stand upon.

23. Mr Abdur Rab Chaudhury also contends that in the facts and circumstances of the case, the question of applicability of the doctrine of legitimate expectation can not be ruled out at all.

24. Mr AJ Mohammad Ali, the learned Advocate appearing on behalf of the petitioners of Writ Petition No. 1182 of 2010, argues that the petitioners who are already in the service of the Jagannath University on deputation should be protected by issuance of writs of mandamus and indisputably the students of the now-defunct Jagannath College have become the students of the Jagannath University as a matter course, but the teachers have been denied that opportunity to their great prejudice.

25. Mr AJ Mohammad Ali also submits that it does not stand to reason and logic as to why the impugned provisions have been enacted to deprive the petitioners of their right to automatic absorption in the service of the Jagannath university and this is way the impugned provisions are unreasonable and arbitrary.

26. Per contra, Mr Korunamoy Chakma, the learned Deputy Attorney-General appearing on behalf of the Government, submits that the Jagannath University can not be placed on a par with the BSMMU and the Technical Universities of the country in view of the fact that the Jagannath University has been imparting general education only.

27. Mr Korunamoy Chakma next submits that all the writ petitions are incompetent in view of Article 47 of the Constitution inasmuch as the Act of 2005 has been enacted for implementation of one of the state principles enshrined in Part 11 of the Constitution.

28. Mr Tanjib-ul-Alam, the learned Advocate appearing on behalf of the Jagannath University

Authority, submits that it is an indisputable fact that the petitioners being members of the BCS (General Education) Cadre are persons in the service of the Republic and admittedly no discrimination has been meted out to them within their class and in that view of the matter, they have no case at all.

29. Mr Tanjib-ul-Alam further submits that every university is a class by itself and that being so, the Jagannath University is a class by itself and, as such, it does not stand comparison with other universities of the country and the impugned provisions of section 56 of the Act of 2005 can not be struck down with reference to other legislations.

30. Mr Tanjib-ul-Alam next submits that the petitioners have not been completely debarred from being appointed as teachers of the Jagannath University and the duly qualified ones having necessary experience may make applications for appointment to various posts and they may be appointed accordingly by the University Authority and such being the position, the embargo embodied in section 56(3) of the Act of 2005 is a qualified embargo, to all its intents and purposes and given this state of affairs, the petitioners have no genuine grievances there against.

31. Mr Tanjib-ul-Alam also submits that the classification is university-wise and, as such, the petitioners can not take any exception to the impugned provisions of the Act of 2005.

32. Mr Tanjib-ul-Alam next submits that the doctrine of legitimate expectation can not be called in aid against a statute (Act of 2005) and by that reason, the petitioners' reliance on that doctrine is misconceived.

33. Mr Tanjib-ul-Alam further submits that no vested right has accrued to the petitioners for automatic absorption in the service of the Jagannath University and, as such, the impugned provisions are intra vires the Constitution.

34. Mr Tanjib-ul-Alam next submits that there is a fundamental difference between a university and a college and a university is the highest seat of

learning and in that highest seat of learning, quality education is imparted and research work is carried on by highly qualified teachers and if there is a blanket provision for wholesale absorption of the petitioners in the service of the Jagannath University irrespective of their qualifications and experiences, the same will suffer and as a sequel to that, the standard of education and research will go down affecting the greater public interest.

35. Mr Tanjib-ul-Alam further submits that each Cadre of the BCS is a distinct and separate Cadre and the petitioners and others manning the BCS (General Education) Cadre are a class by themselves and no occasion has arisen to go for their wholesale absorption in the service of the Jagannath University simply on the score that they are the teachers of the now-defunct Jagannath College.

36. In support of the above submissions, Mr Tanjib-ul-Alam refers to the decisions in the cases of Shri Ram Krishna Dalmia vs Shri Justice SR Tendolkar. CDJ 1958 SC 21=1958 AIR (SC) 538; S Azeez Basha vs Union of India, CDJ 1967 SC 28=1968 AIR (SC) 662; J Pandurangarao etc vs The Andhra Pradesh Public Service Commission, Hyderabad, AIR 1963 SC 268 and Sheikh Abdus Sabur vs Returning Officer. District Education Officer-in-Charge, Gopalganj, 41 DLR (AD) 30.

37. Mr Rokanuddin Mahmud, another learned Advocate appearing on behalf of the Jagannath University Authority, argues that regard being had to the facts and circumstances of the case, the provisions of Article 29 of the Constitution can not be invoked in that admittedly there is no infringement of equality of opportunity for the petitioners in respect of employment or office in the service of the Republic.

38. Mr Rokanuddin Mahmud next argues that a university teacher is not a 'public servant' within the meaning of the Public Servants (Retirement) Act, 1974 and, as such, a public servant is not on a par with a university teacher and this distinguishing feature can not be disregarded in the least and as

every university is a class by itself, the Legislature has thought it prudent to enact the impugned provisions in order to safeguard the quality of the teachers of the Jagannath University.

39. Mr M Amir-ul-Islam, another learned Advocate appearing on behalf of the Jagannath University Authority, contends that the impugned provisions have not offended the equality clause of Article 27 of the Constitution in that it is a settled proposition that every university is a class by itself.

40. We have heard the submissions of Mr Abdul Wadud Bhuiyan, Mr AF Hassan Ariff, Mr Abdur Rab Chaudhury, Mr AJ Mohammad Ali and the counter-submissions of Mr Tanjib-ul-Alam, Mr Rokanuddin Mahmud and Mr M Amir-ul-Islam and perused the writ petitions, Affidavits-in-Opposition, Affidavit-in-Reply, Supplementary Affidavits, Supplementary Affidavit-in-Opposition and relevant Annexures annexed thereto.

41. It is the definite case of the petitioners that the impugned provisions of section 56 of the Act of 2005 are violative of Articles 27, 29 and 31 of the Constitution. It is a well-settled principle of law that there is a presumption of constitutionality in favour of the impugned provisions. Of course, that presumption is a rebuttable presumption. Now let us see whether the petitioners have succeeded in rebutting the presumption of constitutionality in favour of the impugned provisions to the satisfaction of this Court.

42. The impugned provisions embodied in section 56 (2) (chha) and (3) of the Act of 2005 are reproduced below for convenience of our discussion:

“৫৬(২) (ছ) বিলুপ্ত কলেজের অধ্যক্ষ ও উপাধ্যক্ষসহ অন্যান্য শিক্ষক, কর্মকর্তা ও কর্মচারী চাকুরী তাৎক্ষণিকভাবে শিক্ষা মন্ত্রণালয়ে ন্যস্ত হইবেঃ

তবে পুনরাদেশ দেওয়া পর্যন্ত তাঁহাদের শিক্ষা তাঁহাদের শিক্ষা জীবনের কোন স্তরে তৃতীয় শ্রেণী না থাকিলে অনধিক ৫ (পাঁচ) বৎসর পর্যন্ত তাঁহারা প্রেষণে বিশ্ববিদ্যালয়ে কর্মরত থাকিতে পারিবেন।

(৩) এই আইনের অন্যান্য ধারায় কিছুই থাকুক না কেন,

(ক) বিলুপ্ত কলেজের শিক্ষক ও কর্মকর্তাগণ স্বয়ংক্রিয়ভাবে

বিশ্ববিদ্যালয়ের শিক্ষক কিংবা কর্মকর্তা হিসাবে আন্তীভূত হইবেন না;

তবে তাহারা যোগ্যতা থাকা সাপেক্ষে তাহাদের বয়স শিথিল ও বেতন সংরক্ষণসহ বিশ্ববিদ্যালয়ের নিয়োগের জন্য প্রার্থী হইতে পারিবেন;

(খ) বিলুপ্ত কলেজের কর্মচারীগণ ইচ্ছা করিলে দীর্ঘমেয়াদি প্রেষণ কিংবা আত্মীকরণের মাধ্যমে বিশ্ববিদ্যালয়ের কর্মচারী হিসাবে বহাল থাকিতে পারিবেনঃতবে শর্ত থাকে যে, এইরূপ প্রেষণ কিংবা আত্মীকরণ পদ্ধতি বিশ্ববিদ্যালয়ের সংবিধি দ্বারা নির্ধারিত হইবে;

(গ) বিলুপ্ত কলেজের-

(অ) কোন শিক্ষকের শিক্ষা জীবনের কোন পর্যায়ে তৃতীয় শ্রেণী থাকিলে তিনি বিশ্ববিদ্যালয়ের শিক্ষকতা করিবার যোগ্য হইবেন না;

(আ) কোন শিক্ষকের স্নাতক বা স্নাতকোত্তর পর্যায়ে প্রথম শ্রেণী না থাকিলে তিনি বিশ্ববিদ্যালয়ে শিক্ষকতা করিবার যোগ্য হইবেন না;

তবে শর্ত থাকে যে, উপ-ধারা (২) (ছ) এ উল্লিখিত প্রেষণে নিয়োজিত শিক্ষকের ক্ষেত্রে ইহা প্রযোজ্য হইবে নাঃ

আরো শর্ত থাকে যে, কোন শিক্ষকের পিএইচডি, এমফিল বা অনুরূপ কোন ডিগ্রী থাকিলে তাহার ক্ষেত্রে এই বিধান প্রযোজ্য হইবে না।”

43. Article 27 of our Constitution provides that all citizens are equal before law and are entitled to equal protection of law. Sir Ivor Jennings in his “The Law and the Constitution” stated:

“Equality before the law means that among equals, the law should be equal and should be equally administered, that like should be treated alike”.

AV Dicey in his “Law of the Constitution” mentioned:

“Equality before the law does not mean absolute equality of men which is a physical impossibility, but the denial of any special privileges by reason of birth, creed or the like, in favour of any individual and also the equal subjection of all individuals and classes to the ordinary law of the land administered by the ordinary law Courts.”

44. In the “Limitations of Government Power” by Rotundy and others, the phrase “equal protection of the law” was described in the following manner:

“The equal protection clause guarantees that similar individuals will be dealt with in a similar manner by

the Government. It does not reject the Government’s ability to classify persons or draw lines in creation and application of laws, but it does guarantee that those classifications will not be based upon impermissible criteria or be arbitrarily used to burden a group of individuals. Such a classification does not violate the guarantee when it distinguishes persons as ‘dissimilar’ upon some permissible basis in order to advance the legitimate interest of society.”

In the case of Southern Rly Co. vs Greane, 216 US 400, Day-J observed:

“Equal protection of the law means subjection to equal laws, applying alike to all in the same situation.”

45. Chandrachud-J, in the case of Smt. Indira Gandhi vs Raj Narayan, AIR 1975 SC 2279 described his idea of equality in the following words: “All who are equal are equal in the eye of law, meaning thereby that it will not accord favoured treatment to persons within the same class.”

46. On consideration of the views expressed by these distinguished Judges and Authors as to the meaning of the phrase “equality before law and equal protection of law”, we do not think that we will be able to define this term in a better way. “Equality before law” is not to be interpreted in its absolute sense to hold that all persons are equal in all respects disregarding different conditions and circumstances in which they are placed or special qualities and characteristics which some of them may possess but which are lacking in others. The term “equal protection of law” is used to mean that all persons or things are not equal in all cases and that persons similarly situated should be treated alike. Equal protection is the guarantee that similar people will be dealt with in a similar way and that people of different circumstances will not be treated as if they were the same.

47. The Indian Supreme Court gave a new dimension to the equality clause when it delivered the judgment in EP Royappa vs f.Y (AIR 1974 SC555). In that judgment, Bhagwati J observed:

“The basic principle which, therefore, informs both Articles 14 and 16 is equality and inhibition against

discrimination. Now, what is the content and reach of this great equalizing principle? It is the founding faith, to use the words of Bose J. 'a way of life', and it must not be subjected to a narrow pedantic or lexicographic approach. We can not countenance any attempt to truncate its all-embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it can not be 'cribbed, cabined and confined' within traditional and doctrinaire limits. From a positivistic point of view, equality is antithetic to arbitrariness. In fact, equality and arbitrariness are sworn enemies; one belongs to the rule of law in a Republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to the political logic and constitutional law and is therefore violative of Article 14...."

48. The principle of equating discrimination with arbitrariness was affirmed by the Indian Supreme Court in a number of subsequent decisions such as *Maneka Gandhi vs India*, AIR 1978 SC 597; *Romano Shetty vs International Airport Authority*, AIR 1979 SC 1628; *Ajay Hashia vs Khalid Mujib*, AIR 1981 SC 487; *DS Nakara vs India*, AIR 1983 SC 130; *AL Kalra vs P and E Corporation of India*, AIR 1984 SC 1361 etc.

49. The expression 'intelligible differentia' or 'permissible criteria' has been interpreted in the landmark decision in the case of *Sheikh Abdus Sabur vs Returning Officer, District Education Officer-in-Charge, Gopalganj* reported in 41 DLR (AD) 30. Let us examine whether there are 'intelligible differentia' or 'permissible criteria' between the teachers of the Jagannath University and those of the BSMMU and the Technical Universities of the country.

50. Admittedly the petitioners are in the service of the Republic being members of the BCS (General Education) Cadre. They stand on the same footing with other members of the Cadre. From that angle, they are a class by themselves. It goes without saying that no discrimination has been meted out to them as members of the Cadre. As members of the Cadre, they are equal in the eye of law.

51. It also admitted that the petitioners are in the service of the Jagannath University on deputation as teachers of the now-defunct Jagannath College. In this context, the paramount question is whether a university is a class by itself. If the answer is in the positive, there will be one kind of legal position and if the answer is in the negative, there will be another kind of legal position. So the answer to this question is very vital for proper and effectual adjudication of the Rules issued in the writ petitions.

52. In the case of *Shri Ram Krishna Dalmia vs Shri Justice SR Tendolkar* reported in CDJ 1958 SC 021 = AIR 1958 SC 538, it was held:

"The provisions of Article 14 of the Constitution have come up for discussion before this Court in a number of cases, namely, *Chiranjit Lai Choudhuri vs Union of India* ([1950] SCR 869), *State of Bombay vs EN. Balsara* ([1951] SCR 682), *State of West Bengal vs Anwar Ali Sarkar* ([1952] SCR 284), *Kathi Baniing-Rawat vs State of Saurashtra* ([1952] SCR 433), *Lachmandas Kewalram Ahuja vs State of Bombay* ([1952] SCR 710), *Qasim Razvi vs the State of Hyderabad* ([1953] SCR 581) and *Habeeb Mohamad vs State of Hyderabad* 9 [1953] SCR 661). It is, therefore, not necessary to enter upon any lengthy discussion as to the meaning, scope and effect of the Article in question. It is now well-established that while Article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification, two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and, (ii) that differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification may be founded on different bases, namely, geographical, or according to objects or occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. It is also well established by the decisions of this Court that Article 14 condemns

discrimination not only by a substantive law but also by a law of procedure.”

53. The decision in Dalmia's case is virtually predicated upon that rendered in the case of Bttadhan Choudhury vs State of Bihar reported in [o1955] 1 SCR 1045.

54. In the case of S Azeez Basha vs Union of India reported in CDJ 1967 SC 028= AIR 1968 SC 662, it was held:

“The next Article of the Constitution on which reliance is placed is Article 14. Here again we are not able to appreciate what the discrimination is which has been brought about by the amendments of the 1965-Act. It seems that the charge of discrimination is based on the provisions of the Benaras Hindu University Act, which University is established by an Act of its own. We do not think that Article 14 requires that the provisions in every University Act must always be the same. Each University has problems of its own and it seems to us that it is for the Legislature to decide, what kind of constitution should be conferred on a particular university established by it. There can be no question of discrimination on the ground that some other University Acts provide for some different set up. Each university must be taken to be a class by itself and the Legislature has a right to make such provision for its constitution as it thinks fit subject always to the provisions of the Constitution. The mere fact that certain provisions in a statute creating one university are different from provisions in another statute creating another university can not mean that there is discrimination. It has been urged in this connection that other universities, such as, Delhi, Agra, Allahabad, Patna and Benaras, have certain elective element while the amendment of 1965 has done away with the elective element so far as the Aligarh University is concerned. We have already said that we are not concerned with the policy of the

45. Chandrachud-J, in the case of Smt. Indira Gandhi vs Raj Narayan, AIR 1975 SC 2279 described his idea of equality in the following words:

“All who are equal are equal in the eye of law, meaning thereby that it will not accord favoured treatment to persons within the same class.”

46. On consideration of the views expressed by these distinguished Judges and Authors as to the meaning of the phrase “equality before law and equal protection of law”, we do not think that we will be able to define this term in a better way. “Equality before law” is not to be interpreted in its absolute sense to hold that all persons are equal in all respects disregarding different conditions and circumstances in which they are placed or special qualities and characteristics which some of them may possess but which are lacking in others. The term “equal protection of law” is used to mean that all persons or things are not equal in all cases and that persons similarly situated should be treated alike. Equal protection is the guarantee that similar people will be dealt with in a similar way and that people of different circumstances will not be treated as if they were the same.

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same. Each University has problems of its own and it seems to us that it is for the Legislature to decide, what kind of constitution should be conferred on a particular university established by it. There can be no question of discrimination on the ground that some other University Acts provide for some different set up. Each university must be taken to be a class by itself and the Legislature has a right to make such provision for its constitution as it thinks fit subject always to the provisions of the Constitution. The mere fact that certain provisions in a statute creating one university are different from provisions in another statute creating another university can not mean that there is discrimination. It has been urged in this connection that other universities, such as, Delhi, Agra, Allahabad, Patna and Benaras, have certain elective element while the amendment of 1965 has done away with the elective element so far as the Aligarh University is concerned. We have already said that we are not concerned with the policy of the Legislature in enacting the 1965-Act; nor are we concerned with the merits of the provisions of the 1965-Act, All that we need say is that simply because there is no elective element in one university while there is such element in another university, it cannot be said that there is discrimination, for, as we have said already, each university is a class by itself and may require a different set-up according to the requirements and needs of a particular situation. We, therefore, see no force in the attack on the constitutionality of the 1965-Act on the ground that it is hit by Article 14 of the Constitution.” (underlining are ours)

55. In the case of J Pandurangarao etc. vs The Andhra Pradesh Public Service Commission, Hyderabad reported in AIR 1963 SC 268, it was held, amongst others, in paragraph 7:

“7.....It is well-settled that though Article 14 forbids class legislation, it does not forbid reasonable classifications for the purposes of legislation. When any impugned rule or statutory provision is assailed on the ground that it contravenes Article 14, its validity can be sustained if two tests are satisfied.

The first test is that the classification on which it is founded must be based on an intelligible differentia which distinguishes persons or things grouped together from others left out of the group; and the second is that the differentia in question must have a reasonable relation to the object sought to be achieved by the rule or statutory provision in question. As the decisions of this Court show, the classification on which the statutory provision may be founded may be referable to different considerations. It may be based on geographical considerations or it may have reference to objects or occupations or the like. In every case, there must be some nexus between the basis of the classification and the object intended to be achieved by the statute, vide *Ram Krishna Dalmia vs Justice SR Tendolkar*, 1959 SCR 279: (AIR 1958 SC 538).”

56. Both the petitioners and the contesting respondents have relied upon the decision in the case of *Sheikh Abdus Sabur vs Returning Officer, District Education Officer-in-Charge, Gopalganj* reported in 41DLR (AD) 30. In that decision, our Appellate Division has opined that there are ‘intelligible differentia’ or ‘permissible criteria’ between a Member of Parliament and a Member of a Local Government body; albeit both are elected representatives of the people.

57. In the case of *Bangladesh Retired Government Employees’ Welfare Association* represented by its President *Kafiluddin Mahmood vs Bangladesh* represented by the Secretary to the Ministry of Finance, Finance Division, Government of Bangladesh reported in 46 DLR 426, it was held in paragraph 38:

“38. It, therefore, appears that the equality clause does not necessarily mean that every law or governmental action must always have similar application to all persons irrespective of differences of circumstances and the principle does not take away from the Legislature or the Government the power of classifying persons for the purpose of the applicability of a law or governmental action provided the classification meets the twin tests of rationality and nexus with the object of legislation

or governmental action. The plain meaning of this clause is that for classification, two conditions must be fulfilled and the first of these conditions is that the classification must be founded on an intelligible differentia that distinguish the persons who are grouped together from others who are left out of the group and, secondly, that the differentia must have a rational relation or nexus with the object sought to be achieved by the legislative enactment or the governmental action in question.”

58. The ‘ratio’ enunciated in the case of Kerala Hotel and Restaurant Association vs State of Kerala reported in AIR 1990 SC913 is that it is settled that classification founded on intelligible differentia is permitted provided the classification made has a rational nexus with the object sought to be achieved.

59. Both Mr Abdul Wadud Bhuiyan and Mr AF Hassan Ariff have relied upon the decision in the case of the Director-General, NSI vs Md Sultan Ahmed reported in 1BLC (AD) 71. In that decision, the Appellate Division has deprecated double-standard on the part of the executive Government giving a benefit to a particular person and denying the same to another, although they are otherwise equal. In the facts and circumstances of the present case, this proposition has no applicability at all.

60. In the case of Hamidul Huq Chowdhury vs Bangladesh represented by the Secretary, Ministry of Information and Broadcasting, Government of the People’s Republic of Bangladesh reported in 34 DLR190, it has been held that in a welfare state, individuals have no absolute or unfettered right under Fundamental Rights. Right to equality under Article 27 of the Constitution does not confer absolute right under the Constitution. Various provisions embodied in the Constitution are to be interpreted so as to create harmony between the fundamental rights and the collective interests of the community. In respect of some ‘rights’, the Constitution itself has placed limitations. Equal protection under the Constitution means right to equal treatment in similar circumstances and that there should be no discrimination between one person and another if as regards the subject-matter, they stand on the same footing.

61. In particular, Mr Abdul Wadud Bhuiyan has relied on paragraph 33 of the decision in the case

of Bangladesh Agricultural Development Corporation represented by the Chairman, Krishi Bhaban, 49-50 Dilkusha Commercial Area, Dhaka vs Md Shamsul Haque Mazumder reported in 14 MLR (AD) 197. It was held in paragraph 33:

“33. In the instant case, the vires of 55(2) though challenged the High Court Division declined to declare the regulation as ultra vires as the High Court Division thought it prudent to dispose of the case otherwise than by striking down the regulation. The approach of the High Court Division is appreciated because when a case can be decided without striking down the law but giving the relief to the petitioners, that course is always better than striking down the law.”

62. Reverting to the case in hand, undeniably the petitioners have challenged the vires of section 56 (2) (chha) and (3) of the Act of 2005 and no action of the Jagannath University Authority has been challenged therein. From this point of view, the reliance of Mr Abdul Wadud Bhuiyan on paragraph 33 of the above-mentioned decision does not seem to be of any avail to him.

63. In the case of Jibendra Kishore Achary vs Province of East Pakistan reported in 9 DLR (1957) SC 21 relied on by Mr AF Hassan Ariff, it was held in paragraph 34:

“34. One of these propositions is that equal protection of the laws means that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes, in like circumstances, in their lives, liberty and property and in pursuit of happiness. Another generalization, more frequently stated, is that the guarantee of equal protection of the laws requires that all persons shall be treated alike, under like circumstances and conditions, both in the privileges conferred and in the liabilities imposed. In the application of these principles, however, it has always been recognized that classification of persons or things is in no way repugnant to the equality doctrine, provided the classification is not arbitrary or capricious, is natural and reasonable and bear a fair and substantial relation to the object of the legislation. It is not for

the Court, in such cases, it is said, to demand from the Legislature a scientific accuracy in the classification adopted. If the classification is relevant to the object of the Act, it must be upheld unless the relevancy is too remote or fanciful. A classification that proceeds on irrelevant consideration, such as differences in race, colour or religion, will certainly be rejected by the Courts.

64. In the case of Mohammad Hanif Quareshi vs State of Bihar, AIR 1958 SC 731 adverted to by Mr AF Hassan Ariff, it was held in paragraph 22: “22. The meaning, scope and effect of Article 14, which is the equal protection clause in our Constitution, has been explained by this Court in a series of decisions in cases beginning with *Chiranjitlal Choudhury vs The Union of India* A4ANU/SC/0009/1950: [1950] 1 SCR 869 and ending with the recent case of *Ram Krishna Dalmia vs Sri Justice SR Tendolkar* MANU/SC0024/1958:[1959] 1 SCR 279. It is now well-established that while Article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation and that in order to pass the test of permissible classification, two conditions must be fulfilled: namely, (i) the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (ii) such differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification, it has been held, may be founded on different bases, namely, geographical, or according to objects or occupations or the like and what is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. The pronouncements of this Court further establish, amongst other things, that there is always a presumption in favour of the constitutionality of an enactment and that the burden is upon him, who attacks it, to show that there has been a clear violation of the constitutional principles.”

65. From an overview of the above-mentioned decisions of various jurisdictions, it leaves no room for doubt that equality does not mean absolute equality

and classification is permissible upon “intelligible differentia’ or ‘permissible criteria’ and the basis of classification must have a nexus with the object of the statute sought to be achieved.

66. As already observed, admittedly the petitioners are the members of the BCS (General Education) Cadre. There is no discrimination among the members of that Cadre. It is the definite assertion on the part of the petitioners that after transformation of the Government Jagannath College into Jagannath University by virtue of the Act of 2005, they ought to have been absorbed in the service of the University as a matter of course. In this regard, both Mr Abdul Wadud Bhuiyan and Mr AF Hassan Ariff have emphatically relied upon the Bangabandhu Sheikh Mujib Medical University Act, 1998, Sher-e-Bangla Agricultural University Act, 2001, Dhaka Engineering and Technology University, Gazipur Act, 2003, Rajshahi Engineering and Technology University Act, 2003, Khulna Engineering and Technology University Act, 2003, Chittagong Engineering and Technology University Act, 2003 and Chittagong Veterinary and Animal Sciences University Act, 2006.

67. It has already been found in the case of *S Azeez Basha* (CDJ 1967 SC 28 = AIR 1968 SC 662) that every university is a class by itself. However, section 4(vi) of the Aligarh Muslim University Act, 1920 provides that subject to the provisions of the Act, every person employed immediately before its commencement in the Muhammadan Anglo-Oriental College, Aligarh shall hold employment in the university by the same tenure and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity as he would have held the same under the Muhammadan Anglo-Oriental College, Aligarh, as if this Act had not been passed.

68. According to Mr AF Hassan Ariff and Mr Abdul Wadud Bhuiyan, although it has been held in the case of *S Azeez Basha* that every university is a class by itself; but the fact remains that the teachers of the erstwhile Muhammadan Anglo Oriental College, Aligarh were automatically absorbed in the service of the Aligarh Muslim University by operation of

section 4(vi) of the Aligarh Muslim University Act, 1920. In their opinion, by this analogy, the teachers of the former Government Jagannath College should have been absorbed automatically in the service of the Jagannath University by operation of law (Act of 2005).

69. In this context, Mr Tanjib-ul Alam argues that the Muhammadan Anglo-Oriental College, Aligarh was a private college and the jobs of the teachers of that college were non-transferable and in this view of the matter, the teachers of the Muhammadan Anglo-Oriental College, Aligarh were absorbed automatically in the service of the Aligarh Muslim University by operation of law.

70. Having regard to the facts and circumstances of the instant case, we find a good deal of force in the above argument of Mr Tanjib-ul Alam. So we are of the opinion that the erstwhile Muhammadan Anglo-Oriental College, Aligarh does not stand comparison with the erstwhile Government Jagannath College, Dhaka.

71. Likewise, the jobs of the teachers of the now-defunct BITs were non-transferable and they were appointed only for those BITs. Since the BITs were transformed into Technical Universities at subsequent stages, the teachers of those BITs were automatically absorbed in the services of the newly-established Technical Universities by operation of the relevant laws. The teachers of the ex-Sher-e-Bangla Agricultural Institute are no exception as well.

72. By dint of enactment of the Chittagong Veterinary and Animal Sciences University Act, 2006, the Chittagong Veterinary College was dissolved and re-established as Chittagong Veterinary and Animal Sciences University, section 58(2) (S) of the said Act provides, inter alia, that the teachers of the dissolved Veterinary College will be absorbed, on certain terms and conditions, in the Veterinary University. The Said terms and conditions, amongst others, are that the teachers must have at least one first class degree at undergraduate or post-graduate level, or that they must hold a post-graduate diploma or M Phil or PhD

degree, and further that any person not fulfilling these requirements may nevertheless continue to serve as a teacher of the university subject to an undertaking that he will obtain a post-graduate diploma or M. Phil or Ph.D. degree within five years. So it is seen that the teachers of the erstwhile Chittagong Veterinary College are not to be absorbed in the service of the Chittagong Veterinary and Animal Sciences University automatically or as a matter of course. Their absorptions are hemmed in by certain conditions. In other words, there are no blanket provisions for their automatic absorption in the service of the said university.

73. The BSMMU is a specialized university. So it can not be compared with a general university like the Jagannath University. As every university is a class by itself, the relevant provisions for automatic absorption of the teachers of the ex-IPGMR in the service of the BSMMU in the Bangabandhu Sheikh Mujib Medical University Act, 1998 will not place the petitioners with them on the same footing. Therefore, the invocation of the relevant provisions for automatic absorption of the teachers of the ex-IPGMR in the said Medical University Act is of no help to the petitioners.

74. In the facts and circumstances of the case and in the light of the above discussions, we feel at one with the argument of Mr Tanjib-ul Alam that no vested right has accrued to the petitioners for their automatic absorption in the service of the Jagannath University.

75. There is undoubtedly a fundamental difference between a university teacher and a college teacher. All teachers can not form a class by them selves, Whether or not they are posted in General Universities or Technical Universities or in Colleges. According to the Public Servants (Retirement) Act, 1974, the petitioners would retire from service at the age of 57 years whereas as per Article 18 of the First Statute of the Jagannath University, the age of retirement of a teacher is 60 years, though his service may be extended up to 65 years in phases. It transpires that Mr Tanjib-ul Alam has rightly contended that all

teachers of all the educational institutions can not form a class by themselves owing to the 'intel-ligible differentia' or 'permissible criteria' between them.

76. We find substance in the argument of Mr Rakanuddin Mahmud that a university teacher is not a public servant within the meaning of the Public Servants (Retirement) Act, 1974 and, as such, a public servant is not on a par with a university teacher. The petitioners are, no doubt, public servants. As members of the BCS (General Education) Cadre, admittedly they have not been subjected to inequality because of the impugned provisions of section 56 of the Act of 2005. Secondly, as every university is a class by itself, the question of contravention of the equality clause of Article 27 of the Constitution does not arise at all, as rightly contended by Mr M Amir-UL-Islam.

Anyway, the preamble of the Act of 2005 is as follows:

“যেহেতু উচ্চশিক্ষার বিভিন্ন ক্ষেত্রে অগ্রসরমান বিশ্বের সাথে সঙ্গতি রক্ষা ও সমতা অর্জন এবং জাতীয় পর্যায়ে উচ্চশিক্ষা, গবেষণা আধুনিক জ্ঞানচর্চা ও পঠন-পাঠনের সুযোগ সৃষ্টি ও সম্প্রসারণের উদ্দেশ্যে সরকারী জগন্নাথ কলেজকে রূপান্তরপূর্বক উক্ত কলেজ ক্যাম্পাসে জগন্নাথ বিশ্ববিদ্যালয় নামে একটি বিশ্ববিদ্যালয় স্থাপন করা সমীচীন ও প্রয়োজনীয়.....”

77. Keeping this preamble of the Act of 2005 in view, it can be safely said that the Legislature has visualized the establishment of the Jagannath University as a centre of academic excellence and research work at the national level. Furthermore, to keep pace with the advanced world in different areas of higher education, the setting up of the Jagannath University has been found to be expedient and necessary. So this university should be manned by the best available teachers. Precisely speaking, we find a nexus between the preamble and the impugned provisions of section 56 of the Act of 2005. In addition to that, the 'intelligible differentia' in the said preamble can not be ignored. On top of that, the Jagannath University is a general university. In any event, the public interest far outweighs the personal interest of the petitioners vis-a-vis their claimed wholesale absorption in the

service of the Jagannath University. What we are driving at boils down to this: the public interest must have priority over the personal interest of the petitioners.

78. We have already held that as all the members of the BCS (General Education) Cadre are a class by themselves, no discriminatory treatment has been meted out to them within that class. Article 29(1) of the Constitution provides that there shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic. There is no gainsaying the fact that the petitioners are in the service of the Republic and that they are in the service of the Jagannath University on deputation for a fixed period. Equality of opportunity as postulated by Article 29(1) of the Constitution in respect of employment or office in the service of the Republic has not been affected or curtailed in any manner by the placement of the petitioners in the service of the Jagannath University on deputation. Accordingly, we are in agreement with the contention of Mr Rakanuddin Mahmud that Article 29(1) of the Constitution is not applicable to the petitioners.

79. We fail to understand the contention of the petitioners that they have not been treated in accordance with law as contemplated by Article 31 of the Constitution. As held earlier, their placement in the service of the Jagannath University on deputation does not confer any vested right on them to be automatically absorbed. Since there is no violation of any law as regards placement of the petitioners on deputation in the service of the Jagannath University, it can not be said by any stretch of imagination that they have not been dealt with in accordance with law. In such a posture of things, we are led to hold that the impugned provisions with regard to placement of the petitioners in the service of the Jagannath University on deputation have not offended Article 31 of the Constitution.

80. It is the view of this Court that the appointment process of the teachers of the Jagannath University, or for that matter, any university of the country should be open to all. In the impugned provisions, there is scope

for brilliant and meritorious members of the BCS (General Education) Cadre to apply for appointment to various scholastic posts of the Jagannath University. According to the impugned provisions, the qualified and experienced deputationists in the service of the Jagannath University are not debarred from participating in open competitions for appointment of teachers of the university. We fully endorse the submission of Mr Tanjib-ul-Alam that the embargo imposed by section 56 (3) of the Act of 2005 is virtually a qualified embargo, and not an absolute one and by that reason, the petitioners have no genuine grievances there against.

81. The impugned provisions indicate that those have been enacted to ensure imparting of quality education and carrying on of research work of high order by the talented teachers of the university. The competent teachers among the petitioners may qualify in the competitive examinations for appointment as teachers of the Jagannath University on regular basis. In this connection, Annexure-1 to the Supplementary Affidavit dated 10-8-2010 filed on behalf to the Jagannath University Authority unerringly shows that in the meantime, some deputationists like the petitioners have already been appointed to various scholastic posts of the Jagannath University on regular basis following the usual appointment process. The petitioners could have applied and got appointment in the similar fashion in the service of the university depending upon their statutory suitability and fitness. The petitioners, we feel constrained to say, chose not to apply for various scholastic posts of the Jagannath University at their own peril. The Jagannath University Authority can not be blamed therefor. However, options are always open to them to participate in the future appointment process of the teachers of the university. Such being the state of affairs, no exception can be taken to the impugned provisions of section 56 of the Act of 2005.

82. It transpires that the petitioners have taken a serious exception to the appointment of one SM Anwara Begum as Associate Professor in the department of political science. According to them, she has 2nd class at every stage of her academic

career for which she is unfit for appointment as such. But Mr Tanjib-ul-Alam says that the appointment of SM Anwara Begum as Associate Professor is very much in accordance with law in that she is a PhD degree-holder. However, the appointment of SM Anwara Begum is not under challenge in any of the writ petitions. So no observation or finding is necessary thereon.

83. According to Mr AF Hassan Ariff, there was mala fides or bad faith in respect of placement of the petitioners on deputation in the service of the Jagannath University for five years instead of absorbing them by operation of law. It is a truism that mala fides or bad faith vitiates everything and a mala fide act is a nullity. To render an action mala fide, "There must be existing definite evidence of bias and action which can not be attributed to be otherwise bona fide; actions not otherwise bona fide, however, by themselves would not amount to be mala fide unless the same is in accompaniment with some other factors which would depict a bad motive or intent on the part of the doer of the act" (Punjab vs Khanna, AIR 2001 SC 343).

84. Regard being had to the facts and circumstances of the case, it is manifestly clear that the placement of the petitioners in the service of the Jagannath University on deputation is a mere temporary or stop-gap arrangement. We do not find any mala fides or bad faith on the part of the Authority in placing them on deputation. In that view of the matter, the contention of Mr AF Hassan Ariff on this point stands negated.

85. Besides, no malafide intention is discernible in the matter of enactment of the impugned provisions of section 56 of the Act of 2005 so as to allegedly deprive the petitioners of their automatic absorption in the service of the Jagannath University.

86. In view of the aforesaid discussions, we find that there are distinguishing yardsticks between the ex-teachers of the Jagannath College and those of the IPGMR, Sher-e-Bangla Agricultural Institute and BITs and in this perspective, the non-absorption of the

petitioners in the service of the newly-established Jagannath University is neither unreasonable nor arbitrary nor illogical.

87. As the facts and circumstances of the present case are quite distinguishable, the decision in the case of *AKM Fazlul Karim vs Bangladesh* represented by the Secretary, Ministry of Law, Justice and Parliamentary Affairs, given in Writ Petition No. 2874 of 2008 has no manner of application.

88. The petitioners have relied upon the doctrine of legitimate expectation for their automatic absorption in the service of the Jagannath University. Now a pertinent question arises: what is meant by 'legitimate expectation'? A promise made in the shape of a statement of policy or a procedure regularly adopted by the authority may give rise to what is called 'legitimate expectation', that is, expectation of a kind which the Court now enforces. Legitimate expectation gives the applicant sufficient "locus standi" for judicial review. The doctrine operates in the domain of public law and in an appropriate case constitutes substantive as well as procedural rights. The statement or practice giving rise to the legitimate expectation must be sufficiently clear and unambiguous, and expressed or carried out in such a way as to show that it was intended to be binding.

89. In the case of the *Council of Civil Service Union vs Minister for the Civil Service* 1985 AC 374, the House of Lords observed:

"Legitimate or reasonable expectation may arise either from an express promise given on behalf of a public authority or from the existence of a regular practice which the claimant can reasonably expect to continue."

90. So it is our considered opinion that the legitimate expectation must stem from a promise in the shape of a statement of policy or a procedure regularly adopted by the authority. It seems that Mr Tanjib-ul Alam has rightly submitted that there can not be any legitimate expectation against a statute (the Act of 2005). Furthermore, as we have already held that

every university is a class by itself, the question of invocation of the doctrine of legitimate expectation does not arise at all. Against this backdrop, the submissions of Mr Abdul Wadud Bhuiyan, Mr AF Hassan Ariff and Mr Abdur Rab Chaudhury on the question of legitimate expectation falls to the ground.

91. It is an admitted fact that the Act of 2005 came into force on 20th October, 2005 by a Gazette Notification dated 27th September, 2005. This being the position, we are simply astounded by the submission of Mr Abdur Rab Chaudhury that the Act of 2005 has the effect of retrospectiveity. In this context, our clear observation is that the Act of 2005 was given prospective operation with effect from 20th October, 2005. So the above sub-mission of Mr Abdur Rab Chaudhury is devoid of any substance.

92. As to the contention of Mr Korunamoy Chakma that the writ petitions are incompetent in view of Article 47 of the Constitution, we find that the Legislature in the Act of 2005 does not expressly declare that the Act has been enacted to give effect to any of the Fundamental Principles of State Policy set out in Part-II of the Constitution. So the above contention of Mr Korunamoy Chakma is rejected out of hand.

93. From the foregoing discussions and having regard to the facts and circumstances of the case, the Jagannath University, as we see it, is a class by itself and that it has its own peculiar problems, difficulties and characteristics and in order to tackle the same, the impugned provisions of section 56(2)(chha) and (3) have been framed. As such, we hold that the impugned provisions not being violative of Articles 27, 29(1) and 31 of the Constitution are intra vires.

94. It is undisputed that the present Writ Petition is an admixture of Certiorari and Mandamus. In the case of *Talekhal Progressive Fishermen Co-operative Society Limited vs Bangladesh* reported in 7957 BID (AD) 103, it has been held that in order to entitle a person to ask for performance of a public duty by Mandamus, it is necessary to show that he has a legal right for claiming such performance, apart from the

fact that he is interested in the performance of the duty.

95. In the case of Hazerullah vs Assistant Commissioner, Board of Management of Abandoned Property reported in 55 DLR (AD) 15, the principle that has been enunciated is that one could only avail oneself of the forum by way of Mandamus for enforcement of any legal right or to redress the violation thereof.

96. In the case of the Queen vs Guardian of the Lewisham Union reported in (1897) 1 QB 498, it was held:

“This Court would be far exceeding its proper functions if it were to assume jurisdiction to enforce performance by public bodies of all their statutory duties without requiring clear evidence that a person who sought its interference had a legal right to insist upon its performance.”

97. From the foregoing discussions, there can not be any iota of doubt that in order to invoke the prerogative Writ of Mandamus, the petitioners must have a legal right for enforcement and the Jagannath University Authority must have a legal duty for performance. One of the components of the Rule issuing order dated 6-4-2009 is that the respondents were asked to show cause as to why they should not be directed to appoint and absorb the petitioners in the service of the Jagannath University. In the facts and circumstances of the case, we have no hesitation in holding that the petitioners have no legal right for automatic absorption in the service of the Jagannath University for enforcement and the Jagannath University Authority has no legal duty for performance to that effect. Such being the legal position, our definite conclusion is that the petitioners cannot enforce their claimed wholesale automatic absorption in the service of the Jagannath University through issuance of Writs of Mandamus.

98. Having regard to the facts and circumstances of the case and the discussions made here-in before, we find no merit in the Rules. The Rules, therefore, fail.

Accordingly, the Rules Nisi issued in Writ Petition Nos.

2252 of 2009, 8117 of 2005, 1222 of 2009 and 1182 of 2010 are discharged without any order as to costs.

Ed.

Source: Dhaka Law Reports (September 2016)

HIGH COURT DIVISION

Writ Petition No. 1073 of 2016

Md. Rezaul Hasan J

Kashefa Hussain J

Balayet Hossain (Md) Petitioner

vs

Secretary, Ministry of Water Resources and others Respondents

Judgment August 28th, 2016

Md Rezaul Hasan J : Let the supplementary affidavit filed do form part of the substantive petition

2. In this application, filed under Article 102(2)(i) and (ii) of the Constitution of the People's Republic of Bangladesh, a Rule Nisi has been issued, calling upon the respondents to show cause as to why the impugned order of punishment as contained in Memo No. পাউবো/শৃং/শা-৩/অভি/(ক)-০১/২০১৪ dated 17-8-2015 issued under the signature of the Respondent No. 5 dropping off petitioner to a lower stage in the concerned pay scale and to realize Taka 69,627.87 (Sixty Nine Thousand Six hundred twenty seven and Paisa Eighty Seven) from the petitioner as compensation (Annexure-E) should not be declared to have been done without lawful authority and is of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.

3. Facts leading to issuance of the Rule, in brief, are that a departmental proceeding was started against the petitioner in the year, 2014, on the allegation of corruption of Taka 3,48,46,290 for Rampal Tap Biddut Kendro, under supervision of Khulna Dredger Division. Thereafter the Respondent No. 5 framed charge against the petitioner through a letter contained in Memo No. 3120 পাউবো/শৃং/শা-৩/অভি (K) -01/2014, dated 25-8-2014, requiring explanation

from the petitioner. Accordingly the petitioner submitted a reply on 17-9-2014 as per provisions of the Service Rules of Bangladesh Water Development Board and Government (Discipline and Appeal) Rules 1985; that thereafter, the Respondent No. 5 through a letter contained in Memo dated 17-11-2014 appointed Mr Md Ismail Hossain, Chief Engineer, Comilia, as enquiry officer, to enquire into the allegations brought against the petitioner along with another 2 persons and he was directed to submit an inquiry report within 30 (thirty) days; that the Water Development Board its has own, Service Rules titled বাংলাদেশ পানি উন্নয়ন বোর্ড (কর্মকর্তা ও কর্মচারী) চাকুরী প্রবিধান মালা, ২০১৩, that the petitioner submitted written reply on 12-5-2015 explaining his conduct that however Mr Md Abdul Latif Miah being the enquiry officer, has violated the mandatory provisions of Rule-45 of said Probidhanmala, 2013, and submitted an enquiry report; that thereafter the Respondent No. 5, violating the mandatory provisions of the said rules 2013, has awarded punishment under বাংলাদেশ পানি উন্নয়ন বোর্ড (কর্মকর্তা ও কর্মচারী) চাকুরী প্রবিধান মালা, ২০১৩, এর প্রবিধান ৪৯ এর উপ প্রবিধান ৪১৯(১)(ক)(উ) dropping the petitioner to a lower stage in the concerned pay scale and also directed to realize Taka 69,627.87 from the petitioner, under the provisions of Rule 49(1)(L) (Av) of the said Probidhan, vide office order Memo No. ২০২ পাউবো/শৃং/শা-৩/অভি (ক)-০১/২০১৪-ফধবফ ১৭-৮-২০১৫; that the petitioner, being, aggrieved by and dissatisfied with the punishment order, had filed an appeal to the Respondent No. 2, which was received in the office of the Respondent No. 2. on 2-9-2015, and as per the service Rules, the Respondent No. 2 was under an obligation to dispose of the appeal within 60 days from the date of receiving the Memo of appeal, but most regretfully, the Respondent No. 2 has kept the appeal unheeded for long time and hence the appeal is deemed to have been rejected; that it is stated that the petitioner, on 13-1-2016, served a Notice upon the Respondents demanding justice and requested the Respondent No. 2 and other Respondents to do justice to the petitioner by withdrawing the punishment order and by disposing of the departmental appeal, dated 2-9-2016, of the petitioner, within 7 (seven) days from the date of receipt of the Notice, that they received the notice

on 1 8-1 -20 16, but the Respondents did not pay any heed to the said notice. It has been submitted that the whole procedure is defective and illegal and is contrary to the provisions of the said Rules. Therefore, the impugned punishment order dated 17-8-2015 is liable to be declared illegal and without lawful effect. Hence this writ petition has been filed and the instant Rule Nisi has been issued.

4. The respondent No. 2-6 filed an affidavit-in-opposition, and affidavit-in-reply to the supplementary affidavit.

5. In their Affidavit-in-opposition, the Respondent Nos. 2-6 have denied all material allegations made in the writ petition as well as stating their case in paragraph No. 8 of the affidavit-in-opposition and have concluded the same submitting that the rule has no merit and the same is liable to be discharged.

6. Learned Advocate Mr Khandker Mahbub Hossain appeared with Mr Md Humayun Kabir, Mr Ziaur Rahman and Mr Nasrin Hena, Advocates. He, having placed the petition, submits that in passing the impugned order of punishment contained in a Memo No. ২০২ পাউবো/শৃং/শা-৩/অভি (ক)-০১/২০১৪ dated 17-8-2015 (Anne-xure-E), the respondent did not follow the Service Rule namely, “বাংলাদেশ পানি উন্নয়ন বোর্ড (কর্মকর্তা ও কর্মচারী) চাকুরী প্রবিধানমালা, ২০১৩” (hereinafter referred to the Service Rules). He points out that two kinds of punishment were imposed upon the petitioner by the impugned order dated 17-8-2015 (Annexure-E), namely (1) petitioner was dropped off two lower stage in the concerned pay scale, which is a minor penalty, and (2) a decision was taken to realize Taka 69,627.87 (Sixty Nine Thousand Six hundred twenty seven and Paise Eighty Seven) as compensation, referring to service rule 49(1)(D), from salary of the petitioner, in 5 installments, and this amounts to a major penalty, as described in Rule 49(L)(Av). But, he continues, the procedure laid down in Rule 52 and Rule 54 were not followed in passing the impugned order, so far as it relates to awarding the major penalty. He specifically points out that in sub-rule (4) of Rule 52, it has been stipulated that the enquiry must be completed within the time specified by the authority. Whereas, sub-

rule (8) of Rule 54 stipulates that the Enquiry Officer shall not make any recommendation as regards the punishment to be imposed. But the enquiry officer did not follow the provisions of sub-Rule (8) of Rule 54 as it is evident from enquiry report submitted on 12-7-2015 (Annexure-D(I), in which he had made specific recommendation regarding penalty to be imposed. Similarly, the enquiry officer Mr Md Abdul Latif Mia has exceeded 30 days time limit fixed by the authority for completing the enquiry, vide Office order dated 6-4-2015 (Annexure-D), whereby he was appointed as the Enquiry Officer. He has made a delay of 57 days in submitting the enquiry report dated 12-7-2015 (Annexure-D 1) and, as such, the provision of sub-Rule (4) of Rule 52 and the provisions of sub-Rule (8) of Rule 54 has been violated by the Enquiry Officer. Hence the impugned order is liable to be declared to have been issued without lawful authority and is of no legal effect for violation of the mandatory provisions of sub-rules (4) and (8) of Rule 54. Therefore, the rule has merit and the same may be made absolute.

7. Learned Advocate Mr Md Abdul Hai appeared for Respondent Nos. 2-6. He submits that admittedly the petitioner has received the charge sheet dated 25-8-2014 (Annexure-A) to the writ petition in which same allegations were brought against the petitioner, as specifically stated in the charge sheet, giving him opportunity to show cause and also informed him that if he were willing to appear for personal hearing then he should mention the same in the written explanation. The authority has formed an enquiry committee as per provisions of the service rule and the petitioner has given the opportunity to defend himself. The enquiry officer found him guilty and submitted report on 12-7-2015. The enquiry report it shows that the enquiry officer did not make any recommendation, rather that he has given some explanation in the enquiry report, heads. He next submits that as per rule 52(4), the Enquiry Officer gets 10 days time, while he was given 30 days time to submit his report after completion of the enquiry. As such he gets total 40 days time for completing the enquiry. However, the provision of time limit is

not mandatory and on mere technical ground the petitioner cannot go escort free, he asserts. Besides, he continues, that the petitioner did not file any review application and that he has come before this court without observing the legal formalities. Therefore, he admits, that the rule has no merit and the same is liable to be discharged without cost.

8. We have heard the learned Advocates for both sides and perused the writ petition, supplementary affidavits, affidavit-in-opposition, affidavit-in-reply along with the documents annexed thereto.

9. Having perused the records, we find that admittedly a charge sheet was issued against the petitioner vide Annexure- A. We find that specific allegations were brought in the charge sheet and the petitioner was given 10 days time, to submit his reply, from the date of receiving the charge sheet. We also find from Annexure- A1 dated 17-9-2014 that the petitioner has submitted elaborate reply through the proper authority. It is also admitted that by an Office Order dated 17-9-2014 (Annexure-A-1) an one member enquiry committee was formed and a copy of the same was forwarded to the enquiry officer appointed thereby as well as to the writ petitioner. It is also evident from Annexure- D dated 6-4-2015 that the petitioner would appear before the enquiry officer, who would hold enquiry into the allegations brought and should submit his report. It further appears from Annexure- D(I) that the enquiry officer has submitted report on 12-7-2015 to the authority. The authority, having received the enquiry report, has issued a second show cause notice, vide Memo No. ১৬৭-পাউবো/শৃং/শা-৩/অভি/(ক)-০১/২০১৪ ফধঃবফ ২৬-৭-২০১৫ (Annexure-E) and the petitioner gave reply to the same. After considering all these matter the authority has issued the impugned Memo dated 17-8-2015, whereby the petitioner was imposed two penalties namely, (1) he was dropped off to a lower stage in the concerned pay scale, which is a minor penalty, and (2) a decision was taken to realize Taka 69,627.87 (Sixty Nine Thousand Six hundred twenty seven and Paisa Eighty Seven) from the petitioner as compensation, as per Rule 49(1)(K)(Av), from his

salary in 5 installments. This latter penalty is a major penalty as described in Rule 49(1)(L)(Av).

10. In the matter of departmental proceedings Rule 49, 51, 52, 53 of the Service Rule are relevant for our consideration.

11. Having considered the provisions of Rule 49, 51, 52, 53 and 54 of the Service Rules. We find that Rule 51 lays down the procedure to be followed in the matter of awarding minor penalty. Whereas, Rule 52 lays down the procedure to be followed in the case of awarding major penalty. Rule 54 lays down the procedure to be followed by the enquiry officer.

12. Having considered the aforesaid provisions of the Rules vis a vis the procedure followed in the case of the petitioner, as recorded hereinabove, we find that so far as the minor penalty is concerned i.e. dropping off to a lower stage in the concerned pay scale, as per Sub- clause (D) of Clause-(K) of Rule 49, we do not find any deviation in imposing the said penalty. The authority has followed of the procedure laid down in Rule 51 in imposing this penalty.

13. However, so far as the question of major penalty imposed by way of deduction of Taka 69,627.87 (Sixty Nine Thousand Six hundred twenty seven and Paisa Eighty Seven) from the petitioner's salary is concerned, we find that in the impugned office order, dated 17-8-2015, the authority did not consider the recommendation of the enquiry officer as alleged, rather they have assessed the reply to the first show cause notice as well as the reply to the second show cause notice. Nonetheless, the findings are based on an enquiry report dated 12-7-2015 (Annexure-D1) that has been submitted after a delay of about 57 days, although the Enquiry Officer was given 30 days time to submit the report, vide the office order dated 6-4-2015 (Annexure- D) to the writ petition, whereby he was appointed as the Enquiry Officer. With this 30 days time, he can count more 10 days time as per provisions of rule 52(4) of the Service Rule. But even after including 10+30= 40 days, the Enquiry Officer has committed delay of about 57 days in submitting the report.

14. The learned Advocate for the respondent Nos. 2-6 has frankly conceded that the delay was unintentional and that may be condoned in as much as petitioner has not shown how he was prejudiced for this delay.

15. We do not find any substance in the submission of the learned Advocate for the respondent Nos. 2-6 inasmuch as sub-rule (4) of Rule 52 has clearly stipulated that, “তদন্তকারী কর্মকর্তা বা, ক্ষেত্র বিশেষে, তদন্ত কমিটি তদন্তের আদেশ প্রদানের তারিখ হইতে ১০ (দশ) কার্যদিবসের মধ্যে তদন্তের কাজ আরম্ভ করিবে ও প্রবিধান ৫৪তে বর্ণিত পদ্ধতি অনুসারে তদন্ত পরিচালনা করিবে এবং কর্তৃপক্ষ কর্তৃক নির্ধারিত সময়ের মধ্যে কর্তৃপক্ষের নিকট তদন্ত প্রতিবেদন পেশ করিবে।” Sub-rule (2) of Rule 52 did not provide for extension of the time limit. In absence of any provisions for extension of time limit or condonation of delay, the time limit prescribed under sub-rule (2) of Rule 52 to complete the enquiry shall be taken as mandatory, otherwise an anomaly shall be ensued or there will always remain a likelihood of discrimination in condoning the delay in the case of one and refusing to condone the delay in the case of another. Besides, this will keep open an unfettered discretion in the hands of the authority to decide as to how many days delay they will condone or not.

16. Hence, we hold that the time prescribed in sub-rule (4) of Rule 54 is mandatory and the enquiry report dated 12-7-2015 was submitted in violation of the said rules and, therefore, the finding of the enquiry officer is not lawful so far as it relates to imposing the major penalty by way of deduction from the salary of the petitioner. For this reason, the impugned memo, based on this faulty enquiry report, so far as the imposition of major penalty by way of deducting Taka 69,627.87 from salary of the petitioner, is liable to be declared to have been issued without lawful authority and is of no legal effect. However, this judgment and order will not exonerate the petitioner from the charges and the authority shall be at liberty to form a new enquiry committee to hold a fresh enquiry, if so advised, for assessing afresh the charge sheet, the reply to the same, second show cause notice and the reply to the same, which are already in the record. The Enquiry Officer, if be appointed, shall then submit a fresh report for consideration of the authority, but

without making any recommendation of the enquiry officer as to what punishment shall be imposed.

17. Before parting of, we should also put on record that in this case, the question of interpretation of Service Rules has arisen. It is to be noted here that the service of persons is directly linked with his or her livelihood and the livelihood of his dependents. This has nexus with the fundamental rights guaranteed under Articles 32 and 40 of the Constitution of the Peoples Republic of Bangladesh. Therefore, the Service Rules and any other law or Rules that protects and preserves the fundamental rights of citizen shall be interpreted strictly. If any doubt arises in interpreting any statute or rules or any other documents that governs the terms and conditions of service or a profession etc and that may affect the fundamental rights, then the doubt shall be resolved in favour of the employee or the persons likely to be affected. Similarly, if two views are possible and both are equally reasonable, then the one favourable to the employee or the person likely to be affected shall be adopted. However, it shall not be confused with the degree of proof required to uphold an allegation made in the service matter. The degree of proof beyond reasonable doubt, as required in a criminal matter, is not applicable in service matter. In a disciplinary proceeding the standard of proof followed is “preponderance of probability”.

In view of the above recorded deliberation, we find merit, in part, in this rule.

Order

In the result, the Rule is made absolute in part.

The Memo No. পাউরো/শৃং/শা-৩/জীড/(ক)-০১/২০১৪ dated 17-8-2015 (Annexure-E) to the writ petition is declared to have been issued without lawful authority and is of no legal effect, so far as it relates to major punishment to realize Taka 69,627.87 (Sixty Nine Thousand Six hundred twenty seven and Paisa Eighty Seven) from the salary of the petitioner as compensation in 5 installments.

The minor penalty i.e. dropping off the petitioner to lower stage in the concerned pay scale shall remain as it is.

No order as to cost.
Ed.

Source: The Dhaka Law Reports (February 2017)

APPELLATE DIVISION

(Civil)

Civil Petition for Leave to Appeal No. 1676 of 2010
Surendra Kumar Sinha CJ
Syed Mahmud Hossain J
Hasan Foez Siddique J
Mirza Hussain Haider J
Bangladesh Beverage Industries
Limited.....
Petitioner
vs
Rawshan Aktar and others
.....Respondents

Syed Mahmud Hossain J : The civil petition for leave to appeal is directed against the impugned judgment and order dated 11-5-2010 passed by the High Court Division in First Appeal No. 96 of 2005 allowing the Appeal-in-part and modifying the judgment and decree dated 20-3-2005 passed by the learned Joint District Judge, Third Court, Dhaka in Money Suit No.03 of 1991 decreeing the suit.

2. The facts of Money Suit No.3 of 1991, in brief, are that the deceased Mozammel Hossain Montu, the News Reporter of “The Daily Songbad” met with a fatal accident on 3-12-1989 at 5-30 pm Plaintiff No. 1 is the wife and plaintiff Nos. 2 and 3 are two minor sons of the deceased. They filed the Money Suit claiming compensation to the tune of Taka 3,52,97,000 on the following heads:

1. Total of salary the deceased would have received within 13 years as the News Editor till his retirement amounting to Taka 19,07,008”
2. For pain and sufferings caused to the two minor sons of the amounting to Taka 2,00,00,000

3. Loss suffered by the wife amounting to Taka 1,00,00,000

4. Loss of gratuity which the deceased would have earned on his retirement amounting to Taka 32,40,000

5. Loss suffered by two minor sons for not enjoying the reputation of the deceased which he would have earned had he been alive amounting to Taka 50,000

6. Loss suffered by the wife, two minor sons and members of the deceased family amounting to Taka 1,00,000

7. Total claim of compensation amounting to Taka 3,52,97,000

3. In the plaint, it has been stated that deceased Mozammel Hossain Montu was born on 15-1-1945. He passed SSC examination in 1960 and thereafter, on completion of his academic career from the University of Dhaka, joined "The Daily Songbad" as the News Editor and in a short time he earned reputation. Deceased Mozammel Hossain Montu was not only a journalist but was also a dramatist and writer, who took literary work as profession and earned reputation as a political organizer. He was a broadcaster of the Bangladesh Betar and his different writings and stories as 'betar drama' were published and broadcast which earned him fame. He was also a writer of biography and he took interviews of different elites in radio. Besides, he participated in different kinds of self-composed poetry recitation and he also translated drama of famous poets/writers which were published and broadcast through the Bangladesh Betar. His different writings were published by the Bangla Academy, and different periodicals, monthlies and weeklies. He translated "Mother" of Maxim Gorky for the youth. And he translated 'Piece of Revolution' by Maxim Gorky. Besides, on the Mass Revolution of 1969, he published different dramas, of them, 'Jhoro Haa' and 'Fera' earned him fame. He took active part in the war of liberation as a freedom fighter.

4. On the date of occurrence, that is, on 3-12-1989 at about 5-30 pm while deceased Mozammel Hossain

Montu after purchasing cigarettes from Kamal Store, 36, Purana Paltan, was crossing the road in front of Ananda Bhaban, Shantinagar, a mini truck being No.Dhaka-6933, of the defendant-petitioner rushing from the wrong side i.e. from Jonaki Cinema Hall, (coming from eastern side) caused the fatal accident causing serious injuries to the victim Mozammel Hossain Montu, the husband of plaintiff No. 1 and the father of plaintiff Nos. 2 and 3. The husband of plaintiff No. 1 received injuries on the head, face and skull, which was totally broken. The husband of plaintiff No. 1 was taken to Dhaka Medical College Hospital where he succumbed to the injuries on 16-12-1989. The doctor opined that due to hemorrhage resulting from the aforesaid injuries on the head and face the victim died. The victim died at the age of about 44 years leaving behind 2 minor sons, (aged 9 and 5 years) wife, parents, brother and sister. The facts so far narrated including the occurrence of the accident are admitted but the manner of accident was not admitted.

5. The plaintiffs claimed that at the time of death, the deceased received salary of Taka 5968 per month and, as such, when he would have retired i.e. at the age of 57 years i.e. he would have served more than 13 years at "The Dainik Songbad" and the deceased definitely would have received increments in each year and, as such, at the time of retirement, the deceased would have received Taka 10,000 per month as salary. At the same time, he also would have earned some more money by subscribing articles in different papers, magazines, periodicals, weeklies etc. as such for 13 years, that is, up to 57 years, he would have received in all Taka 19,07,008. For untimely death of the deceased by the fatal accident, the two minor sons of the deceased are deprived of their father's affection and also care and nursing. In that way, the deceased could have brought up these two minor sons properly but the sudden death of their father deprived the said sons of such care and nursing and also put these two minor sons in difficult situation which almost jeopardized their prospect of education and proper bringing up which cannot be compensated by any means. On this account, for the two minor sons, the

plaintiffs claimed Taka 2,00,00,000. The plaintiffs also claimed for the untimely accidental death of the husband of plaintiff No. 1, which caused her sudden and untimely widow-ship and deprived her of all the care, protection, nursing and affection of her husband and the natural life and, as such, plaintiff No. 1 is being jolted for the rest of her life and, as such, plaintiff No. 1 suddenly faces struggle for food, homestead treatment and also other benefits which being heavenly cannot be compensated and on this score plaintiffs claimed Taka 1,00,00,000. The plaintiffs further claimed that the deceased was a renowned writer/novelist, poet, dramatist and a man of high status who used to write regularly in different periodicals and also published different books and earned Taka 15,000 per month and after retirement at the age of 57 years, he would have survived further 18 years, that is, up to 75 years and on this score, the plaintiffs claimed Taka 32,40,000. The plaintiffs also claimed that had the deceased been alive, then he would have become a renowned personality for which reputation the two minor sons would have been benefited and enjoyed his status and that having been shattered, the plaintiffs claimed Taka 50,000 on this score. The plaintiffs also claimed Taka 1.00.000 on behalf of the relatives who were suddenly shocked due to accidental death of the deceased.

6. This suit was filed on 1-1-1991. The suit was dismissed for default on 19-1-2001 and thereafter, it was restored. Defendant No.1-petitioner was made a party at the time of filing of the suit but there was a misdescription of the defendant. The description of defendant No.1-petitioner was corrected amendment of the plaint on 4-3-2003. Thereafter, defendant No. 1-petitioner filed written statement wherein it did not deny the accident. Defendant No. 1-petitioner in the written statement virtually challenged the claim of compensation as imaginary and without any legal basis. His case, in short, is that after giving advertisement and having been satisfied about his qualification and performance in the examination for recruitment, the petitioner appointed defendant No. 3 as the driver. Since his appointment, defendant No. 3 performed his duty sincerely and to the satisfaction of defendant-petitioner No. 1. It is the further case

of defendant-petitioner No. 1 that on the date of occurrence, that is, on 3-12-1989 at about 5-30 pm while the driver of the mini-truck with goods of the company was driving the same at a normal speed and going through the northern side of the road towards the east, that is, towards Jonaki Cinema Hall, then the accident took place in front of "Ananda Bhaban" when the victim suddenly jumped in front of the mini-truck from the middle island to the northern side of the road. In that place, there was no zebra crossing for passers-by to cross the road. The driver was driving the vehicle following all the traffic regulations. The injured person having been unmindful suddenly jumped from the island to the northern side of the road and crushed under the wheels of the mini-truck. It was not possible for the driver to avoid the accident. Defendant-petitioner No.1 for the said fatal accident of the journalist, Mozammel Hossain Montu grieved very much but the occurrence was totally an accident, for which, the driver was not at fault. Since the victim suddenly jumped, for which, he fell under the wheels of the mini-truck and, as such, it was not possible on part of the driver to avoid the accident. The suit is liable to be dismissed. The plaintiff-respondents made amendment of the plaint against which defendant No. 1 filed additional written statement on 14-9-2002.

7. The learned Joint District Judge, Third Court, Dhaka by judgment and order dated 10-3-2005 decreed the suit against defendant No. 1 petitioner awarding damages amounting to Taka 3,52,97,000.

8. Being aggrieved by the aforesaid judgment and decree passed by the trial Court, defendant No. 1 preferred First Appeal No.96 of 2005 before the High court Division. The learned Judges of the High Court Division by the impugned judgment and order dated 01.05.2010 allowed the appeal in-part awarding Taka 2,01,47,068 in favour of the plaintiffs-respondents.

9. Feeling aggrieved by and dissatisfied with the judgment and order passed by the High Court Division, the defendant No. 1 as the leave-petitioner has filed this civil petition for leave to appeal before this Division.

10. Mr Sheikh Fazle Noor Taposh, learned Advocate for the leave-petitioner, submits that the petitioner was substituted in the suit as a defendant by amendment of the plaint on 4-3-2003 after 12 years of the institution of the suit and, as such, the suit as regard the petitioner be deemed to have been instituted when it was so made a party and accordingly, the suit is barred by limitation. He further submits that the High Court Division erred in law in passing the impugned judgment and decree allowing the appeal in part and not holding that the learned Joint District Judge erred in law in failing to find out whether the employee was acting within the course of his employment before the employer will be held vicariously liable for his employee's tort and, as such, the impugned judgment and decree passed by the High Court Division is liable to be set aside.

11. Mr Khalilur Rahman, learned Advocate, appearing on behalf of the respondents, on the other hand, submits that there is no illegality in the impugned judgment and decree passed by the High Court Division in allowing the appeal in part and, as such, the leave petition is liable to be dismissed. He further submits that the defendant-petitioner having not denied the act of causing the fatal accident by reckless driving of the minitruck of the company and in the written statement the petitioner ratified the action of the driver and as such, the petitioner cannot avoid the liability from the payment of damages to the respondents to be estimated by this Court.

12. We have considered the submissions of the learned Advocates of both the sides, perused the impugned judgment and the materials on record.

13. The trial Court on consideration of the materials on record found that the suit was mauntainable. As refard the second issue, the plaintiffs with the evidence of PW 2, Nasim Ali, PW 3, Mostafa Kamal, PW 1 Rowshan Akther and PW 4 Nazma Ara Begum proved that on 3-12-1989 at 5-30 pm while crossing the road in front of Ananda Bhaban victim Mozammel Hossain Montu met with a fatal accident by the rashly driven mini-truck of the defendant-petitioner on the wrong side of the road i.e. from the side of

Zonaki Cinema Hall. Thus, the plaintiffs proved that the victim Mozammel Hossain Montu was not contributorily negligent while he was run over by the mini-truck recklessly driven by the driver of the defendant No. 1-petitioner through the wrong side of the road causing serious bodily injury to him which led to his death in the Hospital a few days after the occurrence. Therefore, issue No.2 was also decided by the trial court in favour of the plaintiffs. Since issue Nos. 3 and 4 are closely related to each other, these were taken up together for avoiding repetition. The trial court on the basis of the evidence found that the plaintiffs had been able to prove that on 3-12-1989 at 5-30 pm the victim journalist Mozammel Hossain Montu met with fatal accident when the driver of the defendant-petitioner recklessly drove the mini-track in the course of his employment causing serious injury to the victim which led to his death in the Hospital on 16-12-1989. The driver of the defendant was driving the vehicle negligently, recklessly and in violation of law. The plaintiffs proved that the wife of the victim, plaintiff No. 1 and two sons of the victim, plaintiff Nos. 2 and 3 suffered a lot for the death of the victim. The wife was deprived of love, affection, and care of her husband and the two minor sons were also deprived of love affection, proper care and up-bringing by their father because of his untimely death. Since defendant No.3, the driver of the mini-truck, negligently drove the mini-truck while he acting within the course of his employment causing fatal injury and thereby defendant No. 1 being the employer of the defendant No. 3 is vicariously liable for his negligence and reckless driving causing fatal Injury to the victim Mozammel Hossain Montu which led to his death a few days after the occurrence in the hospital. Accordingly, the trial court awarded a decree of Taka 3,52,97,000 as compensation in favour of the plaintiff-respondents.

14. In the instant case the High Court Division rightly noted the claim of the plaintiffs as stated below:

"The plaintiffs claimed that at the time of death, deceased received salary at Taka 5,968 as such, when he would retire i.e. at the age of 57 years i.e. he would serve more than 13 years at Dainik Songbad

and deceased definitely received increments in each year, as such, at the time of retirement, deceased would get Taka 10,000 per month as salary. At the same time he also earned some more money by subscribing articles in different papers, magazines, periodicals, weeklies etc as such for 13 years i.e. up to 57 years, he would get in all Taka 19,07,008. For the untimely death of the deceased by that fatal accident, the two minor sons of the deceased were deprived of their father's affection and also care and nursing. In that way he could have built these two minor sons either to become a doctor or engineer but the sudden death of their father deprived the said sons of such care and nursing and also put these two minor sons in deep trouble which almost jeopardized their education, which cannot be compensated by any means. On this account for the two minor sons, plaintiffs claimed Taka 2,00,00,000. Plaintiffs also claimed for the untimely accidental death of the husband of plaintiff No. 1 which caused her sudden and untimely widow-ship and deprived her of all the care, protection, nursing and affection of her husband and the natural life of the plaintiff No. 1 being jolted for the rest of the life as such, plaintiff No. 1 suddenly faced struggle for food, homestead, treatment and also other benefit which being heavenly cannot be compensated, on this score plaintiffs claimed Taka 1,00,00,000. The plaintiffs further claimed that deceased was a renowned writer/novelist, poet, dramatist and man of high status and was continuing writing in different periodicals and also published different books and earned Taka 15,000 per month as such, after retirement at the age of 57 years, he would survive further 18 years i.e. up to 75 years and on this score, plaintiffs claimed Taka 32,40,000. Plaintiff also claimed that had the deceased been alive, then he would have been a renowned personality which reputation the minor two sons would have used as personality of the nation and that having been shattered, plaintiffs claimed Taka 50,000 on this score. The plaintiffs also claimed Taka 1,00,000 on behalf of the relatives who were suddenly shocked due to accidental death of the deceased."

15. The High Court Division having relied on the decision of the cases of N Sivammal vs The Managing

Director, Pandian Roadways Corpn, AIR 1985 (SC) 106 and Sri Manamath Nath Kuri vs Mvi Md Mokhlesur Rahman, 22 DLR (SC) 51 held that the respondents are entitled to compensation for continuous pain and suffering under item Nos. 2 and 3 of their claim. Accordingly, the High Court Division rightly held that the court must give compensation for the damages sustained in respect of claim No. 2 and 3 only in lump sum and not on calculation.

16. In the instant case the plaintiffs-respondents by adducing evidence proved that the accident was caused by the driver of the petitioner running the mini-truck recklessly and negligently from the wrong direction i.e. from the wrong side of the road. Md Aminul Islam, vehicle Engineer of the petitioner company as DW 1 denied this fact in cross-examination.

17. In the instant case the High Court Division found that the accident occurred when the driver of the petitioner company negligently drove the mini-truck from a wrong direction i.e. from the side of the Jonaki Hall, which has been proved by the plaintiffs-respondents by examining witnesses, namely, PW 1 to PW 3. The defendant-petitioner could not prove by adducing evidence that the victim was contributorily negligent in causing the accident in the road by suddenly jumping from the island situated in the Middle of the road to the north side of the road in front of the mini-truck. The defendant-petitioner also could not prove that DW 1 was an eye witness of the occurrence. The High Court Division found that one Md Aminul Islam, a vehicle Engineer of the appellant company examined as DW 1 was not an eyewitness of the occurrence. DW 1 in cross-examination stated that he was not present at the time of the accident and whatever he stated is hearsay. The High Court Division found that the petitioner could not prove that the driver was not negligent and the accident occurred due to the fault of the deceased who was said to have crossed the road unmindfully and met with the accident. It has been found by the High Court Division that "the driver was alone in the vehicle and no assistance was provided by the appellant to control the driver which is a normal practice that

while any vehicle containing goods of a company was sent from the office of the company for giving delivery or otherwise to the agent, employee of the higher rank used to accompany the driver and this second man was required not only for making account of the delivery of goods but also for controlling the driver from driving rashly". Accordingly, the High Court Division rightly found that the petitioner was vicariously liable for the fault of the driver, defendant No. 3, and if any decree be passed that can be executable against defendant No.1 petitioner.

18. As regard UK, question of limitation the High Court Division found that suit was filed on 1-1-1991 and the accident took place on 3-12-1989. Admittedly, the Court was on vacation from the 1st of December to 31st December, 1989. Section 4 of the Limitation Act provides that when the court is closed and the period of limitation expires within the period in which the subordinate Court is closed, the suit, application or appeal may be instituted, preferred or made on the day in which the court re-opens. In the case of Nur Muhammad vs Sachul PLD 1957 (WP) Karachi 843 the period for limitation for preparing appeal expired during the long vacation. The office of the High Court Division was open but petition of appeal was not preferred during the vacation. In fact the petition of appeal was presented on the day the court re-opened. The ninety days' period of limitation prescribed for an application under article 177 of the Limitation Act for bringing on record legal representatives of deceased respondent, in accordance with rule 4 of Order XXII of the Code of Civil Procedure expired during the summer vacation when the court was closed for civil business but the office was open to receive petition from such persons as may choose to present them and the application was presented to the court when it re-opened. The High Court held that the application was within time.

19. In the case of Rasul Boksh vs Ghulam Qadir PLD 1960 (WP) Karachi 74, the High Court held that where no civil judicial work, except of an urgent nature, is conducted during the vacation, section 4 of the Limitation Act, 1908 would apply, with the result that

when in any appeal or suit, the period of limitation expires during vacation, the matter would be within time if instituted on the first day of reopening of the Court after the vacation. In the instant case the limitation expired on 3-12-1990. the last date of filing the suit having fallen during the vacation of the court and, as such, filing of the suit on 1st January of 1991 i.e. on the re-opening day was perfectly within the period of limitation. Therefore, there is no merit in the submission of the learned Advocate for the petitioner that the suit is barred by limitation.

20. In the instant case the plaintiffs-respondents all along claimed the compensation in their plaint dated 1-1-1991 against the "Bangladesh Beverage Companies Ltd." company for the wrong caused by its driver which would be clear from paragraph 12 of the said plaint, though due to bona fide mistake on the part of the filing Advocate there was a misdescription of the defendant No. 1 in the cause title of the plaint which reads as follows:

"1. General Manager Bangladesh Beverage Company Ltd, (Pepsi Cola). 288/290, Tejgaon, Industrial Area, District-Dhaka.

21. In the written statement filed on 10-5-1997 defendant No. 1 and its General Manager admitted the name of the defendant as mis-description in the cause title of the plaint and had given written statements stating correctly the name of the defendant as "Bangladesh Beverage Company Ltd. (Pepsi Cola) represented by its Managing Director of 288/290, Tejgaon Industrial Area, PS Tejgaon, District Dhaka." It appears that an application for amendment of the plaint on behalf of the plaintiff was filed on 4-3-2003 for correcting the said misdescription of the party (defendant) without amending the contents thereof and the said application was allowed under Order I, rule 10 read with Order VI, rule 17 of the Code of Civil Procedure vide order No.21 dated 4-3-2003. Here by amendment defendant No.1 was not substituted/impleaded in the plaint; rather wrong description of the party (defendant) was corrected. In this context we may profitably refer to the following

cases. In the case of *Monohar Lai vs NBM Supply, Gurgaon* AIR 1969 SC 1267 the description of the plaintiff was by a firm name in a case where the Code of Civil Procedure did not permit a suit to be brought in the firm name should properly be considered as a case of description of the individual partners of the business and, as such, a misdescription, which in law can be corrected. It should not be considered to amount to a description of a non-existent person. The Supreme Court of India observed: "Since the name in which the action was instituted was merely a misdescription of the original plaintiff, no question of limitation arises, the plaint must be deemed on amendment to have been instituted in the name of the real plaintiff on the date on which it was originally instituted."

22. In the case of *Radha Krishan Jogani Agarwalla vs Dwarka Das Agarwalla* reported in 36 DLR (AD) (1984) 253 Fazle Munim CJ: observed: "As regards when the Court will exercise the discretion conferred upon it by the provisions of the Order VI, rule 17, CPC the Judicial Committee of the Privy Council had the occasion to consider the limits on the Court's powers to amend in the case of *Ma Shwe Mya vs Maung Mo Hnaung*, AIR 922 (PC) 249 corresponding to ILR 48 Cal. 532."

23. The relevant passage is as follows:

"All rules of Court are nothing but provisions intended to secure the proper administration of justice, and it is therefore essential that they should be made to serve and be subordinate to that purpose, so that full powers of amendment must be enjoyed and should always be liberally exercised, but nonetheless no power has yet been given to enable one distinct cause of action to be substituted for another, nor to change by means of amendment the subject matter of the suit."

12.....

13. In the case of *Golam Hafez Mia, vs Khadem All Meah*, 29 DLR SC 311, this Court while considering whether the High Court Division was justified in refusing the plaintiff appellant's prayer for

amendment of the plaint placed reliance on *Keramat Ali vs Muhammad Yunus*, 15 DLR (SC) 120 and observed that it is the consistent view of judicial authorities that amendments of the pleadings are allowed, even when a legal right had accrued to the other party, if special circumstances of the case outweigh such consideration and held as under:

"In exercising this power, the Court would no doubt, be reluctant to allow such an amendment, which would have the effect of totally altering nature of the suit, or take away a valuable right accrued by lapse of time, but where in the circumstances of the particular case, it would be plainly inequitable to refuse such a relief, the court will not hesitate to act."

24. In the case of *Nurun Nahar vs Fazlur Rahman* 1979 BSCR 135, the Appellate Division held that the question of limitation may arise in two ways. Where the claim to be included by amendment was barred on the date of the institution of the suit, the amendment cannot be allowed, but if the claim is barred only on the date and the amendment is prayed for, the amendment may be allowed if the conditions for allowing the amendment are fulfilled. In this case the court further held that it is well recognized principle that once an amendment of the plaint is allowed, the amendment will relate back to the date of the institution of the suit.

25. In the instant case though the petitioner was impleaded as defendant No. 1 at the time of filing of the suit yet there was a misdescription of the name of defendant No. 1-petitioner. However, on 4-3-2003 by an application filed under Order 1 Rule 10 of the Code of Civil Procedure read with Order VI, rule 17 of the Code the misdescription of the name of defendant No. 1 was corrected by amendment of the plaint. It is well established that there is no period fixed for addition of party and also for amendment of the pleadings as it can be done at any point of time during continuation of the suit as well as appeal and while addition was made and plaint was amended it relates back to the date of institution of the suit and, as such, plea of limitation as raised by the petitioner is not sustainable. Moreover, defendant No. 1 petitioner

did not challenge the order dated 4-3-2003 in any forum. Defendant No. 1-petitioner only contested the suit and filed written statement on 2-9-2003 and adduced evidence in support of the case made out in the written statement but nowhere this defendant-petitioner challenged the order of correction of the misdescription nor challenged this as substitution of its name as a new defendant in the suit.

26. Even if Bangladesh Beverage Industries Limited was not made as defendant in the suit, the Court could have passed a decree against Bangladesh Beverage Industries Limited as its General Manager was defendant from the very date of filing of the suit. A decree passed against the General Manager is also binding on the company as the name of Bangladesh Beverage Industries Limited was also mentioned with him. What is important to mention here is that technicalities should not stand on the way of dispensation of justice. Therefore, it could not be said that since the company was not made party to the suit, the plaintiffs were not entitled to the decree as prayed for.

27. The High Court Division found that the appellant accepted claim Nos. 1 and 4 candidly. At the time of death the deceased received salary of Taka 5,968 per month. On perusal of the service book of the victim (Ext.I-kha) it appears that if the victim Mozammel Hossain Montu had lived further 13 years up to his retirement then what would have been his monthly salary together with house rent and other allowances have to be calculated by proper accountancy based on service book and other papers relating to service condition. Had the deceased been alive till retirement then he would have been in service for 13 years and would have received increments in each year and have drawn salary of Taka 10,000 per month and he would have received till his retirement total amount of salary amounting to Taka 19,07,008 and for retirement benefit he would have received Taka 32,40,000. Relying on the decision of the case of Sirajul Islam Chowdhury vs Joyal Abedin reported in 49 DLR (AD) 164 the High Court Division rightly held that these two claims are calculable one. In that view of the matter High Court Division rightly observed:

“the claim of compensation of these two items as we see, are not without any material and we find, these two claims are calculable. Since it is calculable we are of the view that the decree passed on these two claims/items is maintainable.” As regards claim Nos. 2 and 3 the High Court Division found that these claims were for pain and suffering and loss for untimely death of the deceased at the hand of the defendant No.1 petitionr. For the untimely death of the deceased, father of two minor sons and husband of the wife, a lump sum amount of Taka 3 crores have been claimed by the plaintiffs-respondents. The High Court Division having relied on the decisions of cases of the Apex Court of the Sub-continent, namely, PS Bhatnagar vs State of Punjab, AIR 1978, Punjab and Haryana-166, N Sivammal vs The Managing Director, Pandian Roadways Corpn, AIR 1985 (SC) 106 and Sri Manmath Nath Kvri vs Mvi. Md Mokhlesur Rahman, 22 DLR (SC) 51 held that plaintiffs-respondents are entitled to compensation under item Nos. 2 and 3. In that view of the matter the High Court Division having referred to the case of N Rakshit vs Bhadreswar Municipality, 73 CWN 88, opined that the Judges are empowered to create new tort and that the pain, agony, anguish, suffering and loss of expectation of life as claimed in item Nos. 2 and 3 are tortious liability and for which monetary compensation can be awarded.

28. In the instant case the plaintiffs-respondents as the dependants of the victim suffered general damages and special damages. General damages flow from the kind of harm and loss which naturally and normally follows from the wrong and which does not need to be specifically pleaded and proved, as in cases of personal injuries and pain and suffering, loss of limbs and loss of expectation of life. Special damages flow from such kind of loss as will not be legally presumed to have followed from the defendant's wrongful act, but which must be specifically pleaded and be strictly proved. Special damage can be defined as pecuniary loss actually suffered up to the date of trial e.g. loss of earning etc. The general damages are then the other heads of loss, e.g. pain and suffering, loss of expectation, and future pecuniary loss. So far as the actual or prospective pecuniary loss is concerned the amount

of compensation can be assessed with a degree of accuracy. The principle of fair and reasonable compensation is more appropriate to non-pecuniary heads of damage such as pain and suffering. It has been well established that pain and suffering is a head of damage for which monetary compensation can be awarded. But in the instant case pain, anguish and suffering of the sons and wife, for the death of deceased is not calculable.

29. There is no known method of calculating the money value of these sufferings and also expectation of life. Calculation can be made when the damage is calculable but there is certain phenomenon in human life which is beyond calculation. It is not denied, in the instant case that deceased met untimely with death in the hands of the driver of the petitioner and pain, suffering, privation and destitution of the surviving family members will continue till their death. In the case of *PS Bhatnagar vs State of Punjab*, AIR 1978. PS 166, it has been held that there can be no gain saying that money cannot renew a shattered human frame. Still the law has said that pain and suffering is a head of damage for which monetary compensation can be awarded so the court must do the best it can to be of assistance to it. The Supreme of India in the case of *N. Sivajmnaal vs The Managing Director, Pandian Roadways Corpn.*, AIR 1985 (SC) 106, held that the plaintiffs are entitled to compensation to continuous pain and suffering. In the case of *Sri Manmath Nath Kuri vs Mvi. Md Mokhesur Rahman* 22 DLR (SC) 51, it has been held that the words appearing in section 1 of the Fatal Accident Act, 1853 "is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof do not restrict the claim of the dependants to such damages which the deceased himself might claim had he been alive, but mean that the dependants can maintain a claim if the act that caused the death is of a tortious nature. These words referred to the "wrongful act, neglect or default and all that these words in the first paragraph of section 1 the Fatal Accidents Act mean is that if the act by which the death is caused is of such a tortious nature that if the deceased would have been alive, he would have been entitled to recover damages in torts from

the wrong doer then the dependants would in the case of his death be able to maintain the action. They do not mean that the wife, husband, the parent or child, if any, of the deceased is restricted to claiming only such damages or such loss to which the deceased himself would have been entitled if he had been alive. In the case reported in 22 DLR (SC) 51 at page 58 Hamoodur Rahman, CJ observed: "26 Assessment of damages in such a case must, therefore, necessarily be to some extent of a rough and approximate nature based more or less on guess work, for, it may will be impossible to accurately determine the loss which has been sustained by the death of a husband, wife, parent or child.

27-No definite or hard and fast rule can, as such be laid down as to the matters which should be taken into account. But this much can be said that only such damages can be given as can be shown to have been financially suffered by those who bring the action. In estimating such damages the Court will, no doubt, take into account the age of the deceased, his or her health, earning capacity and even the chances of advancement. There must, however, be evidence of "reasonable expectation of pecuniary advantage" and not of a "mere speculative possibility". Thus parents may recover for the loss of the probability that the deceased child would have contributed towards their maintenance and children may recover for the loss of education, comfort and position in society which they would have enjoyed if the father had lived and maintained the income which had died with him. The basis of the assessment is not the requirement of plaintiff but the money value of the assistance which the deceased might probably have given had he continued to live."

30. In the instant case the High Court Division having considered the material evidence on record was of the view that plaintiffs-respondents are entitled to the compensation under claim Nos. 2 and 3. The High Court Division observed that pain, agony, suffering and loss of expectation of life as claimed in item Nos. 2 and 3 are tortious and can be awarded. The High Court Division rightly observed that in respect of claim Nos. 2 and 3 affection, pain, suffering, mental

agony, physical incapability and emotion are not calculable and if the court is satisfied that plaintiff is entitled to any compensation that can be only in lump sum and not on calculation. The High Court Division held that there is no subjective value in giving compensation on these two claims and it is the court which has to decide the compensation in lump as such. Accordingly, the High Court Division rightly underlined the standard for estimating the amount of damages as staged below:

“It has already seen that there is no subjective value in giving compensation on these two claims i.e. item Nos. 2 and 3 and it is the court who will decide the compensation in lump as such. It needs to be emphasized that the standard for estimating the amount of damages in case of actionable negligence resulting in death must not be a subjective standard but an objective one and regard in this behalf is to be had to the earnings of the deceased at the time of his death, his future prospects, his life expectancy, the amount he would have spent on himself and on the support of his dependants, the economic condition of the country, the property left by him and the like. On this count ends of justice would be met if we award compensation to the tune of Taka 1,50,00,000 on these two claims/items. This money on the fact of the given case, according to us is not unreasonable but good.”

31. The High Court Division while allowing the appeal-in part awarded the decree of Taka 2,01,47,008 as compensation which reads as under:

i) For item No. 1 Tk.	19,07,008
ii) For item No. 2 and 3 Tk.	1,20,00,000
iii) For item No. 4 Tk.	32,40,000
Total	: Tk. 2,01,47,008

32. The plaintiff-respondents proved that the victim Mozammel Hossain Montu was the only earning member of the family who used to receive salary of Taka 5,968 per month as a journalist of the Daily Songbad and he used to write articles, poetry and

scripts for play in the theatre and also earned Taka 5,000 (Five thousand) per month approximately. The victim died at the age of 44 years and he would have served in the news paper industry as a journalist till he attains the age of 57 years. The victim would have received increments in each year and, as such, at the time of retirement the victim would have received Tk. 10,000 per month as salary. He would have earned more money by subscribing articles in different papers, magazines, periodicals and weeklies as such for 13 years. He would have received in all Taka 19,07,008 as the total salary as News Editor till his retirement.

33. Moreover, it was also proved by the plaintiffs-respondents that the victim would have rendered services to the plaintiffs i.e. two sons aged 9 and 5 years and the wife by providing financial assistance to them, who are the dependents of the victim. The trial court awarded compensation in item No. 2 amounting to Taka 2,00,00,000 (two crores) and in item No. 3 amounting to Taka 1,00,00,000 (one crore) but on appeal the High Court Division allowed the appeal in part granting Taka 1,00,00,000 (one crore) in item No. 2 and Taka 50,00,000 (fifty lacs) in item No. 3. It is the consistent view of the apex courts of the Sub-Continent and also of the courts of the United Kingdom that assessment of damages in such cases necessarily be to some extent of rough and approximate nature based more or less on guess work because it would be impossible to accurately determine the loss which has been sustained by the death of the victim who happened to be the husband and the father of the plaintiffs. It has also been observed in the decision reported in 22 DLR (SC) 51 at page 59 that although no rule of mathematical calculation can be adopted in every case yet it is the duty of the plaintiff to adduce some evidence to afford the court a reasonable basis for the ascertainment of the damages suffered. The Supreme Court of Pakistan in the decision reported in 22 DLR (SC) 51 held that merely because some element of guess work has been introduced in the calculation it cannot be said that there has been any departure from the principles laid down in the decided cases for determining the quantum of damages in such cases. In the instant

case we do not find any illegality in granting damage in item No. 1 to the tune of Taka 19,07,008 and in item No. 4 to the tune of Taka 32,40,000 by the High Court Division. As regards the amount of damages granted by the High Court Division in item Nos. 2 and 3 to the tune of Taka 1,50,00,000 [One crore fifty lacs] only we are of the view that there is no illegality in granting damages in item Nos. 1 and 3 but we find it difficult to agree with the amount of damages granted by the High Court Division because the wife working as an Associate Professor has been earning a remuneration which is relevant to meet the loss she would suffer and accordingly, her remuneration has to be adjusted in the assessment of damage under item No. 3. We have already noticed that assessment of damages in such a case must necessarily be to some extent of a rough and approximate nature based more or less on guess work, Considering the facts and circumstances of the case we are of the view that ends of justice would be best served if the damages granted in item Nos. 2 and 3 of their claim be reduced to the tune of Taka 1,20,00,000 (One crore twenty lac) only. In view of the foregoing discussions and findings plaintiffs-respondents be awarded a decree to the tune of Taka 1,71,47,000 as compensation in respect of the following items;

- i) For item No. 1 Tk. 19,07,008
- ii) For item No. 2 and 3 Tk. 1,20,00,000
- iii) For item No. 4 Tk. 32,40,000

Total :Tk. 1,71,47,008

In the result, the leave petition is disposed c with the observation and modification made in the body of this judgment and accordingly, the plaintiffs-respondents are entitled to get a decree of Taka 1,71,47,008.

Ed.

Source: The Dhaka Law Reports (April 2017)

High Court Division

(Special Original Jurisdiction)

Writ Petition No. 4030 of 2012

Quamrul Islam Siddique J

Razik-al-Jalil J

Belllal Hossain Miah and
Others.....

Petitioner

vs

Government of Bangladesh and
others.....

Respondents

Judgement

May 5th, 2016

Razik-al-Jalil J : In this application under Article 102 of the Constitution of the People's Republic of Bangladesh, all the instance of the petitioner a Division Bench of this Court issued a Rule Nisi on 19-4-2012, in the following terms:

"Let a Rule Nisi issued calling upon the respondents to show cause as to why the impugned Memo No.05.1 32.046.00.00.011. 2011-338 dated 29-3-2012 (Annexure E) issued under the signature of respondent No. 3 transferring the respondent No. 6 and 7 in contravention of the item No. 17 of the Schedule of the Dhaka Municipal Corporation Employees Service Rules, 1989 should not be declared to have been issued without lawful authority and is of no legal effect and/or such other or further order or orders as to this Court may seem fit and proper."

2. The facts leading to the issuance of the Rule, in short, are that the petitioner was appointed on 1-6-1988 as Accountant (Bill) in Dhaka City Corporation (now abolished), vide Memo No. 1551/প্রঃবিঃ(সং), dated 1-6-1988. The petitioner was promoted to the post of Accounts Officer (Officiating), Miscellaneous Branch, Accounts Division on 17-8-1996, vide Memo No. ২৮৬/প্রঃবিঃ(স-১), ৩০ dated 19-8-1996.

3. The Respondent No. 1, being empowered pursuant to section 157 of Dhaka Municipal Corporation Ordinance 1983, enacted Dhaka Municipal Employees Service Rules 1989. Therefore, the said Service Rules of 1989 was/is being applied as governing law with regard to the service of the petitioner. According to Item No. 17 of the Schedule of Dhaka Municipal Employees Service Rules-1989, the post of the Chief Accounts Officer will be filled in either by direct recruitment or by promotion.

4. Thereafter, the petitioner was given additional charge of Deputy Chief Accounts Officer pursuant to the decision dated 4-9-2008 and 8-10-2008. By Office Order dated 25-6-2009 the petitioner was promoted to the post of Deputy Chief Accounts Officer. Accordingly, the petitioner received the charge of Chief Accounts Officer of the said Corporation on 2-8-2009 from the earlier Chief Accounts Officer upon signing Memo No. 278 wntwet, dated 2-8-2009. Accordingly, the petitioner wrote a letter, dated 2-8-2009 intimating the Chief Executive officer, Dhaka City Corporation with regard to obtaining his charge and joining in the post of Chief Accounts Officer. Since then the petitioner has been discharging his duty as Chief Accounts Officer (in Charge).

5. On 1-12-2011, the Dhaka City Corporation was bifurcated as 'Dhaka South City Corporation' and 'Dhaka North City Corporation' by Local Government (City Corporation) (Amendment) Act-2011. After such bifurcation the petitioner is still discharging his duty as Chief Accounts Officer-in-Charge and additional Charge respectively in Dhaka South City Corporation and Dhaka North City Corporations.

6. Subsequently, the authority concerned decided that the Service Rules 1989 of the abolished Dhaka City Corporation would remain applicable for regulating and controlling the services of the employees of those two City Corporations. Accordingly the copy of the said Minute dated 8-3-2012 was forwarded to the authority concerned vide Memo No. 46.070.007.00.00.199.2011-454, dated 25-3-2012 for taking necessary actions. Thereafter, all on a sudden. Respondents issued Memo No. 5. 1 32.046,00.00.0

11. 20 11-338, dated 29-3-2012, (Annexure-E), transferring Respondent Nos. 6 & 7 to the post of chief Accounts Officer of Dhaka North City Corporation and Dhaka South City Corporation from the post of Director, Railway Audit Department, Dhaka and Director, High Commission Audit Department, Dhaka, respectively in contravention of the item No. 17 of the schedule of the Dhaka Municipal Corporation Employees Service Rules. 1989. Being aggrieved by this order, the writ petitioner filed the instant petition and obtained the instant Rule.

7. The petitioner by filing a supplementary affidavit dated 23-10-2014 stated that after such bifurcation, the petitioner had discharged his duty as Chief Accounts Officer-in-Charge and additional charge respectively in Dhaka South City Corporation and Dhaka North City Corporations until joining of Respondent Nos. 6 and 7 in the post of Chief Accounts officer of the Dhaka North/South City Corporations. Thereafter, an office order dated 13-5-2012 was issued releasing the petitioner from the post of Chief Accounts Officer-in-charge and additional charge. As a result, the petitioner was discharging his duty as Deputy Chief Accounts Officer of Dhaka South City Corporation.

8. All on a sudden, an 'Office Order' dated 23-10-2012 was issued under the signature of the Respondent No. 9, transferring /vesting his service from Dhaka South City Corporation to the North City Corporation. On 25-10-2012, the petitioner joined the post of Deputy Chief Accounts Officer of Dhaka North City Corporation. Accordingly, an office order, dated 27-1-2013 was issued under the signature of Respondent No. 8, Secretary Dhaka North City Corporation.

9. It is further stated that all on a sudden, an 'Office Order' dated 23-8-2015 was issued under the signature of the Respondent No. 8 transferring the petitioner from the post of Deputy Chief Accounts Officer (Dhaka North City Corporation) to the post of 'Geographer'. Town Planning Division (Dhaka North City Corporation) and accordingly, the petitioner joined in the said post -on 25-8-2015.

10. The respondent No. 6 filed an affidavit-in-opposition controverting the statements made in the Writ Petition, stating, inter alia, that after bifurcation of the then Dhaka City Corporation, due to retirement of the earlier Chief Accounts Officer, the petitioner was given additional charge as Chief Accounts Officer of the Dhaka North City Corporation and current charge of the Dhaka South City Corporation respectively. However, by the impugned order dated 29-3-2012, respondent No. 6 was transferred to the post of Chief Accounts Officer of Dhaka North City Corporation and Respondent No. 7, was posted as Chief Accounts Officer of the Dhaka South City Corporation under deputation as per Rule 8 of the ঢাকা পৌর কর্পোরেশন কর্মচারী চাকুরী বিধিমালা, ১৯৮৯.

11. On 29-3-2012, for the purpose of appointing Chief Accounts Officer in the Dhaka North City Corporation and Dhaka South City Corporation, the Government placed the service of Respondent Nos. 6 and 7 to the Ministry of Local Government Rural Development and Cooperatives. Earlier, the Chief Accounts Officer of Dhaka City Corporation retired from his service and for smooth functioning of the accounts section, the petitioner, who was at that time working as Deputy Chief Accounts Officer, was given additional charge and current charge of Dhaka North City Corporation and Dhaka South City Corporation respectively. By giving the said charges, the authority neither gave any promotion to the petitioner nor any right had accrued to the petitioner to be promoted to the said post. The petitioner sought remedy against Dhaka North City Corporation and Dhaka South City Corporation, but in the instant case, the petitioner has not served any notice upon the Dhaka North City Corporation and Dhaka South City Corporation and, as such, the Rule issued in the said writ petition is liable to be discharged.

12. As per Rule 8 of the ঢাকা পৌর কর্পোরেশন কর্মচারী চাকুরী বিধিমালা, ১৯৮৯, there is a provision for appointment on the basis of deputation and the Respondent Nos. 6 and 7 have been appointed as Chief Accounts Officer of Dhaka North City Corporation and Dhaka South City Corporation respectively by complying with the said Rule and as such, there is no illegality.

13. In 1990 an organogram was approved by the Dhaka Municipal Corporation, which was approved by the Ministry of Local Government, by the said organogram, the post of Deputy Chief Accounts Officer was Created for the first time. In the said Organogram, it has been specifically provided that the Chief Accounts Officer will be appointed by deputation. But the writ petitioner has willfully suppressed this fact. After filing the writ petition, the petitioner is still functioning as the Deputy chief Accounts Officer of Dhaka North City Corporation and by the Impugned Order, his service has not any way been disturbed and there is no reason of the petitioner to be aggrieved by the impugned Order and as such the Rule is liable to be discharged.

14. The petitioner filed an affidavit-in-reply against the Affidavit-in-Opposition filed by the respondent No. 6. It is stated that as per Rule 8 of the Dhaka Pouro Corporation Employees Service Rules, 1989, the authority can transfer any employee on deputation to any post in the City. Corporation and/or by complying with the said Rule. Respondent No. 6 has been transferred from his earlier post of Director, Railway Audit Department to the post of Chief Accounts Officer, Dhaka North City Corporation, which is without lawful authority, since, as per Rule-8 of the Dhaka Pouro Corporation Employees Service Rules, 1989 the authority can transfer any employee to any post, subject to the Schedule of the said Service Rules-1989.

15. Item No-17 of the Schedule of the said service Rules provides that the post of Chief Accounts Officer shall be filled in either by promotion or by direct appointment. There is no scope to transfer any employee on deputation to that post i.e. the post of Chief Accounts Officer. Therefore, it is apparent that the authority posted Respondent Nos. 6 and 7 in the said post of Chief Account's officer of Dhaka. North City Corporation and Dhaka South City Corporation respectively in violation of Item No. 17 of the Schedule of the Service Rules-1989.

16. Mr Mohammad Hedayet Hossain, the learned Advocate for the petitioner submits that the

Respondent No. 1, being empowered pursuant to section 157 of Dhaka Municipal Corporation Ordinance, 1983, enacted Dhaka Municipal Employees Service Rules, 1989 and these Service Rules of 1989 was no way detrimental to the service condition of the petitioner and the said Service Rules of 1989 was being applied as governing law with regard to the service of the petitioner. According to Item No. 17 of the Schedule of Dhaka Municipal Employees Services Rules, 1989, the post of Chief Accounts Officer was to be filled in either by direct recruitment or by promotion. He further submits that on 1-12-2011 the Dhaka City Corporation was bifurcated as 'Dhaka South City Corporation' and 'Dhaka North City Corporation' by Local Government (City Corporation) (Amendment) Act-2011. 'However, the authority concerned decided that the Service Rules, 1989 of the abolished City Corporation will remain applicable for regulating and controlling the services of the employees of those two City Corporations. He submits that all on a sudden, the Respondents issued Memo No-05.132.046.00.00.011.2011-338, dated 29-3-2012 (Annexure-2'E) under the signature of Respondent No. 3, transferring Respondent Nos. 6 & 7 to the post of Chief Accounts Officer of Dhaka North City Corporation and Dhaka South City Corporation from the post of Director, Railway Audit Department, Dhaka and Director, High Commission Audit Department, Dhaka, respectively in contravention of the Item No-17 of the schedule of the Dhaka Municipal Corporation Employees Service Rules, 1989.

17. Mr. AM Aminuddin, the learned Advocate for the respondent No. 6 submits that the petitioners has been enjoying the benefit of the Organogram by working in the post of Deputy Chief Accounts Officer, on the other hand, he has challenged the order which was made on the basis of the other provision of the Organogram, i.e. appointment of the Chief Accounts Officer by way of deputation. Since the petitioner cannot blow hot and cold in the same breath, his writ petition is not maintainable. Me further submits that after bifurcation of the City Corporation, all the posts of the then City Corporation have been abolished and now posts have been created for both

the City Corporations. At the time of creating the post, the conditions, qualifications and their criteria for appointment and promotion have been clearly spelt out by the Ministry of Finance and provision having been made for appointment by way of deputation as well, the grievance of the writ petitioner does not have any leg to stand and consequently, on that count as well, the Rule issued in the instant writ petition is liable to be discharged.

18. We have heard the learned Advocate of both sides, perused the Writ Petition, its Annexure, Supplementary Affidavit, its annexure, Affidavit-in-Opposition, its Annexure, Affidavit-in-Reply and its Annexure.

19. The writ petitioner's main contention is that as per ঢাকা পৌর কর্পোরেশন কর্মচারী চাকুরী বিধিমালা, ১৯৮৯ (hereinafter referred to as the Service Rules. 1989), the Memo No. 05.132.046.00.00.011.2011-338 dated 29-3-2012 (Annexure-E) issued under the signature of Respondent No. 3. transferring Respondent Nos. 6 and 7 to the post of Chief Accounts Officer at Dhaka North City Corporation and Dhaka South City Corporation from the post of Director. Railway Audit Department, Dhaka and Director Health Commission, Audit Department, Dhaka respectively are without lawful authority on the ground that the said appointments were made in contravention of the Item No. 17 of the schedule of the said Service Rules. 1989.

20. On the other hand, respondent No. 6 stated in his Affidavit-in-Opposition that as per the said Service Rules, 1989, the authority can post any employee on deputation to any post in the Dhaka South City Corporation and Dhaka North City Corporation. Upon complying with the said Rules, the respondent No. 6 has been transferred from his earlier post of Director, Railway Audit Department to the post of Chief Accounts Officer, Dhaka North City Corporation. Respondent No. 6 also argued that after bifurcation of the City Corporation, all the posts of the then City Corporation have been abolished and new posts have been created for both the City Corporation. At the time of creating the post, the conditions, qualifications and

their criteria for appointment and promotion have been clearly spelt out by the Ministry of Finance providing for appointment by way of deputation.

21. The question that arises is that whether the said Service Rules, 1989 is in existence or not after the bifurcation of Dhaka City Corporation into Dhaka North City Corporation and Dhaka South City Corporation.

22. The said Service Rules, 1989 was enacted in 1989 under section 157 of the Dhaka Municipality Ordinance, 1983. Subsequently, the Ordinance, 1983 was repealed by the Local Government (City Corporation) Act, 2009 in 2009. Under section 126(3) of the said Act, 2009, this service Rules remained in force. Subsequently, Local Government (City Corporation) Act, 2009 was amended by the Dhaka City Corporation Act, 2011, and by that amendment, Dhaka City Corporation was bifurcated into Dhaka South City Corporation and Dhaka North City Corporation.

23. In the Act, a new section was inserted by way of amendment as 3Ka which runs as follows:

“৩ক। (১) এই আইনের অন্যান্য বিধানে যাহা কিছুই থাকুক না কেন, ধারা ৩(১) এর অধীন প্রতিষ্ঠিত ঢাকা সিটি কর্পোরেশনে, ঢাকা উত্তর সিটি কর্পোরেশন এবং ঢাকা দক্ষিণ সিটি কর্পোরেশন নামে বিভক্ত হইবে।

(২) ঢাকা সিটি কর্পোরেশন এর কর্মকর্তা ও কর্মচারী, সম্পদ, অধিকার, ঋণ, দায় ও দায়িত্ব, সুবিধা এবং স্থাবর- অস্থাবর সকল সম্পত্তি, নগদ ও ব্যাক স্থিতি, সংরক্ষিত সঞ্চিত তহবিল, বিনিয়োগ এবং অন্য সকল অধিকার এবং এইরূপ সম্পত্তিতে অথবা উহা হইতে উদ্ধৃত বা অর্জিত অন্যান্য সকল স্বার্থ ও অধিকার এবং সকল বই, রেজিস্ট্রার, রেকর্ডপত্র এবং অন্য সকল দলিল-দস্তাবেজ সরকার, বিধি দ্বারা নির্ধারিত পদ্ধতিতে, তবে বিধি প্রণীত না হওয়া পর্যন্ত সরকারি আদেশ দ্বারা, ঢাকা উত্তর সিটি কর্পোরেশন ও ঢাকা দক্ষিণ সিটি কর্পোরেশনের ক্ষেত্রমত, হস্তান্তর ন্যস্ত স্থানা হস্তান্তর, ন্যস্ত স্থানান্তর বা বদলীর ব্যবস্থা গ্রহণ করিবে।

(৩) ঢাকা সিটি কর্পোরেশন কর্তৃক বা উহার বিরুদ্ধে দায়েরকৃত মামলা বা কার্যধারা ক্ষেত্রমত, ঢাকা উত্তর সিটি কর্পোরেশন বা

ঢাকা দক্ষিণ সিটি কর্পোরেশন কর্তৃক বা উহার বিরুদ্ধে দায়েরকৃত মামলা বা কার্যধারা বলিয়া গণ্য হইবে।

(৪) ঢাকা সিটি কর্পোরেশন কর্তৃক ইতোপূর্বে জারীকৃত সকল প্রবিধান, উপ-আইন, আদেশ, প্রজ্ঞাপন, নোটিশ বা আইনের ক্ষমতা সম্পন্ন অন্যান্য দলিল এবং প্রযোজ্য সকল বিধি, ক্ষেত্রমত, ঢাকা উত্তর সিটি কর্পোরেশন ও ঢাকা দক্ষিণ সিটি কর্পোরেশন এর ক্ষেত্রে প্রযোজ্য হইবে এবং ঢাকা সিটি কর্পোরেশন কর্তৃক প্রদত্ত সকল লাইসেন্স, অনুমতি, আরোপিত কর, ইত্যাদি ক্ষেত্রমত, ঢাকা উত্তর সিটি কর্পোরেশন ও ঢাকা দক্ষিণ সিটি কর্পোরেশন কর্তৃক প্রদত্ত, মঞ্জুরীকৃত বা আরোপিত বলিয়া গণ্য হইবে।”

24. By virtue of section 3Ka, all the previous rules, sub-rules, notification, office order has remained in existence. Subsequently by order dated 8-3-2012, the concerned authority decided that the Service Rule of 1989 will remain applicable for regulating and controlling the services of the employees of those two City Corporation. The minute of the said decision, as evidenced by Annexure-D to the writ petition and the relevant portion of the said minutes is given below:

“(ক) দ্রুত নিয়োগ বিধিমালা প্রণয়নপূর্বক অনুমোদনের প্রয়োজনীয় ব্যবস্থাগ্রহণকরতে হবে। (খ) স্থানীয় সরকার (সিটি কর্পোরেশন) আইন, ২০০৯ এর ১২৩(৩) এবং স্থানীয় সরকার (সিটি কর্পোরেশন) আইন, ২০১১ এর ৩(৪) ধারা মোতাবেক বিলুপ্ত ঢাকা সিটি কর্পোরেশনের পুরানো বিধিমালা অনুযায়ী নিয়োগ প্রক্রিয়া চলমান থাকবে।”

25. As such, we find that the Dhaka City Corporation Employees Service Rules, 1989 is still in operation for the employee of Dhaka South City Corporation and Dhaka North City Corporation.

26. Now the question is whether the said Service Rules permits Dhaka South City Corporation and Dhaka North City Corporation for appointment of their Chief Accounts Officer on deputation.

27. Let us examine the relevant Rules.

28. We have examined Rule 3 and 8 and schedule 17 of the Service rule which are quoted below:

৩। নিয়োগ পদ্ধতি। ৥ (১) এই অধ্যায় এবং তফসিলের বিধানাবলী সাপেক্ষে, কোন পদে নিম্নবর্ণিত পদ্ধতিতে নিয়োগ দান করা যাইবে, যথাঃ ৥

(ক) সরাসরি নিয়োগের মাধ্যমে;

(খ) পদোন্নতির মাধ্যমে;

(গ) প্রেষণে বদলির মাধ্যমে; এবং (ঘ) খন্ডকালীন ভিত্তিতে।

(২) কোন পদের জন্য কোন ব্যক্তির প্রয়োজনীয় যোগ্যতা না থাকিলে এবং সরাসরি নিয়োগের ক্ষেত্রে, তাহার বয়স উক্ত পদের জন্য তফসিলে নির্ধারিত বয়ঃসীমার মধ্যে না হইলে, তাকে উক্ত পদে নিয়োগ করা হইবে না :

তবে শর্ত থাকে যে, সরকারের নির্দেশ অনুসারে কোন বিশেষ শ্রেণীর প্রার্থীগণের ক্ষেত্রে উক্ত বয়সসীমা শিথিলযোগ্য হইবে।

৮। প্রেষণে নিয়োগ। ৥ তফসিলের বিধানাবলী সাপেক্ষে, কোন পদে প্রেষণে নিয়োগের ক্ষেত্রে নিয়োগকারী কর্তৃপক্ষ, সরকার বা কোন স্থানীয় কর্তৃপক্ষের কোন উপযুক্ত কর্মচারীকে, করপোরেশনে সরকার বা কোন স্থানীয় কর্তৃপক্ষের কোন উপযুক্ত কর্মচারীকে, করপোরেশনে সরকার বা ক্ষেত্রমত, সংশ্লিষ্ট স্থানীয় কর্তৃপক্ষের পরস্পরের মধ্যে স্থিরকৃত শর্তাধীনে নিয়োগ করিতে পারিবে।

১৭। প্রধান হিসাব অনুধ্ব ৪০ বৎসর সরাসরি/পদোন্নতি রক্ষণ কর্মকর্তা

সরাসরি : চার্টার্ড একাউন্টেন্ট হিসাবে ৫ বৎসরের অভিজ্ঞতা অথবা এম, কম (২য় শ্রেণী) সহ বাজেট ও হিসাব সংরক্ষণ ১০ বৎসরের বাস্তব অভিজ্ঞতা সম্পন্ন হইতে হইবে।

পদোন্নতি : ফিডার পদে বি,কম, (২য় শ্রেণী) সহ হিসাব রক্ষণ কর্মকর্তা হিসাবে ১২ বৎসরের অভিজ্ঞতা তৎসহ চাকুরীর বৃত্তান্ত সন্তোষজনক হইতে হইবে।

29. Rule 3 enumerates the system of appointment wherein the appointment on deputation is one of them, but subject to the schedule of the said Service Rules, 1989. Rule 8 also stipulates that the authority can post any employee of the Corporation on deputation subject to the schedule of the said Service Rules, 1989. Item No. 17 of the Schedule of the said Service Rules contains that the post of Chief Accounts Officer shall be filled in either by promotion or by direct appointment, which does not render any scope to transfer any employee on deputation to that post. In other words, the Dhaka City Corporation Employees Service Rules, 1989 does not permit the authority concerned to appoint any employee as Chief Accounts Officer on deputation.

30. Admittedly, respondent No. 6 and respondent No. 7 have both been appointed as Chief Accounts Officer of Dhaka North City Corporation and Dhaka South City Corporation, respectively on deputation which is in contravention of the said Service Rules, 1989.

31. Mr. AM Aminuddin. the learned Advocate for respondent No. 6. pointed out that before 1990, the then Dhaka Municipal Corporation (subsequently, named as "Dhaka City Corporation") was following the Service Rules, 1989, wherein the post of Chief Accounts Officer was there under serial No. 17 of the schedule and the post below the Chief Accounts Officer was the Accounts Officer. Subsequently, in 1990, the Government approved the organogram of the Municipal Corporation which was recommended by the committee formed for re-organization the original structure. By the said organogram for the first time, the post of Deputy Chief Accounts Officer was introduced. In the said Organogram also a provision was made for appointment of Chief Accounts Officer by way of deputation, as such, his appointment cannot be said to be illegal

32. We have seen the organogram of 1990 and it is found in the Organogram that there is a provision for appointment to the post of Chief Accountant on deputation, but it is admitted that it was not inserted in the said service Rules of 1989. Organogram and Service Rules are different things. Organogram means an organizational chart, showing graphically the relation of one official to another or others of an establishment. It is also used to show the relation of one department to another or others, or of one Function of an organization to another, or others. However, the service Rule is a governing law to govern the service of the employees. As such, if any appointment is made without following the Service Rules, that cannot be sustained on the ground that the provision is permitted by its organogram.

33. Regarding respondent No. 6's arguments in respect of approbation and reprobation, the doctrine applies only to the conduct of parties. As in the case of estoppel, it cannot operate against the provision of a Statute, (vide CFT vs P Firm Muur. AIR 1965 SC 1216).

34. Since the said Service Rules, 1989 was framed in exercising of power conferred by Dhaka Municipal Corporation Ordinance, 1983, it has the force of law. As such, any violation of law cannot be legalized by taking the advantages of the doctrine of approbation and reprobation.

35. Considering the facts and circumstances, we find substance in the submissions of the learned Advocate for the petitioner.

36. Accordingly, the Rule is made absolute. The impugned Memo No.05.132.046.00.00.01. 2011-338 dated 29-3-2012 (Annexure-E) issued under the signature of respondent No. 3 is declared to have been passed without lawful authority and to be of no legal effect.

37. However, since the Respondent No. 6 and 7 are Government servants, they joined in the post of Chief Accounts Officer of Dhaka South City Corporation and Dhaka North City Corporation respectively in compliance with the directive passed by the Government. Therefore, they cannot be deprived from their service benefits.

Accordingly, the respondents are directed to revert back respondent No. 6 and 7 to their respective parent post with all service benefits, including continuity of seniority immediately after receipt of the order.

There is no order as to costs.

Ed.

Source: The Dhaka Law Reports (May, 2017)

Appellate Division

(Civil)

Civil Appeal No. 168 of 2017

Surendra Kumar Sinha CJ

Nazmun Ara Sultana J

Hasan Foez Siddique J

Secretary, Ministry of Communication and others

.....Appellants

vs

Md. Iqbal Hossain Respondents

Judgment

May 11th, 204

Nazmun Ara Sultana J:

I have gone through the draft copy of the judgment prepared by learned brother Hasan Foez Siddique, J. While I do not differ with the decision of the learned brother Hasan Foez Siddique, J to the effect that the writ-petition filed by the writ-petitioner, who is in the service of the republic, challenging the impugned order cancelling the charge of his designation as Assistant Foreman under the Work-Charged Establishment of Roads and Highways Department is not maintainable as the Administrative Tribunal has exclusive jurisdiction to adjudicate this issue I respectfully disagree with his other decision holding the impugned orders Lawful.

2. The Writ-Petitioner Md. Iqbal Hossain started working in the road and Highways Department as a Heavy Vehicle Driver under Work-Charged.

Establishment on 28-4-1985 and continued to so work until 11-3-1997 when his status was changed to that of an Assistant Foreman by a fetter vide memo No.367/I(S)E dated 10-3-1997 issued by the respondent No.3, Chief Engineer, Roads and Highways Department. The writ-petitioner accordingly took up his responsibilities as Assistant Foreman under respondent No.3 and worked as such for about 3 years. But on 18-1-2000 the respondent No.2, the Senior Assistant Secretary, Ministry of Communication, Road and Highways Division by a memo dated 18-1-2000 (annexure-D to the writ petition) addressed to the respondent No.3 sought cancellation of the order dated 10-3-1997 changing the status of the writ-petitioner as Assistant Foreman and as per this annexure-D the respondent No.3 vide the impugned memo dated 12-4-2000 (annexure-E) canceled his earlier order dated 10-3- 1997 changing the designation of the writ-petitioner as Assistant Foreman.

3. The High Court Division, by the impugned judgment and order declared this impugned memos dated 18-1-2000 and 12-4-2000 (the annexure-D and E to the writ petition) without lawful authority and to be of no. legal effect holding to the effect that since the petitioner was in the service under Work-Charged Establishment and by the order dated, 10-3-1997

his designation was changed as an Assistant Foreman in the same Work-Charged Establishment and since there being no law or rules regulation recruitment and other-service conditions of the Work-Charged employees, the Chief Engineer of the Roads and Highways Department had authority to change the designation of the writ-petitioner from Heavy Vehicle Driver to Assistant Foreman under the Work-Charged Establishment and holding to the effect also that the cancellation of the order changing the status of the writ-petitioner after a long period of about 3 years of his taking responsibility of that post without giving him any opportunity of being heard has violated the minimum requirement of natural justice. In the proposed judgment Hasan Foez Siddique, J. however, found this impugned order lawful making observations to the effect that the service rules does not provide any provision for promotion of the Driver, working under work- charged establishment as Assistant Foreman.

4. The writ-petitioner admittedly had been working under the Work- Charged Establishment of Roads and Highways Department as a Heavy Vehicle Driver for a pretty long time. He was appointed in the said post under Work- Charged Establishment on 28-4-1985 by the respondent No.5, the Superintendent Engineer, Roads and Highways Department who, undisputedly, had authority to appoint the writ-petitioner in the said post under the Work Charged Establishment. Subsequently by the order dated 10-3-1997 the Chief Engineer, Roads and Highways Department changed his designation from Heavy, Vehicle Driver to Assistant Foreman in the same pay scale under the same work- charged establishment. I like to quote the said order dated 10-3-1997 made by the Chief Engineer, Roads and Highways Department, the writ-respondent No.3, here.

“অত্র অধিদপ্তরাধীন সংগ্রহন ও সংরক্ষণ (সাঃ) উপ-বিভাগ, তেজগাঁও, ঢাকার অফিসে কর্মরত ও ওয়ার্কচার্জড ভারী গাড়ী চালক, জনাব মোঃ ইকবাল হোসেন এর আবেদনের প্রেক্ষিতে পরবর্তী নির্দেশ না দেওয়া পর্যন্ত এই কার্যালয়ে ওয়ার্কচার্জড সংস্থাপনের সম স্কেলে (টাঃ ১৩৭৫-২৮৭৫) সহকারী ফোরম্যান পদে পদবী পরিবর্তন করিয়া বহাল করা হইল।

এই আদেশ অবিলম্বে কার্যকর হইবে।”

5. Evidently, the above quoted order is not a promotion, rather it may be termed as a new appointment as Assistant Foreman under Work-Charged Establishment. The contesting respondent did not claim that the Chief Engineer, Roads and Highway Department had no authority to appoint any person in the post of Assistant Foreman under Work-Charged Establishment. It is also not denied that till now no law or rule has been enacted regulating the recruitment and other service conditions of the employees under Work-Charged Establishment. Chief Engineer of Roads and Highways, Department, being the highest authority of the department, for necessity, can appoint in any post under Work-Charged Establishment for the efficient running of the department. The order dated 10-3-1997 quoted above shows that the Chief, Engineer, employed the writ-petitioner as Assistant Foreman under the Work- Charged Establishment. This order cannot be said a promotion order, since in this order it has been clearly stated, that this is only change of designation in the same pay-scale.

6. Since the order dated 10-3-1997 is not a promotion order at all the contention of the contesting respondents. that this order has not been in accordance with the Roads and Highways Department (Gazetted and Non-Gazetted Employees) Recruitment Rules 1984-is not acceptable. In the order dated 18-1-2000 under the signature of Senior, Assistant Secretary to cancel the order of change of designation of the writ- l Drpetitioner as Assistant Foreman (the Drannexure-D) ago it has been stated thus:

“... নিয়োগবিধি অনুযায়ী সহকারী ফোরম্যান পদে পদোন্নতির জন্য যে বিধান রহিয়াছে, তাহা আলোচ্য ক্ষেত্রে অনুসরণ করা হয় নাই। উপরন্তু, অধিদপ্তরেত ৩য় ও ৪র্থ শ্রেণীর কর্মচারীদের নিয়োগ, পদোন্নতি ও সিলেকশন প্রোড/টাইম স্কেল প্রদানের জন্য একটি বিভাগীয় পদোন্নতির কমিটি রহিয়াছে আলোচ্য ক্ষেত্রে উক্ত কমিটির কোন মতামতও গৃহীত হয় নাই। ইহা ছাড়া ওয়ার্কচার্জড কর্মচারীদের পদোন্নতি/পদবী পরিবর্তনের কোন বিধান নাই।...”

7. Evidently the change of the designation of the writ-petitioner as Assistant Foreman under Work-Charged Establishment was sought to be cancelled on the main ground that it was not made in accordance with

rules with the consent of departmental promotion committee. But admittedly the writ- petitioner was working under Work- Charged Establishment and the change of his designation or, in other words, his fresh appointment as Assistant Foreman also was under Work-Charged Establishment. The service rules mentioned in this fetter dated 18-1-2000 quoted above was not applicable at all for the Work-Charged employees. There is no Rules providing for promotion of any Work-Charged Employee.

8. However, the order dated 10-3- 1997 changing the designation of the writ-petitioner as Assistant Foreman was not promotion at all, rather it can be treated as the fresh appointment of the writ-petitioner as Assistant Foreman under the Work-Charged Establishment and this order was passed by the Chief Engineer of the Department and it is not stated that the Chief Engineer, Roads and Highways Department had no authority to make any appointment in any post under Work-Charged Establishment when necessity arises.

9. The High Court Division noticed also that other Work-Charged employees of the Roads and Highways Department were appointed in the higher post and they have also been working in the said post without any objection from any quarter. The High Court Division pointed out also that the writ-petitioner had been working in the post of Assistant Foreman for a long period of about 3 years and thereafter, suddenly, the order of his appointment in the post of Assistant Foreman was canceled by the impugned order- annexure-E without giving him any opportunity of being heard and this has violated the principle of natural justice.

10. However, in my opinion, the High Court Division rightly found both the impugned orders- the annexures-D and E without lawful authority and of no legal effect.

Hasan Foez Siddique J: This appeal is directed against the judgment and order dated 16-3-2005

passed by the High Court Division in Writ Petition No.2396 of 2000 making the Rule absolute.

12. The relevant facts for the disposal of this appeal, in short, are that the writ petitioner-respondent joined as Heavy Vehicle Driver on work-charged basis in the Roads and Highways Department (RHD) on 28-4-1985. On 11- 3-1997, his official designation was changed to that of an Assistant Foreman by a fetter issued by the writ respondent No.3, Chief Engineer, RHD vide memo No.367/1(S)E dated 10-3-1997. The writ petitioner accordingly took up his responsibilities as Assistant Foreman under the writ respondent No.9. The writ respondent No.2, Senior Assistant Secretary, Ministry of Communication by fetter dated 18-1-2000 (Annexure-D) addressed to the writ respondent No.3 requesting him to cancel the order dated 10-3-1997 since the same was not issued following the law. Accordingly, writ respondent No.3 cancelled order dated 10-3-1997 by a letter communicated under memo No.3 wg-4/74 (LÛ) 508/1(15) dated 12-4-2000. The writ petitioner, being aggrieved by the letter dated 12-4- 2000, filed writ petition and obtained Rule. The writ respondent No.2 contented in his affidavit-in-opposition that the change of designation of the writ petitioner was effected under the order dated 10-3-1997 (Annexure-B) under a bonafide mistake on the part of the writ respondent No.3 which was rectified by the order dated 18-1-2000. It was further contended that in the absence of specific provision to that effect the writ petitioner was not entitled to be appointed as Assistant Foreman, that is, the order dated 10-3- 1997 was ex-facie void and illegal.

13. The High Court Division hearing the parties made the Rule absolute. Against the judgment and order of the High Court Division the appellant preferred this appeal after getting leave.

14. Mr. Ekramul Haque, learned Deputy Attorney General appearing on behalf of the appellant, submits that the instant writ petition was not maintainable in view of the provision of Article 117 of the Constitution

read with section 4 of the Administrative Tribunal Act. He submits that the Roads and Highways Department (Gazetted and Non-Gazetted Employees) Recruitment Rules, 1984 (the Rules) having set out the post of “Assistant Foreman” being a post to be filled up by promotion from the post of Mechanics and Electricians and the Rules specially provides that appointment to such posts by promotion shall be made on the recommendation of the Departmental Promotion Committee, the High Court Division erred in law in holding that “a general discretionary authority has been given both to the Chief Engineer and the Superintendent Engineer to take decisions with regard to the employment of work charged employees in the interest of administrative efficiency and convenience” and therefore misdirected itself in declaring the impugned orders unlawful.

15. Admittedly, the writ petitioner joined as Heavy Vehicle Driver under RHD on 28-4-1985. On 10-3-1997, a letter was communicated to the writ petitioner under memo Ho. 367/1(5) C dated 10-3-1997 under the signature of the Chief Engineer, RHD. The contents of the said letters were as follows:

“অত্র অধিদপ্তরাধীন সংগ্রহন ও সংরক্ষণ (সাঃ) উপ-বিভাগ, তেজগাঁও, ঢাকার অফিসে কর্মরত ও ওয়ার্কচার্জড ভারী গাড়ী চালক, জনাব মোঃ ইকবাল হোসেন এর আদেশের প্রেক্ষিতে পরবর্তী নির্দেশ না দেওয়া পর্যন্ত এই কার্যালয়ে ওয়ার্কচার্জড সংস্থাপনের সম ক্ষেত্রে (টাঃ ১৩৭৫-২৮৭৫) সহকারী ফোরম্যান পদে পদবী পরিবর্তন করিয়া বহাল করা হইল।

এই আদেশ অবিলম্বে কার্যকর হইবে।”

16. Serial No.73 of the schedule of the Roads and Highways Department (Gazetted and Hon-Gazetted Employees) Recruitment Rules, 1984 provided specific provision for appointment of Assistant Foreman which is as follows:

‘73. Assistant Foreman by promotion from Mechanics/ Electrician 5 years service in the feeder post’

17. That is, the law provides that in order to get promotion as Assistant Foreman 5 years service

experience in the feeder post is necessary and the said post should be filled up by way of promotion from Mechanics/Electrician in such circumstances, a letter was issued from the Ministry of Communication Roads and Railway Division communicated under memo No.

আরএইচই/২এম-২৩-২৩/৯৫ (অংশ-২)-১০ dated 18-1-2000 under the signature of a Senior Assistant Secretary to cancel order of promotion of writ petitioner.

Contents of the said letter were as follows:

“উপরোক্ত বিষয়ে জানানো যাইতেছে যে, সড়ক ও জনপথ অধিদপ্তরের যান্ত্রিক উইংয়ের ড্রাইভার পদে কর্মরত জনাব মোঃ ইকবাল হোসেনকে অধিদপ্তরের স্মারক নং ৩৬৭/১(১৫)ই তারিখে : ৬-৩১৯৯৭ খ্রিঃ মোতাবেক ওয়ার্কচার্জড সংস্থাপনে সমক্ষেলে পদবী পরিবর্তন করতঃ সহকারী ফোরম্যান পদে নিয়োগ প্রদান করা হয় মর্মে মন্ত্রণালয়ের গোচরীভূত হইয়াছে। কিন্তু নিয়োগবিধি অনুযায়ী সহকারী ফোরম্যান পদে পদোন্নতির জন্য যে বিধান রহিয়াছে, তাহা আলোচ্য ক্ষেত্রে অনুসরণ করা হয় নাই। উপরন্তু, অধিদপ্তরের ৩য় ও ৪র্থ শ্রেণীর কর্মচারীদের নিয়োগ, পদোন্নতি ও সিলেকশন গ্রেড/টাইম স্কেল প্রদানের জন্য একটি বিভাগীয় পদোন্নতি কমিটি রহিয়াছে আলোচ্য ক্ষেত্রে উক্ত কমিটির কোন মতামত গৃহীত হয় নাই। ইহা ছাড়া ওয়ার্কচার্জড কর্মচারীদের পদোন্নতি/পদবী পরিবর্তনের কোন বিধান নাই। কারণ, ওয়ার্কচার্জড কর্মচারীদের নিয়মিতকরণে ক্ষেত্রে কোন পদে ন্যূনতম ১০ বৎসর চাকরি করিতে হয়, এই বিধি অনুসরণ করা না হইলে নিয়মিতকরণ করা বিধি সম্মত হয় না।

এমতাবস্থায়, অধিদপ্তরের ৬-৩-১৯৯৭ খ্রিঃ তারিখের স্মারক নং ৩৬৭/১(১৫) ই মূলে জারীকৃত অফিস আদেশ এতদ্বারা বাতিল করতঃ বিধি মোতাবেক প্রয়োজনীয় ব্যবস্থা গ্রহণের জন্য নির্দেশক্রমে অনুরোধ করা হইল।

18. In view of the letter issued from the Ministry, the Chief Engineer, RHD issued a Letter communicated under memo No. wg-4/74 (Mä)/508 dated 12-4-2000. Contents of which were as follows:

অত্র দপ্তরের স্মারক নং ৩৬৭ ইং তারিখ ১০-৩-১৯৯৭ ইং মাধ্যমে অত্র অধিদপ্তরাধীন সংগ্রহ ও সংরক্ষণ (যান্ত্রিক) উপ-বিভাগ, তেজগাঁও, ঢাকার দপ্তরে কর্মরত ও ওয়ার্কচার্জড ভারী গাড়ী চালক, জনাব মোঃ ইকবাল হোসেনকে ওয়ার্কচার্জড সংস্থাপনের সম ক্ষেত্রে সহকারী ফোরম্যান পদে পদবী পরিবর্তন করা হইয়াছিল। যোগাযোগ মন্ত্রণালয়ের স্মারক নং আরএইচ/২এম-২৯/৯৫ (অংশ-২)-১০ তারিখ ১৮-১-২০০০ ইং এর নির্দেশ অনুসারে অত্র দপ্তরের স্মারক নং ৩৬৭-ই তারিখ ১০-৩-১৯৯৭ ইং মাধ্যমে জারীকৃত অফিস আদেশটি এতদ্বারা বাতিল করা হইল। এই আদেশ অবিলম্বে কার্যকর হইবে।

19. Since the Service Rules do not provide any provision of promotion as Assistant Foreman from the driver who has been working as work charged employee, rather the Rules provide that the post of Assistant Foreman should be filled up by way of promotion from Mechanics/Electrician having 5 years service experience in the feeder post, the High Court Division has committed error of law in making the Rule absolute declaring the fetter dated 18- 1-2000 and 12-4-2000 (quoted above) unlawful.

20. The learned Deputy Attorney- General raised an important question of law that the instant writ petition was not maintainable since the writ petitioner is a public servant and the dispute is in relation to the terms and conditions of his service. According to him, this writ petition was barred under the provision of section 4 of the Administrative Tribunal Act read with Article 117 of the Constitution. In the case of Mujibur Rahman (Md) vs Government of Bangladesh reported in 44 DLR (AD) 111, this Division has observed:

“Within its jurisdiction the Tribunal can strike down an order for violation of principles of natural justice as well as for infringement of fundamental rights, guaranteed by the Constitution, or of any other law, in respect of matters relating to or arising of sub-clause (a), but such tribunals cannot, like the Indian Administrative Tribunals in exercise of a more comprehensive jurisdiction under Article 523A (see SP Sampath Kumar vs Union of India. AIR 1957 SC 586

(para 16) and JB Chopra ve Union of India AIR 1987 SC 557 (para 2) strike down any law or rule on the ground of its constitutionality. A person in the service of the Republic who intends to invoke fundamental right for challenging the vires of a law will seek his remedy under Article 102(1), but in all other cases he will be required to seek remedy under Article 117(2).”

21. Similar view has been expressed by this Division in the case of Government of Bangladesh vs Mohammad Faruque reported in 51 DLR (AD) 112, In the cited case, this Division has observed that if there is a violation of any instruction having the force of law touching upon his terms and conditions of service, the Constitution requires him to take recourse to the specific remedy provided in Article 117 of the Constitution. Violation of terms and conditions of service may indeed be a violation of law, but if a specific remedy is provided in the Constitution for remedy then that specific remedy shall be availed of by the aggrieved person. In the case of Khalilur Rahman vs Md. Kamrul Ahsan reported in 2010 (XVIII) BLT (AD) 486, - 10 BLC (AD) 195 this Division again observed that Article 117(2) the Constitution provides that the matters falling within the jurisdiction of the Administrative Tribunal constituted under Article 117(1) of the; Constitution will not be entertain able by any other Court. As has already been mentioned that in the case of Mujibur Rahman it has clearly been stated in the background of what circumstance inspite, of the bar of Article 117(2) of the Constitution a writ petition can be filed under Article 102 of the Constitution and can be entertained by the High Court Division even the contention raised and adjudication sought relates to term and condition of service of a person in the service of the Republic. Therein it has been held that except on the limited ground i.e. when the vires of the law is challenged or a relief by way of striking down of a particular law on the ground of constitutionality sought writ petition by the High Court Division can be entertained or in other words a person in the service of the Republic can file a writ petition on limited grounds as regards the matters, even though the same relates to the condition of

service. So law is now settled that except on the limited scope a writ petition involving question of determination of the matters relating to term and condition of service of a person in the service of the Republic is not entertain able by the High Court Division under Article 102 of the Constitution. The object of providing Article 117(2) is obviously to relieve the congestion in courts and provide for speedy disposal of service matters clogging the courts for year by establishing alternative forums with exclusive jurisdiction. Administrative Tribunal has the jurisdiction, power and authority to adjudicate upon the disputes relating to service matter including the power to deal with the questions involving fundamental rights.

22. In the instant case, the writ petitioner in his petition did not challenge the vires of any law so he could not seek his remedy under Article 102(1) of the Constitution. The proper forum to ventilate the

grievance of the writ petitioner was the Administrative Tribunal In such view of the matter; the instant writ petition was not maintainable.

23. Considering the aforesaid facts and circumstances, we find substance in the submissions made by the learned Deputy Attorney- General.

24. Accordingly, the appeal is allowed. The judgment and order dated 16-3-2005 passed by the High Court Division in Writ Petition No.2396 of 2000 is hereby set aside.

The appeal is allowed by majority decision.

Ed.

Source: The Dhaka Law Reports (July 2017)

Statistics



(In million)

DISTRIBUTION OF POPULATION BY ECONOMIC ACTIVITIES

Major occupation	2010			2013			2016-17(*)		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Professional, technical	1.89	0.52	2.41	2.68	1.09	3.77	2.86	1.21	4.07
Administrative, managerial	0.59	0.10	0.69	0.49	0.08	0.57	0.89	0.11	1.00
Clerical workers	0.91	0.10	1.01	0.74	0.18	0.92	0.77	0.14	0.91
Service and Sales workers	8.56	2.60	11.16	8.14	1.46	9.60	9.10	0.92	10.02
Agriculture, forestry & fisheries	15.19	10.51	25.70	13.87	7.50	21.37	10.04	9.64	19.68
Production, transport and craft & trade labourer and others	10.74	2.37	13.11	15.31	6.53	21.84	18.52	6.63	25.15
Total	37.88	16.20	54.08	41.23	16.85	58.07	42.18	18.65	60.83

Note: (*) Provisional) indicates population 15 years and above as per Labour Force Survey 2016-17

Source: Labour Force Survey 2010, 2013 and 2016-17; Bangladesh Bureau of Statistics.

(In percent of total)

DISTRIBUTION OF POPULATION BY ECONOMIC ACTIVITIES

Major occupation	2010			2013			2016-17(*)		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Professional, technical	3.5	1.0	4.5	4.6	1.9	6.5	4.7	2.0	6.7
Administrative, managerial	1.1	0.2	1.3	0.8	0.1	1.0	1.5	0.2	1.7
Clerical workers	1.7	0.2	1.9	1.3	0.3	1.6	1.2	0.2	1.4
Service and Sales workers	15.8	4.8	20.6	14.0	2.5	16.5	15.0	1.5	16.5
Agriculture, forestry & fisheries	28.1	19.4	47.5	23.9	12.9	36.8	16.5	15.9	32.4
Production, transport and craft & trade labourer and others	19.9	4.4	24.2	26.4	11.2	37.6	30.4	10.9	41.3
Total	70.0	30.0	100.0	71.0	29.0	100.0	69.3	30.7	100.0

Note: (*) Provisional) indicates population 15 years and above as per Labour Force Survey 2016-17

Source: Labour Force Survey 2010, 2013 and 2016-17; Bangladesh Bureau of Statistics.

POPULATION AGED 15 YEARS AND ABOVE BY MAJOR INDUSTRY

(In million)

Major Industry	2010			2013			2016-17 (*)	
	Male	Female	Total	Male	Female	Total	Total	Total
Agriculture, forestry & fisheries	15.22	10.51	25.73	17.18	9.01	26.19	26.19	24.7
Mining and quarrying	0.09	0.02	0.11	0.21	0.02	0.23	0.23	0.1
Manufacturing	4.82	1.91	6.74	5.72	3.78	9.50	9.50	8.8
Electricity, gas and water	0.11	0.01	0.10	0.17	0.03	0.20	0.20	0.1
Construction	2.39	0.23	2.62	1.96	0.17	2.14	2.14	3.4
Trade, hotel and restaurant	7.31	1.08	8.39	7.50	0.90	8.40	8.40	9.9
Transport, storage, information and communication	3.79	0.25	4.04	3.75	0.14	3.89	3.89	5.4
Finance & business services and real estate	0.88	0.12	1.00	0.75	0.12	0.87	0.87	0.5
Health, education, public administration & defense	1.79	0.53	2.32	2.28	1.11	3.39	3.39	4.4
Community and personal services and others	1.81	1.56	3.37	1.31	1.54	2.85	2.85	3.5
Total	37.88	16.20	54.08	41.23	16.85	58.07	58.07	60.8

Note: (*) Provisional) indicates population 15 years and above as per Labour Force Survey 2016-17
Source: Labour Force Survey 2010, 2013 and 2016-17; Bangladesh Bureau of Statistics.

POPULATION AGED 15 YEARS AND ABOVE BY MAJOR INDUSTRY

(In percent of total)

Major Industry	2010			2013			2016-17 (*)	
	Male	Female	Total	Male	Female	Total	Total	Total
Agriculture, forestry & fisheries	28.1	19.4	47.6	29.6	15.5	45.1	40.6	40.6
Mining and quarrying	0.2	0.0	0.2	0.4	0.0	0.4	0.2	0.2
Manufacturing	8.9	3.5	12.5	9.9	6.5	16.4	14.5	14.5
Electricity, gas and water	0.2	0.0	0.2	0.3	0.1	0.3	0.2	0.2
Construction	4.4	0.4	4.8	3.4	0.3	3.7	5.6	5.6
Trade, hotel and restaurant	13.5	2.0	15.5	12.9	1.5	14.5	16.3	16.3
Transport, storage & communication	7.0	0.5	7.5	6.5	0.2	6.7	8.9	8.9
Finance & business services and real estate	1.6	0.2	1.8	1.3	0.2	1.5	0.8	0.8
Health, education, public administration & defense	3.3	1.0	4.3	3.9	1.9	5.8	7.2	7.2
Community and personal services and others	3.3	2.9	6.2	2.3	2.7	4.9	5.8	5.8
Total	70.0	30.0	100.0	71.0	29.0	100.0	100.0	100.0

Note: (*) Provisional) indicates population 15 years and above as per Labour Force Survey 2016-17
Source: Labour Force Survey 2010, 2013 and 2016-17; Bangladesh Bureau of Statistics.

DISTRIBUTION OF EMPLOYED PERSON AGED 15 YEARS AND ABOVE BY EMPLOYMENT STATUS, RESIDENCE AND SEX

(In million)

Employment Status	Rural (*)			Urban (*)			National (*)		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Employer	1.79	0.09	1.88	0.79	0.03	0.82	2.59	0.12	2.71
Own account worker	14.71	6.19	20.90	4.91	1.14	6.05	19.62	7.33	26.95
Contributing family helper	1.38	4.82	6.20	0.33	0.47	0.80	1.71	5.29	6.99
Employee	11.71	2.91	14.63	6.25	2.90	9.15	17.96	5.82	23.78
Others	0.21	0.06	0.28	0.09	0.02	0.12	0.31	0.09	0.40
Total	29.81	14.08	43.89	12.37	4.57	16.94	42.18	18.65	60.83

Note: * = Provisional

Source: Labour Force Survey 2016-17; Bangladesh Bureau of Statistics.

DISTRIBUTION OF EMPLOYED PERSON AGED 15 YEARS AND ABOVE BY EMPLOYMENT STATUS, RESIDENCE AND SEX

(In percent of total)

Employment Status	Rural (*)			Urban (*)			National (*)		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Employer	2.9	0.1	3.1	1.3	0.1	1.4	4.2	0.2	4.4
Own account worker	24.2	10.2	34.4	8.1	1.9	9.9	32.3	12.1	44.3
Contributing family helper	2.3	7.9	10.2	0.5	0.8	1.3	2.8	8.7	11.5
Employee	19.3	4.8	24.0	10.3	4.8	15.0	29.5	9.6	39.1
Others	0.4	0.1	0.5	0.2	0.0	0.2	0.5	0.1	0.7
Total	49.0	23.1	72.1	20.3	7.5	27.9	69.3	30.7	100.0

Note: * = Provisional

Source: Labour Force Survey 2016-17; Bangladesh Bureau of Statistics.

EMPLOYED POPULATIONS AGED 15 YEARS AND ABOVE BY ECONOMIC SECTOR, SEX AND AREA

Employment Status	Rural (*)			Urban (*)			National (*)		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
In Million									
Agriculture	12.48	10.22	22.70	1.09	0.91	1.99	13.57	11.13	24.69
Industry	5.83	1.61	7.44	3.45	1.53	4.98	9.28	3.15	12.42
Service	11.50	2.24	13.74	7.84	2.13	9.97	19.34	4.37	23.71
Total	29.81	14.08	43.89	12.37	4.57	16.94	42.18	18.65	60.83
% of Total Employment									
Agriculture	20.5	16.8	37.3	1.8	1.5	3.3	22.3	18.3	40.6
Industry	9.6	2.7	12.2	5.7	2.5	8.2	15.3	5.2	20.4
Service	18.9	3.7	22.6	12.9	3.5	16.4	31.8	7.2	39.0
Total	49.0	23.1	72.1	20.3	7.5	27.9	69.3	30.7	100.0
Column %									
Agriculture	41.9	72.6	51.7	8.8	19.9	11.8	32.2	59.7	40.6
Industry	19.6	11.5	17.0	27.9	33.5	29.4	22.0	16.9	20.4
Service	38.6	15.9	31.3	63.3	46.6	58.8	45.8	23.5	39.0
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Note: * = Provisional

Source: Labour Force Survey 2016-17; Bangladesh Bureau of Statistics.

EMPLOYMENT INDICES OF INDUSTRIAL WORKERS IN SELECTED INDUSTRIES (Base: 1988 - 89 = 100)

Period	Jute		Cotton		Paper		Cement		Fertilizer		Petroleum		Paints & Varnishes	
	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employees
2003-2004	69.07	66.56	71.69	71.81	29.47	34.19	143.96	127.82	95.45	100.28	99.46	116.44	167.91	155.35
2004-2005	65.46	62.58	71.76	71.78	26.72	30.38	145.05	128.64	92.22	96.25	109.26	118.55	167.37	156.27
2005-2006	65.87	63.12	71.90	71.97	29.86	31.42	146.56	130.23	89.69	94.57	110.35	121.13	193.58	155.80
2006-2007	65.14	59.06	72.47	72.49	27.11	30.59	148.62	132.79	89.13	94.16	107.90	118.71	185.56	152.32
2007-2008	64.35	57.81	72.56	72.62	24.91	28.22	150.13	134.46	85.14	89.62	101.90	118.04	177.00	147.20
2008-2009	64.59	58.04	72.69	72.62	22.87	26.18	154.93	139.40	80.53	86.53	105.58	121.07	180.75	150.52
2009-2010	65.04	58.46	74.88	74.30	23.51	26.76	166.28	152.30	82.61	88.06	114.71	131.34	207.48	169.30
2010-2011	65.08	58.50	75.02	74.45	23.68	26.95	168.74	154.74	82.98	88.36	117.71	134.87	217.11	177.38
2011-12	72.61	61.32	75.02	74.44	21.45	22.93	194.06	160.00	84.02	77.72	106.33	128.00	153.82	127.54
2012-13(P)	78.77	72.37	75.05	74.55	22.39	24.32	200.91	162.67	91.70	83.53	100.56	127.54	150.00	123.35
2013														
January	79.21	72.75	75.03	74.60	22.59	24.66	201.23	162.96	92.01	83.54	100.27	126.97	150.80	123.48
February	79.22	72.76	75.04	74.62	22.57	24.63	201.37	163.11	92.15	83.47	99.45	126.65	151.87	124.41
March	79.22	72.76	75.05	74.62	22.59	24.68	201.64	163.41	91.98	83.35	100.27	126.49	152.40	124.88
April	79.22	72.76	75.05	74.63	22.55	24.66	201.78	163.56	92.19	83.68	101.08	126.81	152.40	124.65
May	79.23	72.76	75.05	74.63	22.58	24.66	201.79	163.57	90.56	83.10	100.82	126.82	151.87	124.19
June	78.81	72.77	75.05	74.63	22.60	24.67	201.92	163.72	90.56	83.10	100.82	127.30	151.34	123.95

P= Provisional

Source: Monthly Statistical Bulletin, Bangladesh Bureau of Statistics

PRODUCTIVITY INDICES OF INDUSTRIAL WORKERS IN SELECTED INDUSTRIES (Base: 1988 - 89 = 100)

Period	Jute		Cotton		Paper		Cement		Fertilizer		Petroleum		Paints & Varnishes	
	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employees
2003-04	80.99	84.04	201.92	201.59	114.49	98.68	362.82	408.64	144.11	137.17	132.72	113.92	473.17	511.39
2004-05	82.65	86.35	251.28	246.96	113.10	99.47	413.94	466.74	142.62	136.64	106.99	98.63	617.39	661.24
2005-06	76.02	79.34	287.38	287.10	107.68	95.48	435.50	490.11	134.38	127.45	115.78	105.48	577.40	717.41
2006-07	79.32	87.48	366.28	366.18	98.56	87.34	454.46	508.63	139.13	131.70	118.86	108.03	663.97	808.86
2007-08	89.83	100.00	400.06	399.74	112.80	99.57	469.84	524.59	116.22	110.41	113.49	97.98	672.13	808.20
2008-09	91.65	86.84	411.76	414.98	92.73	68.86	535.18	594.61	104.99	97.38	78.86	68.48	623.40	748.78
2009-10	91.65	86.84	411.76	414.98	92.73	68.86	503.01	549.19	88.23	82.77	105.28	91.95	683.94	838.18
2010-11	92.68	103.10	421.00	424.67	103.57	92.64	513.76	560.25	76.35	71.72	105.89	92.41	706.56	866.47
2011-12	99.77	109.13	393.51	396.58	290.91	273.58	479.20	489.44	70.04	80.95	117.27	99.75	938.97	1228.25
2012-13(P)	106.20	115.64	390.05	400.95	297.28	273.74	500.81	618.54	75.66	80.37	131.44	103.64	1042.72	1268.42
2013														
January	102.39	111.49	399.29	401.59	302.65	277.25	501.63	619.44	86.20	94.94	148.62	117.39	1036.18	1265.44
February	96.25	104.79	399.36	401.60	279.39	256.02	501.51	619.15	89.39	98.69	127.98	100.49	1028.11	1255.04
March	89.27	97.19	398.66	400.96	283.39	259.40	502.23	619.72	90.42	99.78	138.25	109.59	1023.77	1249.38
April	98.04	106.74	398.81	401.05	280.26	256.28	505.64	623.80	47.07	51.86	138.38	110.30	1022.62	1250.28
May	84.17	91.64	398.44	400.68	290.48	265.98	505.71	623.88	30.47	33.20	122.76	97.60	1025.04	1253.51
June	232.89	253.57	298.93	401.18	288.76	264.53	507.41	625.80	69.29	42.82	138.49	109.44	1027.08	1254.05

P= Provisional, Source: Monthly Statistical Bulletin, Bangladesh Bureau of Statistics

AVERAGE WAGE RATES FOR CONSTRUCTION WORKERS IN PRINCIPAL TOWNS

(Value in Taka)

Types of Labour	Town	2006 - 07	2007 - 08	2008-09	2012-13	2015-16	Monthly		
							Dec. 2017	Jan. 2018	Feb. 2018
Mason (Skilled)	Chittagong	221.50	240.75	270.83	442.33	437.00	480.00	480.00	482.00
	Dhaka	228.00	250.92	286.33	401.09	495.00	530.00	530.00	535.00
	Khulna	188.00	206.42	254.00	414.82	468.00	490.00	490.00	490.00
	Narayanganj	225.00	247.08	250.00	389.18	450.00	475.00	475.00	475.00
	Rajshahi	184.50	204.92	230.58	391.00	482.00	505.00	505.00	505.00
	Rangpur	192.08	248.18	250.00	382.50	436.00	460.00	460.00	460.00
	Sylhet	200.00	-	300.00	392.75	444.00	470.00	470.00	470.00
Helper to Mason	Chittagong	118.00	136.57	216.67	270.00	394.00	430.00	430.00	430.00
	Dhaka	131.00	150.00	200.00	275.20	387.00	410.00	410.00	411.00
	Khulna	98.67	116.57	180.00	331.56	387.00	408.00	409.00	410.00
	Narayanganj	121.25	151.66	190.83	330.40	394.00	430.00	430.00	432.00
	Rajshahi	96.83	109.17	186.25	296.33	386.00	430.00	430.00	430.00
	Rangpur	98.18	104.55	180.00	271.45	466.00	484.00	485.00	485.00
	Sylhet	150.00	-	182.50	295.00	478.00	500.00	500.00	500.00
Carpenter (Skilled)	Chittagong	280.00	280.00	310.83	427.00	473.00	490.00	490.00	490.00
	Dhaka	250.00	287.00	300.00	431.00	477.00	488.00	490.00	490.00
	Khulna	150.00	117.50	226.92	335.82	421.00	450.00	450.00	450.00
	Narayanganj	250.00	265.83	300.00	481.36	423.00	450.00	452.00	452.00
	Rajshahi	143.33	165.83	209.58	320.92	422.00	455.00	455.00	456.00
	Rangpur	153.33	170.00	210.00	305.17	417.00	445.00	445.00	446.00
	Sylhet	200.00	-	220.83	402.50	512.00	440.00	440.00	440.00
Plumber	Chittagong	250.00	262.50	310.42	438.89	492.00	520.00	520.00	520.00
(Sanitary fitter)	Dhaka	258.33	250.00	333.33	486.89	489.00	515.00	515.00	516.00
	Khulna	154.58	195.25	243.33	404.18	482.00	500.00	500.00	500.00
	Narayanganj	250.00	275.00	296.67	442.09	477.00	500.00	505.00	505.00
	Rajshahi	200.00	175.00	211.67	373.42	480.00	500.00	500.00	500.00
	Rangpur	178.75	238.18	250.10	379.17	473.00	500.00	500.00	500.00
	Sylhet	200.00	-	300.00	375.42	485.00	500.00	500.00	500.00
Painter	Chittagong	217.50	255.83	307.08	415.78	483.00	500.00	505.00	505.00
	Dhaka	218.33	267.00	310.42	431.89	470.00	500.00	500.00	500.00
	Khulna	157.08	183.33	220.67	366.82	483.00	500.00	500.00	500.00
	Narayanganj	227.00	234.17	256.67	432.27	482.00	495.00	495.00	495.00
	Rajshahi	150.00	172.50	210.00	344.00	482.00	500.00	500.00	500.00
	Rangpur	160.91	195.00	248.33	390.42	482.00	500.00	500.00	500.00
	Sylhet	200.00	-	300.00	397.00	475.00	500.00	500.00	500.00
Electrician	Chittagong	250.00	300.00	325.00	471.78	453.00	470.00	470.00	470.00
	Dhaka	258.33	272.00	333.33	500.64	459.00	468.00	470.00	470.00
	Khulna	152.50	181.67	234.17	385.27	455.00	465.00	470.00	470.00
	Narayanganj	250.00	304.00	392.50	526.55	441.00	460.00	460.00	460.00
	Rajshahi	200.00	187.50	221.67	341.58	442.00	460.00	460.00	460.00
	Rangpur	182.28	213.18	248.33	371.25	444.00	460.00	460.00	460.00
	Sylhet	200.00	-	300.00	402.20	446.00	460.00	462.00	462.00

Types of Labour	Town	2006 - 07	2007 - 08	2008-09	2012-13	2015-16	2016		
Brick Breaking 1" size khua per 100 cft	Chittagong	775.00	720.83	837.50	906.00	1091.00	1115.00	1115.00	1115.00
	Dhaka	800.00	1020.00	1066.67	1424.20	1090.00	1098.00	1099.00	1099.00
	Khulna	617.25	597.17	670.83	340.00	1090.00	1105.00	1106.00	1106.00
	Narayangaj	800.00	1000.00	920.83	996.70	1089.00	1112.00	1112.00	1113.00
	Rajshahi	733.33	820.83	991.67	1583.08	1074.00	1095.00	1096.00	1096.00
	Rangpur	714.55	758.18	1000.00	2104.44	1079.00	1095.00	1099.00	1095.00
	Sylhet	800.00	-	800.00	988.09	1082.00	1099.00	1092.00	1099.00
Situ Mosaic per sft. (fitting charge)	Dhaka	25.82	25.00	25.83	32.00	44.00	55.00	55.00	57.00
Glazed Tile per sft. (fitting charge)	Dhaka	20.17	25.00	25.83	32.00	45.00	64.00	65.00	65.00
Floor Tile Per sft. (fitting charge)	Dhaka	20.17	25.00	25.83	32.00	43.00	65.00	67.00	67.00

Source: Monthly Statistical Bulletin, Bangladesh Bureau of Statistics

AVERAGE WAGE RATES FOR INDUSTRIAL WORKERS IN BANGLADESH

Industry	Types of Labour	2005 - 06	2006 - 07	2007 - 08	2008-09	2012-13	2015-16	Monthly		
								Dec. 2017	Jan. 2018	Feb. 2018
Medium & Large Scale Industry										
(i) Cotton Textile	Skilled	129.67	129.67	164.89	228.25	294.17	360.00	409.00	411.00	411.00
	Unskilled	109.94	109.94	120.53	156.46	213.25	286.00	324.00	236.00	328.00
(ii) Jute Textile	Skilled	129.67	129.67	163.55	224.08	279.33	349.00	386.00	388.00	388.00
	Unskilled	109.94	109.94	-	141.85	209.08	278.00	318.00	321.00	323.00
(iii) Match	Skilled	129.67	129.67	158.98	210.83	266.17	326.00	359.00	365.00	365.00
	Unskilled	109.94	109.94	117.81	142.31	200.33	272.00	305.00	310.00	310.00
(iv)Engineering (fitter)	Skilled	262.38	280.06	304.96	329.44	375.67	442.00	475.00	478.00	478.00
	Unskilled	146.00	164.67	192.46	216.90	264.00	335.00	375.00	376.00	376.00
(v) Edible Oils	Skilled	126.50	163.34	145.69	226.13	279.08	356.00	393.00	393.00	393.00
	Unskilled	107.67	120.29	185.91	172.50	219.92	284.00	343.00	344.00	345.00
(vi) Small & Cottage	Skilled	152.61	169.54	185.02	204.71	268.92	-	-	-	-
	Unskilled	-	-	-	-	-	-	-	-	-
(vii) Construction	Skilled	191.49	205.50	225.75	265.04	431.75	-	-	-	-
	Unskilled	99.56	111.12	128.13	163.25	326.92	-	-	-	-

Source: Monthly Statistical Bulletin, Bangladesh Bureau of Statistics

WAGE RATE INDICES BY MAJOR SECTORS IN BANGLADESH (Base: 1969 – 70 = 100)

Period	General	Nominal Indices			
		Agriculture	Fishery	Manufacturing	Construction
2006-07	3779.00	3151.00	3332.00	4636.00	3135.00
2007-08	4227.00	3524.00	3669.00	5197.00	3549.00
2008-09	5025.65	4273.71	4236.49	6128.36	4311.31
2009-10	5459.66	4832.49	4741.95	6536.03	4683.91
2010-11	5781.64	5325.63	5086.67	6778.06	4983.36
2011-12	6469.17	6133.57	5020.23	7221.17	6583.08
2012-13	7388.42	7399.85	5739.22	7950.57	7651.93
2013-14	8097.40	8282.91	6566.36	8699.92	8237.89
2014-15	8898.78	9254.25	7129.29	9552.95	9004.44
2015-16	9745.83	10275.92	7755.89	10454.73	9776.94
2016-17 (P)	10597.35	11242.77	8421.18	11387.72	10591.04
2017					
January	10665.89	11314.88	8467.01	11486.08	10682.52
February	10744.56	11400.86	8531.85	11557.55	10748.99
March	10773.02	11428.72	8564.87	11569.33	10759.94
April	10797.75	11446.24	8596.69	11604.67	10792.81
May	10825.47	11472.51	8624.30	11627.01	10815.45
June	10883.90	11540.18	8664.53	11681.63	10864.39
July	10914.62	11572.02	8694.55	11707.54	10888.49
August	10951.33	11610.23	8722.76	11752.31	10930.12
September	11040.48	11713.72	8784.60	11855.97	11026.53
October	11138.62	11823.58	8853.04	11959.63	11122.94
November	11229.27	11920.71	8916.08	12054.65	11211.32
December	11281.71	11967.68	8965.31	12126.90	11278.51

Note: P = Provisional, Source: Monthly Statistical Bulletin, Bangladesh Bureau of Statistics

WAGE RATE INDEX BY SECTORS: BANGLADESH

(Base: 2010-11=100)

Sector	2013-14	2014-15	2015-16	2016-17	2017-18	Apr,18	May,18	June,18
General	118.82	124.69	132.81	141.46	150.59	153.39	153.70	154.44
Percentage change (Point to Point)	5.50	4.94	6.52	6.50	6.46	6.42	6.37	6.31
Percentage change (over previous month)						0.27	0.20	0.48
1. Agriculture	118.44	124.51	132.48	141.22	150.27	152.94	153.13	153.95
Percentage change (Point to Point)	5.68	5.12	6.41	6.59	6.41	6.37	6.23	6.20
Percentage change(over previous month)						0.18	0.12	0.54
i) Agriculture	118.40	124.46	132.44	141.19	150.23	152.90	153.08	153.91
Percentage change (Point to Point)	5.64	5.12	6.42	6.60	6.40	6.38	6.26	6.21
Percentage change(over previous month)						0.18	0.12	0.54
ii) Fish	120.81	126.85	134.59	143.19	152.63	155.21	155.64	156.22
Percentage change (Point to Point)	7.97	5.00	6.12	6.37	6.61	6.30	5.99	5.89
Percentage change(over previous month)						0.30	0.28	0.37
2. Industry	119.07	124.38	132.02	140.27	149.45	152.45	152.90	153.42
Percentage change (Point to Point)	4.97	4.47	6.16	6.24	6.55	6.47	6.44	6.31
Percentage change(over previous month)						0.45	0.30	0.34
i) Construction	119.93	124.84	129.97	137.43	145.32	147.79	148.18	148.64
Percentage change (Point to Point)	4.56	4.09	4.18	5.37	5.75	5.40	5.35	5.26
Percentage change(over previous month)						0.33	0.27	0.31
ii) Production	121.86	127.28	136.18	146.01	157.81	161.90	162.47	163.11
Percentage change (Point to Point)	9.27	4.44	7.70	7.22	8.08	8.51	8.52	8.28
Percentage change(over previous month)						0.67	0.35	0.39
3. Service	120.16	126.15	136.03	145.01	154.44	157.51	158.13	158.88
Percentage change (Point to Point)	5.75	4.98	7.86	6.60	6.51	6.59	6.79	6.81
Percentage change(over previous month)						0.34	0.39	0.47

Source: Bangladesh Bureau of Statistics

CONSUMER PRICE INDEX: NATIONAL

(Base: 2005-06 = 100)

Period	General Index	Index by expenditure group								
		1. Food & Beverage	2. Non-Food	I. Clothing & Footwear	II. Fuel & Lighting	III. Household Equipment	IV. Medical Care & Health Expense	V. Transport & Communication	VI. Recreation, Entertainment	VII. Misc. Goods & Services
2012-13	181.73	193.24	166.97	179.66	155.61	195.33	159.66	159.34	157.23	182.54
2013-14	195.08	209.79	176.23	194.77	163.47	206.14	164.06	167.20	164.38	193.75
2014-15	207.58	223.80	186.79	208.50	171.80	214.45	180.77	181.78	168.02	204.21
2015-16	219.86	234.77	200.66	233.38	182.74	227.39	199.94	201.34	171.01	211.61
2016-17	231.82	248.90	209.92	243.56	194.01	235.85	206.70	210.78	177.56	217.51
2017-18	245.22	266.64	217.76	255.24	200.25	249.68	209.28	218.80	183.65	223.81
Jun., 17	233.86	250.35	212.72	246.27	198.27	237.67	207.24	212.80	182.47	216.88
Jul., 17	236.61	254.20	214.05	246.77	199.50	241.75	207.58	215.24	182.62	217.15
Aug. 17	239.92	259.60	214.68	247.67	199.10	244.00	207.67	216.38	182.81	219.51
Sep. 17	244.36	267.38	214.84	247.78	199.16	244.12	207.84	216.44	182.87	220.48
Oct. 17	245.86	269.73	215.26	248.03	199.21	247.01	207.92	216.59	182.97	220.61
Nov. 17	244.85	267.10	216.33	249.62	199.41	249.66	208.32	217.68	183.07	223.89
Dec. 17	245.03	267.06	216.79	249.92	199.98	250.06	208.83	217.89	183.69	224.44
Jan. 18	248.13	271.05	218.73	259.67	200.65	250.87	209.09	218.22	184.00	224.61
Feb. 18	247.81	270.25	219.04	259.98	200.69	251.08	209.58	219.29	184.21	224.83
Mar. 18	248.65	271.27	219.64	260.22	200.75	253.21	210.47	219.94	184.27	226.55
Apr. 18	248.85	271.42	219.90	260.33	200.86	254.08	210.78	220.47	184.31	226.72
May. 18	245.80	265.27	220.83	261.92	201.61	254.88	211.45	221.55	184.40	228.29
Jun. 18	246.82	265.33	223.09	270.93	202.06	255.39	211.80	225.87	184.57	228.60

Source: Bangladesh Bureau of Statistics

CONSUMER PRICE INDEX: RURAL (Base: 2005-06 = 100)

Period	General Index	Index by expenditure group								
		1. Food & Beverage	2. Non-Food	I. Clothing & Footwear	II. Fuel & Lighting	III. Household Equipment	IV. Medical Care & Health Expense	V. Transport & Communication	VI. Recreation, Entertainment	VII. Misc. Goods & Services
2012-13	183.90	192.14	170.79	184.54	157.40	186.40	164.63	160.98	174.07	187.05
2013-14	196.90	207.72	179.69	200.61	164.05	197.62	168.87	166.01	179.72	199.74
2014-15	209.10	221.02	190.13	214.07	171.34	209.29	187.18	174.09	183.84	212.34
2015-16	220.10	230.31	203.86	242.26	179.19	222.11	211.04	188.69	187.84	221.12
2016-17	231.02	243.08	211.83	253.51	187.45	229.57	219.35	193.71	194.81	226.47
2017-18	244.17	259.86	219.21	263.96	192.89	246.23	221.15	197.24	201.31	233.72
Jun., 17	232.58	244.29	213.95	256.40	190.37	231.68	219.80	194.33	200.03	224.58
Jul., 17	235.53	248.32	215.20	256.87	191.78	236.72	219.99	194.75	200.19	224.84
Aug, 17	238.97	253.36	216.08	257.42	191.97	239.91	220.04	195.95	200.28	227.02
Sep, 17	243.70	260.54	216.28	257.48	191.99	240.04	220.23	196.01	200.31	228.71
Oct, 17	245.48	263.46	216.88	257.76	192.07	243.96	220.25	196.18	200.46	228.84
Nov, 17	244.12	260.63	218.15	259.36	192.25	246.75	220.56	197.05	200.56	234.28
Dec, 17	244.20	260.34	218.50	259.57	192.65	247.19	220.67	197.18	201.58	234.49
Jan, 18	247.49	264.64	220.20	267.63	193.11	247.75	220.90	197.24	201.60	234.65
Feb, 18	246.93	263.56	220.47	267.99	193.16	247.92	221.65	197.74	201.94	234.79
Mar, 18	247.76	264.50	221.14	268.19	193.24	250.35	221.83	198.01	202.01	237.82
Apr, 18	247.86	264.56	221.29	268.30	193.39	250.50	222.27	198.06	202.08	238.07
May, 18	243.62	257.06	222.22	269.82	194.23	251.32	222.49	198.57	202.20	240.36
Jun, 18	244.38	257.11	224.13	277.13	194.85	252.36	222.89	200.14	202.50	240.74

Source: Bangladesh Bureau of Statistics

CONSUMER PRICE INDEX: URBAN

(Base: 2005-06 = 100)

Period	General Index	Index by expenditure group								
		1. Food & Beverage	2. Non-Food	I. Clothing & Footwear	II. Fuel & Lighting	III. Household Equipment	IV. Medical Care & Health Expense	V. Transport & Communication	VI. Recreation, Entertainment	VII. Misc. Goods & Services
2012-13	177.71	195.91	161.88	170.39	153.55	211.03	151.15	157.53	139.06	176.96
2013-14	191.73	214.85	171.61	183.66	162.80	221.11	155.82	168.52	147.83	186.37
2014-15	204.76	230.56	182.32	197.93	172.33	223.53	169.80	190.26	150.95	194.16
2015-16	219.31	245.66	196.39	216.50	186.86	236.67	180.93	215.50	152.84	199.87
2016-17	233.29	263.09	207.38	224.66	201.60	246.87	185.05	229.59	158.93	206.45
2017-18	247.17	283.19	215.83	238.67	208.77	255.74	188.96	242.55	164.59	211.57
Jun., 17	236.24	265.16	211.08	227.03	207.41	248.20	185.74	233.15	163.52	207.37
Jul., 17	238.59	268.56	212.52	227.59	208.43	250.59	186.33	237.82	163.67	207.67
Aug, 17	241.66	274.82	212.81	229.17	207.36	251.20	186.51	238.89	163.96	210.23
Sep, 17	245.56	283.09	212.92	229.34	207.46	251.28	186.64	238.97	164.05	210.33
Oct, 17	246.56	285.03	213.09	229.55	207.47	252.38	186.83	239.08	164.10	210.45
Nov, 17	246.21	283.37	213.89	231.14	207.69	254.77	187.36	240.41	164.18	211.06
Dec, 17	246.57	283.44	214.50	231.61	208.47	255.11	188.58	240.71	164.38	212.03
Jan, 18	249.31	286.72	216.77	244.57	209.37	256.37	188.86	241.34	165.00	212.22
Feb, 18	249.42	286.55	217.12	244.77	209.40	256.65	188.93	243.02	165.08	212.53
Mar, 18	250.28	287.79	217.65	245.08	209.46	258.24	191.04	244.11	165.12	212.64
Apr, 18	250.67	288.18	218.05	245.18	209.52	260.39	191.10	245.16	165.14	212.70
May, 18	249.83	285.30	218.98	246.91	210.15	261.15	192.54	246.87	165.19	213.39
Jun, 18	251.32	285.38	221.70	259.16	210.41	260.72	192.82	254.23	165.21	213.61

Source: Bangladesh Bureau of Statistics

A BRIEF PROFILE OF BEF

Bangladesh Employers' Federation (BEF) is the national organization of employers. It represents all associations representing major industries in the country as well as established individual enterprises.

The objectives of the Federation are to promote, encourage and protect the interests of employers in industrial relations and, through such efforts, to establish good relations among employers and workers, which play a vital supporting role in the country's economic development.

BEF is well known as a progressive body, having a proactive approach on social issues. It is the only body of the employers recognized by the Ministry of Labour and Employment, and accordingly enjoys the sole representative capacity in the Tripartite Consultative Council, Labour Courts, Minimum Wages

Board, National Wages and Productivity Commission, etc. It closely interacts with the Ministry of Labour and Employment on all policy issues. Similarly, it maintains close touch with other relevant Ministries of the Government on issues concerning industrial relations, enterprise efficiency, competitiveness, etc.

BEF's activities cover a wide range of issues besides industrial relations. Training and skill development is a major activity along with enterprise level programs for productivity improvement, safety and health, good management practices, etc.

BEF has taken major initiatives to foster close relationship with the trade unions and it enjoys their goodwill and confidence on many issues.