



COMMITTEE AND OFFICE-BEARERS

(As on 31st December, 2007)

PRESIDENT

Mr. Kamran T. Rahman
Deputy Managing Director, Pubali Jute Mills Limited

VICE-PRESIDENT

Mr. Alamgir M. Z. Rahman
Managing Director, Consumer Products Limited

COMMITTEE MEMBERS

Mr. M. Anis Ud Dowla
Chairman
Advanced Chemical Industries Ltd.

Mr. Habibullah N. Karim
Managing Director
Technohaven Company Ltd.

Mr. Masih Ul Karim
Managing Director
Berger Paints Bangladesh Ltd.

Mr. Golam Mainuddin
Deputy Managing Director
British American Tobacco Bangladesh
Company Ltd.

Mr. Feroz Rahim
Managing Director
Rahimafrooz Batteries Ltd.

Mr. Ashfaqur Rahman
Managing Director
Novartis (Bangladesh) Ltd.

Ms. Luna Shamsuddoha
Chairman
Dohatec New Media

Mr. Shafiq Uz Zaman
Managing Director
Coats Bangladesh Limited

Mr. M. A. Baset
Director
Bangladesh Knitwear Manufacturers
and Exporters Association

Mr. Ferdous Perves Bivon
Vice-President
Bangladesh Garment Manufacturers
and Exporters Association

Mr. Najmul Huq
Member
Bangladesh Jute Mills Association

Mr. M. Salman Ispahani
Chairman
Bangladeshiyo Cha Sangsad

Mr. Muhammad Shams-uz Zoha
Former Committee Member
Bangladesh Jute Spinners Association

SECRETARY-GENERAL

Mr. C.K. Hyder



TABLE OF CONTENTS

<u>Contents</u>	<u>Page</u>
Committee and Office Bearers as on 31 st December 2007	i
ANNUAL GENERAL MEETING:	
Proceedings of the AGM	1
ANNUAL REPORT FOR THE YEAR ENDED 31ST DECEMBER 2007	13
Membership	17
Managing Committee	18
Sub-Committees	24
Secretariat	28
Participation in NICC/Other International Organisation's Training Programmes	29
Participation at International Seminars/Workshops/ Conferences	30
Participation in Local Seminars/Workshops/ Symposiums	31
Bangladesh Employers' Federation - International Labour Organization (ILO) - Joint Programmes	33
Representatives on various Committees/Bodies	34
Representatives on the Labour Courts	36
Affiliation with World Bodies	38
IMPORTANT COURT CASES ON LABOUR MATTERS	39



STATISTICS :	<u>Page</u>
Distribution of Population by Economic Activities	139
Population aged 15 years and above by major Industry	141
Distribution of employed person aged 15 years and above by employment status, residence and sex	143
Employment Indices of Industrial Workers in Selected Industries	145
Productivity Indices of Industrial Workers in Selected Industries	147
Average Daily Wage Rate of Construction Labour in Principal Towns	149
Average Wage Rate for Industrial Workers in Bangladesh	153
Wage Rate Indices by Major Sectors in Bangladesh	154
Consumer Price Index: National	155
Consumer Price Index: All Rural	156
Consumer Price Index : All Urban	157



Draft

ENCLOSURE-“A”

BANGLADESH EMPLOYERS' FEDERATION (BEF)
ANNUAL REPORT – 2007
(January - December, 2007)

The Committee of Bangladesh Employers' Federation (BEF) has the pleasure of submitting to its members the following report for the year 2007.

During the year, the Federation continued its efforts to stress at different levels, particularly in the Government that while trade union rights, employment protection and social dialogues are needed to be practised and promoted, it should also be increasingly recognised that for sustaining these rights and goals, enterprises needed to be given policy and other supports to tackle the global challenges and remain the major source of employment. The Federation pointed out that the countries in South-east Asia show how balanced strategies for workers' welfare are linked to productivity improvement in all productive sectors. As against that, countries, which remained over-protective of trade union rights, ignoring productivity and welfare of the enterprises, failed to attract investment and create employment opportunities.

In all meetings with the International Labour Organization (ILO), International Organisation of Employers (IOE) and the Confederation of Asia-Pacific Employers (CAPE), the Federation highlighted the foregoing position and also argued for greater assistance to the employers' organisations for capacity building.

The Federation continued to maintain close contacts with the ILO Area Office, Dhaka and the Sub-Regional Office in New Delhi. Thanks to their support, the Federation regularly organised workshops, seminars, discussion meetings on a large number of issues like safety and health, productivity, social dialogues, etc. The Federation also continued to maintain close relations with the Nippon-Keidanren International Cooperation Center (NICC); which organised regular programmes for providing training to the trainers. It also financed participation of the Federation in different management meetings in Japan and also in Bangladesh.

The Federation held several meetings with the Government, particularly with the Ministry of Labour and Employment on important issues like growth, employment generation, particularly creation of employment opportunities in non-farm activities in the rural areas, productivity, etc. The Federation also continued regular dialogues with the Government for proper implementation of the Labour Act, 2006, reflection of the enterprises' capacity to pay in fixation of minimum wages, elimination of child labour, identification of elements instigating labour unrest and violent attacks on mills and factories in the name of workers' agitations. The determined actions against the disruptive elements were also highlighted in the Crisis Management Committee, Tripartite Consultative Council, etc.

1. CHILD LABOUR POLICY

The Government sought the Federation's view-points on the draft Child Labour Policy, which it wanted to frame in keeping with the obligations arising from ratification of the ILO Convention No. 182 concerning worst forms of child labour.

The Federation gave its comments pointing out particularly that the definition of child labour had been changed in the newly promulgated Labour Act, 2006. It also advised the Government to examine child labour policies of the neighbouring countries.



Later, a Child Labour Policy was finalised by a Working Committee where the Secretary-General represented the Federation.

2. PROPOSED PRODUCTIVITY ACT, 2007

The Ministry of Industries had prepared draft of a law entitled, The Productivity Act, 2007 and sought the Federation's comments.

The Federation opposed the law as it did not make any provision for any concrete measures for improving productivity in mills and factories. On the other hand, it had exhaustive provisions for punitive actions against employers if they failed to provide requisite information on labour productivity, machine productivity, etc. The Federation's President and the Secretary-General met then Adviser in charge of the Ministry of Industries and requested her to instruct for re-drafting of the law. Till date, the Ministry of Industries have not taken any further move to promulgate the law.

3. CLOSURE OF MILLS AND FACTORIES IN STAGGERED MANNER SO AS TO SAVE ELECTRICITY

The Government sought Federation's views on closure of mills and factories in a staggered manner so as to save electricity during the peak period. Based on discussions with the member-firms, the Federation opposed the proposal as it would not only upset the mills and factories which were required to operate on a 3-shift basis but would need amendment of the labour law.

4. BIRD FLU EPIDEMIC: WAIVER OF LEGAL PROVISIONS OF WEEKLY HOLIDAYS

At the request of the poultry farm owners, the Federation made a representation to the Government to spare the poultry farms from giving weekly holidays to their workers if they are given equal number of holidays at a time at the end of each month so as to minimise the risks of human contacts during the epidemic period.

5. WORKERS' RIGHTS IN EXPORT PROCESSING ZONES AND EMPLOYMENT OF CHILD LABOUR IN SOME FISH PROCESSING FACTORIES : QUERIES FROM U.S. TRADE REPRESENTATIVES

In response to a petition of the American Federation of Labour and Congress of Industrial Organisations (AFL-CIO), the U.S. Trade Representative's Office (USTR) notified the Government of Bangladesh as to why they should not be denied from the GSP facilities for having failed to provide trade union rights to the workers in the industries in the Export Processing Zones (EPZs) and employment of child labour in some shrimp processing factories.

The USTR's letter was sent to the Federation by the Ministry of Labour and Employment for comments.

In its comments, the Federation reminded that in 2004, the Government made a commitment for allowing trade union rights to the workers in the EPZs by the year 2008. Accordingly, the Government should prepare a work plan for implementing its commitment and then consider requesting the USTR to extend the time up to 2010.



The Federation also advised the Government to reply to the USTR saying that preliminary enquiry showed that shrimp processing factories did not have in their employment any child labour but any specific complaint could be looked into.

The Federation also advised the Ministry of Labour and Employment that it would be helpful if the Adviser in charge of the Ministry could talk to the US Secretary of Labour during the forthcoming Conference of the International Labour Organisation in Geneva.

6. REVIEW OF THE LABOUR SITUATION

The Federation Committee regularly reviewed the labour situation prevailing in the country. Depending on the discussions, the Federation took up several issues in the Crisis Management Committee, which had been formed by the Government to deal with reduction of unpleasant happenings and prevention of recurrent crisis in the garments and other industries.

The Federation also proposed to the Government several other issues including introduction of ration system for the industrial workers.

7. MEETINGS WITH ADVISERS/ EMPLOYERS/ WORKERS/ OTHER GOVERNMENT OFFICIALS

During the period, the Federation arranged a number of meetings with the Adviser in Charge of the Ministry of Labour and Employment and the Secretary, Ministry of Labour and Employment. The Federation highlighted different points and drew the Government's attention/intervention required as and where.

8. 96TH SESSION OF THE ILC : BEF'S PARTICIPATION:

The 96th session of the International Labour Conference (ILC) was held in Geneva from the 29th May to 15th June, 2007. The Federation represented with a 4 member delegation as under:

- | | | |
|------|---|-----------------------|
| i. | The President, Mr. Syed Manzur Elahi | - Employers' delegate |
| ii. | The Vice-President, Mr. Obaidur Rahman Khan | - Substitute delegate |
| iii. | The Secretary-General, Mr. C.K. Hyder | - ----- do ----- |
| iv. | The Secretary, Mr. Farooq Ahmed | - ----- do ----- |

The Conference dealt with, among others, the following subjects:

- 1) Information and Reports on the application of the Conventions and Recommendations
- 2) Work in the fishing sector – Standard setting, with a view to the adoption of a Convention and a Recommendation
- 3) Strengthening the ILO's capacity to assist its Members' efforts to reach its objectives in the context of globalization – General discussion
- 4) The promotion of sustainable enterprises – General discussion
- 5) Global Report under the follow up to the ILO Declaration on fundamental principles and rights at work
- 6) Director General's Report



New Members:

During the period, the following organisations joined the Federation as new members (Ordinary):

Tiffany's Wear Ltd
Commercial Bank of Ceylon
BRAC BDMail Network Ltd.
Nandan Food and Beverage Industries Limited

Successor Members: Change of Names

During the period, the following members were elected as the successor members of the company named against those as under:

Successor-members	Previous names
Apex Adelchi Footwear Limited	Apex Footwear Limited
Bextex Limited	Padma Textile Mills Ltd
Nuvista Pharma Limited	Organon (Bangladesh) Ltd
G4S Security Services	Group 4 Securitas
Bangladesh (P) Ltd.	Bangladesh (P) Ltd

II. MANAGING COMMITTEE

At the commencement of the year, i.e. on the 1st January, 2007, the managing Committee of the Federation comprised of the following:

1.	Mr. Syed Manzur Elahi	President	Chairman Apex Footwear Limited
2.	Mr. Obaidur Rahman Khan	Vice-President	Executive Director Bangladesh Lamps Ltd.
3.	Mr. Anjan Chowdhury	Member	Managing Director Square Consumer Products Ltd.
4.	Mr. Md. Nurul Islam	“	Regional Senior Vice President, Middle East, Africa & South Asia-East, American Life Insurance Company.
5.	Mr. Syed S. Kaiser Kabir	“	Managing Director Renata Limited
6.	Mr. Masih Ul Karim	“	Managing Director Berger Paints Bangladesh Ltd.
7.	Mr. A.S.M. Mainuddin Monem	“	Director, Finance & Administration and CEO K. Rahman & Company
8.	Mrs. Rokeya Quader	“	Chairman Desh Garments Limited



- | | | | |
|-----------------------------|----------------------|---|--|
| 9. | Dr. Toufiq M. Seraj | “ | Managing Director
Seltech (Pvt.) Limited |
| 10. | Ms. Luna Shamsuddoha | “ | Chairman
Dohatec New Media |
| 11. | Mr. Shafiq uz Zaman | “ | Managing Director
Coats Bangladesh Ltd. |
| <u>Group Members</u> | | | |
| 12. | Mr. Jahangir Alamin | “ | Vice-Chairman
Bangladesh Textile Mills
Association |
| 13. | Mrs. Sabrina Islam | “ | Vice President
Women Entrepreneurs’
Association |
| 14. | Mr. Nazmul Huq | “ | Committee Member
Bangladesh Jute Mills
Association |
| 15. | Mr. Ardashir Kabir | “ | Committee Member,
Bangladeshiyo Cha Sangsad. |
| 16. | Mr. Faisal Samad | “ | Former Vice-President
(Finance)
Bangladesh Garment
Manufacturers and Exporters
Association |
| 17. | Mr. Shabbir Yusuf | “ | Chairman
Bangladesh Jute Spinners’
Association |

The Managing Committee comprising of the above members remained in the office up to the Ninth Annual General Meeting (A.G.M) of the Federation held on the 31st July 2007.

The following members retired on the eve of 9th A.G.M. due to completion of two-year term 2005-07:

From Ordinary members

- | | | |
|----|--------------------------|--|
| 1) | Mr. Anjan Chowdhury | Managing Director,
Square Toiletries Ltd. |
| 2) | Mr. Syed Manzur Elahi | Chairman,
Apex Adelchi Footwear Ltd. |
| 3) | Mr. Md. Nurul Islam | Regional Senior Vice President, Middle
East, Africa & South Asia-East,
American Life Insurance Company |
| 4) | Mr. Syed S. Kaiser Kabir | Managing Director,
Renata Limited |
| 5) | Mr. Obaidur Rahman Khan | Executive Director,
Bangladesh Lamps Ltd. |



- 6) Mr. A.S.M. Mainuddin Monem Director,
Finance & Administration and CEO,
K. Rahman & Company
- 7) Mrs. Rokeya Quader Chairman,
Desh Garments Ltd.
- 8) Dr. Toufiq M. Seraj Managing Director,
Sheltech (Pvt.) Ltd.

From Group members

- 1) Mr. Jahangir Alamin Vice-Chairman,
Bangladesh Textile Mills Association
- 2) Mrs. Sabrina Islam Vice-President,
Women Entrepreneurs' Association,
Bangladesh
- 3) Mr. Ardashir Kabir Committee Member,
Bangladeshiyo Cha Sangsad
- 4) Mr. Faisal Samad Former Vice-President (Finance),
Bangladesh Garment Manufacturers &
Exporters Association
- 5) Mr. Shabbir Yusuf Chairman,
Bangladesh Jute Spinners Association

At the Ninth A.G.M (held on the 31st July, 2007), there were 10 (ten) vacant seats representing Ordinary members and 8 (eight) vacant seats representing Group members.

There were 8 (eight) valid candidates against 10 (ten) vacant seats from the Ordinary members and 5 (five) valid candidates against 8 (eight) vacant seats from the Group members. As such election was not necessary. The Election Board declared the following persons (in alphabetical order) ipso facto elected to the Federation's Committee for the term, 2007-2009.

Ordinary Members

1. Mr. M. Anis Ud Dowla Chairman
Advanced Chemical Industries Ltd.
2. Mr. Habibullah N. Karim Managing Director
Technohaven Co. Ltd.
3. Mr. Golam Mainuddin Deputy Managing Director
British American Tobacco
Bangladesh Co. Ltd.
4. Mr. Feroz Rahim Managing Director
Rahimafrooz Batteries Ltd.
5. Mr. Ashfaque ur Rahman Managing Director
Novartis (Bangladesh) Ltd.



1. Mr. Ashfaque ur Rahman Managing Director
Novartis (Bangladesh) Ltd.
2. Mr. Kamran T. Rahman Deputy Managing Director
Pubali Jute Mills Ltd.
3. Mr. Alamgir M.Z. Rahman Managing Director
Consumer Products Ltd.
4. Mr. Shafiq Uz Zaman Managing Director
Coats Bangladesh Ltd.

Group members

1. Mr. M.A. Baset Director
Bangladesh Knitwear Manufacturers &
Exporters Association
2. Mr. Ferdous Perves Bivon Vice-President
Bangladesh Garment Manufacturers and
Exporters' Association
3. Mr. Nazmul Huq Member
Bangladesh Jute Mills Association
4. Mr. M. Salman Ispahani Chairman
Bangladeshiyo Cha Sangsad
5. Mr. Muhammad Shams-uz Zoha Former Committee Member
Bangladesh Jute Spinners
Association

Later, the Federation Committee decided to co-opt 5 (five) members; 2(two) vacant seats representing Ordinary members and 3 (three) vacant seats representing Group members. The Federation looked for a good number of members to be co-opted in the Committee. However, finally there were only three interested candidates to be co-opted as under:

Ordinary Member

Mr. Salahuddin Kasem Khan,
Managing Director,
A. K. Khan & Co.

Ms. Parveen Rasheed,
Managing Director,
Social Marketing Company

Group Members

Mr. Abdul Hai Sarker,
Chairman,
Bangladesh Textile Mills Association

The Managing Committee as on the 31st December, 2007 was as follows (in alphabetical order):



PRESIDENT

Mr. Kamran T. Rahman Deputy Managing Director
Pubali Jute Mills Ltd.

VICE-PRESIDENT

Mr. Alamgir M.Z. Rahman Managing Director
Consumer Products Ltd.

MEMBERS OF THE COMMITTEE

Ordinary Members

1. Mr. M. Anis Ud Dowla Chairman
Advanced Chemical Industries Ltd.
2. Mr. Salahuddin Kasem Khan, Managing Director,
A. K. Khan & Co.
3. Mr. Habibullah N. Karim Managing Director
Technohaven Co. Ltd.
4. Mr. Masih UI Karim Managing Director
Berger Paints Bangladesh Limited
5. Mr. Golam Mainuddin Deputy Managing Director
British American Tobacco
Bangladesh Co. Ltd.
6. Mr. Feroz Rahim Managing Director
Rahimafrooz Batteries Ltd.
7. Mr. Ashfaque ur Rahman Managing Director
Novartis (Bangladesh) Ltd.
8. Ms. Parveen Rasheed, Managing Director,
Social Marketing Company
9. Ms. Luna Shamsuddoha Chairman
Dohatec New Media

Group Members

10. Mr. M.A. Baset Director
Bangladesh Knitwear Manufacturers
& Exporters Association
11. Mr. Ferdous Perves Bivon Vice-President
Bangladesh Garment Manufacturers &
Exporters' Association



- | | |
|--------------------------------|--|
| 12. Mr. Nazmul Huq | Member
Bangladesh Jute Mills Association |
| 13. Mr. M. Salman Ispahani | Chairman
Bangladeshiyo Cha Sangsad |
| 14. Mr. Abdul Hai Sarker, | Chairman,
Bangladesh Textile Mills Association |
| 15. Mr. Muhammad Shams-uz Zoha | Former Committee Member
Bangladesh Jute Spinners
Association |

III. **SUB- COMMITTEES:**

As constituted by the Managing Committee, the following 13 (thirteen) Sub-Committees functioned during the term 2007 – 2008:

1. **FINANCE & MEMBERSHIP SUB-COMMITTEE**

- | | |
|-------------------------------|---|
| 1. Mr. Feroz Rahim (Chairman) | Rahimafrooz Batteries Limited |
| 2. Mr. Kutubuddin Ahmed | Envoy Garments Limited |
| 3. Mr. Ferdous Perves Bivon | Bangladesh Garment Manufacturers
& Exporters Association |
| 4. Mr. Nazmul Huq | Bangladesh Jute Mills Association |
| 5. Mr. Md. Nurul Islam | American Life Insurance Company |
| 6. Mr. Mahbub Jamil | Singer Bangladesh Limited |
| 7. Mr. Abdul Hai Sarker | Bangladesh Textile Mills Association |

2. **LABOUR RELATIONS SUB-COMMITTEE**

- | | |
|------------------------------------|--|
| 1. Mr. Kamran T. Rahman (Chairman) | Pubali Jute Mills Limited |
| 2. Mr. M. Anis Ud Dowla | Advanced Chemical Industries Ltd. |
| 3. Mr. Samson H. Chowdhury | Bangladesh Aushad Shilpa Samity |
| 4. Mr. Syed Manzur Elahi | Apex Adelchi Footwear Limited |
| 5. Mr. Md. Fazlul Hoque | Bangladesh Knitwear Manufacturers
& Exporters Association |
| 6. Mr. Annisul Huq | Bangladesh Garment Manufacturers
& Exporters Association |
| 7. Mrs. Laila Rahman Kabir | Bangladeshiyo Cha Sangsad |
| 8. Mr. Abdul Hai Sarker | Bangladesh Textile Mills Association |
| 9. Mr. Muhammad Shams-uz Zoha | Bangladesh Jute Spinners Association |

3. LABOUR LAW SUB-COMMITTEE

1. Mr. M. Anis Ud Dowla (Chairman) Advanced Chemical Industries Limited
2. Mr. M. A. Baset Bangladesh Knitwear Manufacturers & Exporters Association
3. Mr. Masih Ul Karim Berger Paints Bangladesh Limited
4. Mr. Golam Mainuddin British American Tobacco Bangladesh Co. Ltd.
5. Mr. Ashfaque ur Rahman Novartis (Bangladesh) Limited
6. Mr. Abdul Hai Sarker Bangladesh Textile Mills Association
7. Mr. A. B. M. Shamsuddin Bangladesh Garment Manufacturers & Exporters Association

4. LABOUR COURTS SUB-COMMITTEE

1. Mr. M. A. Baset (Chairman) Bangladesh Knitwear Manufacturers & Exporters Association
2. Mr. A. Matin Chowdhury Malek Spinning Mills Limited
3. Mr. Nazmul Huq Bangladesh Jute Mills Association
4. Mr. Obaidur Rahman Khan Bangladesh Lamps Limited
5. Mr. Syed Nasim Manzur Apex Adelchi Footwear Limited
6. Mr. Feroz Rahim Rahimafrooz Batteries Limited
7. Mr. Tipu Sultan Bangladesh Finished Leather, Leathergoods and Footwear Exporters Association

5. SELECTION SUB-COMMITTEE

1. Mr. Ashfaque ur Rahman (Chairman) Novartis (Bangladesh) Limited
2. Mr. Anjan Chowdhury Square Toiletries Limited
3. Mr. Md. Nurul Islam American Life Insurance Company
4. Mr. A.K.M. Rafiqul Islam, FCA Pragati Insurance Limited
5. Mrs. Sabrina Islam Women Entrepreneurs' Association, Bangladesh
6. Mr. Obaidur Rahman Khan Bangladesh Lamps Limited

6. SEMINAR SUB-COMMITTEE

1. Mr. Habibullah N. Karim (Chairman) Technohaven Company Limited
2. Mr. Jahangir Alamin Bangladesh Textile Mills Association
3. Mr. Ferdous Perves Bivon Bangladesh Garment Manufacturers & Exporters Association
4. Mr. Anjan Chowdhury Square Toiletries Limited
5. Mr. Nazmul Huq Bangladesh Jute Mills Association

- | | |
|---------------------------------|---|
| 6. Mrs. Sabrina Islam | Women Entrepreneurs' Association,
Bangladesh |
| 7. Mr. Ardashir Kabir | Bangladeshiyo Cha Sangsad |
| 8. Mr. A. S. M. Mainuddin Monem | Abdul Monem Limited |

7. WAGES CONSULTATIVE SUB-COMMITTEE (DHAKA REGION)

- | | |
|-----------------------------------|--|
| 1. Mr. Shafiq Uz Zaman (Chairman) | Coats Bangladesh Limited |
| 2. Mr. Waliur Rahman Bhuiyan | BOC Bangladesh Limited |
| 3. Mr. Akhter Matin Chaudhury | Nuvista Pharma Limited |
| 4. Mr. Carlo Cifiello | Nestle Bangladesh Limited |
| 5. Mr. Mahbub Jamil | Singer Bangladesh Limited |
| 6. Mr. Syed S. Kaisar Kabir | Renata Limited |
| 7. Mrs. Laila Rahman Kabir | Kedarpur Tea Company Limited |
| 8. Mr. Golam Mainuddin | British American Tobacco
Bangladesh Company Limited |
| 9. Mr. Ashfaque ur Rahman | Novartis (Bangladesh) Limited |

8. MINIMUM WAGES RELATED SUB-COMMITTEE

- | | |
|--|--|
| 1. Mr. Ferdous Perves Bivon (Chairman) | Bangladesh Garment Manufacturers
& Exporters Association |
| 2. Mr. A. Matin Chowdhury | Malek Spinning Mills Limited |
| 3. Mr. Md. Fazlul Hoque | Bangladesh Knitwear Manufacturers
& Exporters Association |
| 4. Mr. Nazmul Huq | Bangladesh Jute Mills Association |
| 5. Mrs. Sabrina Islam | Women Entrepreneurs' Association,
Bangladesh |
| 6. Mr. Ardashir Kabir | Bangladeshiyo Cha Sangsad |
| 7. Mr. Abdul Hai Sarker | Bangladesh Textile Mills Association |
| 8. Mr. Muhammad Shams-uz Zoha | Bangladesh Jute Spinners Association |

9. PUBLIC RELATIONS SUB-COMMITTEE

- | | |
|---------------------------------------|---|
| 1. Ms. Luna Shamsuddoha (Chairperson) | Dohatec New Media |
| 2. Mr. Kutubuddin Ahmed | Envoy Garments Limited |
| 3. Mr. M. A. Baset | Bangladesh Knitwear
Manufacturers & Exporters
Association |
| 4. Mr. Samson H. Chowdhury | Bangladesh Aushad Shilpa Samity |
| 5. Mr. A. Matin Chowdhury | Malek Spinning Mills Limited |
| 6. Mr. Mahbub Jamil | Singer Bangladesh Limited |

7. Mr. A. S. M. Quasem Newage Garments Limited
8. Mr. Abdul Hai Sarker Bangladesh Textile Mills Association

10. SAFETY AND WORKING CONDITIONS SUB-COMMITTEE

1. Mr. Golam Mainudidn (Chairman) British American Tobacco Bangladesh Company Limited
2. Mr. Ferdous Perves Bivon Bangladesh Garment Manufacturers & Exporters Association
3. Mr. A. Matin Chowdhury Malek Spinning Mills Limited
4. Mr. Nazmul Huq Bangladesh Jute Mills Association
5. Mrs. Laila Rahman Kabir Kedarpur Tea Company Limited
6. Mr. Syed Nasim Manzur Apex Footwear Limited
7. Mrs. Rokeya Quader Desh Garments Limited
8. Mr. Niaz Rahim Rahimafrooz Batteries Limited
9. Mr. Muhammad Shams-uz Zoha Bangladesh Jute Spinners Association

11. TRAINING AND HUMAN RESOURCE DEVELOPMENT SUB-COMMITTEE

1. Mr. Salahuddin Kasem Khan (Chairman) A. K. Khan & Company Limited
2. Mr. M. A. Baset Bangladesh Knitwear Manufacturers & Exporters Association
3. Mr. Ferdouz Perves Bivon Bangladesh Garment Manufacturers & Exporters Association
4. Mr. Anjan Chowdhury Square Toiletries Limited
5. Mr. A. Matin Chowdhury Malek Spinning Mills Limited
6. Mr. Iftekharul Islam Aventis Limited
7. Mrs. Sabrina Islam Osman Textiles Limited
8. Mr. M. Salman Ispahani Bangladeshiyo Cha Sangsad
9. Mr. Habibullah N. Karim Technohaven Company Limited

12. WOMEN IN DEVELOPMENT SUB-COMMITTEE

1. Mrs. Luna Shamsuddoha (Chairperson) Dohatec New Media
2. Mrs. Simeen Hossain Transcom Limited
3. Mrs. Sabrina Islam Women Entrepreneurs' Association, Bangladesh
4. Mrs. Rokeya Quader Desh Garments Limited

2.	Mosammat Kamrun Nahar	Training Coordinator, Dhaka Sheraton Hotel	NICC's Trainers' Training Course on Management Training Programme (MTP-TT)	Tokyo, Japan 14th May - 1st June 2007
3.	Mr. Farooq Ahmed	Secretary, Bangladesh Employers' Federation	ILO's training course on "Building a Global Alliance Against Forced Labour"	ILO Turin Centre, Italy 21st - 25th May 2007
4.	Mr. Khaled Masud Md. Iqbal	Operations HR Manager, Coats Bangladesh Limited	NICC's Programme on Industrial Relations (IR) and Human Resource Management (HRM)	Tokyo, Japan 12th - 26th June 2007
5.	Ms. Vidiya Amrit Khan	Executive Director, Desh Garments Limited	NICC's Programme on "Human Resource Development (HRD) by use of Total Quality Management (TQM)"	Tokyo, Japan 10th - 26th July 2007
6.	Mr. Firoz A. Siddiquey	Human Resources Manager, Singer Bangladesh Limited.	Training course on "Competency-based Human Resources Management"	ITC ILO, Turin, Italy 8th - 19th October 2007
7.	Mr. Farooq Ahmed Mr. Golam Sarwar Bhuiyan	Secretary, Bangladesh Employers' Federation Senior General Manager, MIDAS	NICCs Joint Study workshop on "Strengthening management capability of SMEs in Asia focusing on recruitment and development of human resources in the circumstance of growing needs for competitiveness and productivity" followed by Consultation Meeting between NICC and Employers' Organisations in Asian Countries	Bangkok, Thailand 21st - 23rd November 2007
8.	Mr. Shahriar Malik	Leaf Processing Manager, British American Tobacco Bangladesh Co. Ltd.	NICC's Training Programme on "Occupational Safety and Health Management and Work Environment Improvement"	Tokyo, Japan 28th November - 12th December 2007

VI. PARTICIPATION AT INTERNATIONAL SEMINARS/WORKSHOPS/ CONFERENCES:

During the year 2007, representatives of the Federation participated in the following international seminars / workshops / conferences:

(i) Mr. Shahidul Karim, Secretary, Bangladesh Jute Spinners Association, attended the "ILO's South Asian Subregional Meeting on Strengthening Policy Coherence: The Nexus of Growth, Investment and Decent Work" held in New Delhi, India on the 3rd - 4th April 2007.

(ii) Mr. M. Fashiur Rahman, Secretary, Bangladesh Garment Manufacturers & Exporters Association (BGMEA) attended the "ILO's Dissemination Workshop on HIV / AIDS" held in Phnom Penh, Cambodia on the 2nd - 3rd May 2007.

(iii) Mr. Farooq Ahmed, Secretary, Bangladesh Employers' Federation participated in the ILO's Tripartite workshop on "Managing your work programme and project cycle strategically in the new results-based environment " held in New Delhi, India during the 23rd -27th July, 2007.

(iv) Mr. C. K. Hyder, Secretary-General, Bangladesh Employers' Federation attended the ILO's "Asian Regional Forum on Growth, Employment and Decent Work" organised in Beijing, China during the 13th - 15th August 2007.

(v) Mr. Mostafa Anowar Sohel, Senior Manager & Head of Human Resources, Commercial Bank of Ceylon Limited participated in the "ILO / SKILLS-AP/KUT Regional Technical Workshop on Human Resources Development Policy in Asia and the Pacific" held in Cheonan City, Republic of Korea during the 22nd - 26th October, 2007.

(vi) Dr. A. R. Bhuyan, Economic Adviser, Bangladesh Employers' Federation attended the ILO's "Tripartite Meeting of Experts on Labour Statistics" held in Geneva during the 3rd - 6th December 2007

VII. PARTICIPATION IN LOCAL SEMINARS / WORKSHOPS / SYMPOSIUMS:

The Federation participated in various seminars / workshops / symposiums organised by various ministries, national/international organizations, think tanks and development partners. The major events where the Federation's nominee participated were:

(i) National Seminar on "Worst Forms of Child Labour in an Urban Informal Economy " organised jointly by the Ministry of Labour and Employment, International Labour Office (ILO) in Bangladesh, and UNICEF - Bangladesh on the 20th February 2007 at the Bangladesh-China Friendship Centre, Dhaka.

(ii) "Workshop on the Independent Final Evaluation of the "Time Bound Programme for Elimination of WFCL - Preparatory Phase" organised by the International Labour Office (ILO) in Bangladesh on the 25th March 2007 at the BRAC Centre Inn, Dhaka.

(iii) "Workshop on Promoting Gender Equality at the Workplace" organised by the International Labour Office (ILO) in Bangladesh on the 29th March 2007 at the BRAC Centre Inn, Dhaka.

(iv) "TOT Training for starting Enterprise-based HIV/AIDS Programmes organised by the International Labour Office (ILO) in Bangladesh on the 25th -26th 2007 at the Peninsula Hotel, Chittagong.

(v) Seminar on "Safety and Health at Work" organised by the International Labour Office (ILO) in Bangladesh on the 28th April 2007 at the BIAM Foundation Auditorium, Dhaka.

(vi) Seminar on "Child Labour in Agriculture" jointly organised in observance of the World Day Against Child Labour by the Ministry of Labour and Employment, Ministry of Agriculture and International Labour Office (ILO) in Bangladesh on the 12th June 2007 at Hotel Purbani International, Dhaka.

(vii) National Tripartite Meeting on "Social Compliance in the RMG Industry of Bangladesh" organised by the International Labour Office (ILO) in Bangladesh in collaboration with the Ministry of Commerce and Ministry of Labour and Employment on the 18th July 2007 at Hotel Purbani International, Dhaka.

(viii) National Workshop on "Occupational Health and Safety" jointly organised by the Directorate General of Health Services and the World Health Organisation on the 30th October 2007 at the BRAC Centre Inn, Dhaka.

VIII. BANGLADESH EMPLOYERS' FEDERATION - INTERNATIONAL LABOUR ORGANIZATIONS' (ILO) - JOINT PROGRAMMES :

Following joint activities were undertaken with the ILO :

(1) BEF/ILO Workshops on "Good Work-Place Relation for Improving Enterprise Productivity"

Bangladesh Employers' Federation (BEF), in collaboration with the International Labour Organization (ILO), organised three workshops on "Good Work-Place Relations for Improving Enterprise Productivity" in Dhaka, Chittagong, and Khulna, under the ILO/BEF joint programme of activities.

(1) The first workshop was held in the Conference Hall at the "Chamber Building" (4th floor), 122-124 Motijheel C. A., Dhaka on Sunday, the 9th September 2007 and fifty seven (57) participants attended the workshop.

(2) The second workshop was held at Hotel Agrabad, Agrabad Commercial Area, Chittagong on Monday, the 10th September 2007 and thirty one (31) participants attended the workshop.

(3) The third workshop was held at the Royal Hotel, Khulna on Wednesday, the 12th September 2007 and thirty eight (38) participants attended the workshop.

In the first workshop held in Dhaka on the 9th September 2007, Mr. Kamran T. Rahman, President, Bangladesh Employers' Federation (BEF), delivered the inaugural address marking the opening of the workshop discussion. Mr. Gotabaya Dasanayaka, Senior Specialist on Employers Activities for South Asia, ILO Sub Regional Office (SRO), New Delhi, delivered the introductory statement on the theme of the workshop while Mr. C. K. Hyder, Secretary-General, Bangladesh Employers' Federation, delivered the concluding statement of the opening session.

Participants, representing HR management, personnel management, general administration, training, employee relations, production department, finance/accounts department, factory administration, quality control, marketing, sales, and other related officials from different organisations/industrial establishments of different sectors attended the three workshops organised in Dhaka, Chittagong, and Khulna.

The objectives of the workshop programme were to renew the awareness of the participants on the need for good work-place relations for enhancing enterprise productivity and competitiveness; make them understand harmonious employer-employee relations, workplace environment, managing human resources for improving productivity; deliberate on the various choices and their practicability in adopting policies for productivity improvement; and other related issues.

Mr. Gotabaya Dasanayaka, Senior Specialist on Employers Activities for South Asia, ILO - Sub Regional Office, New Delhi, India, and Mr. Md. Akbar Hassan, Managing Director & CEO, Briddhi Industrial and Marketing Consultants, Dhaka, as the lead trainer conducted and facilitated the three workshops.

IX. REPRESENTATIVES ON VARIOUS COMMITTEES/BODIES:

During the year under review, the Federation was represented on the following Committees/Bodies:

- | | |
|---|--|
| 1. Executive Committee of International Organisation of Employers, Geneva | Mr. Kamran T. Rahman,
President.
Substitute Mr. C. K. Hyder
Secretary-General. |
| 2. Governing Body of Bangladesh Institute of Management | Mr. Kamran T. Rahman
President. |
| 3. Bangladesh Technical Education Board | Mr. Kazi Saifuddin Ahmed,
Labour Adviser. |
| 4. Bangladesh Minimum Wages Board | Mr. Kazi Saifuddin Ahmed,
Labour Adviser. |
| 5. Tripartite Consultative Council (TCC) on Labour Matters of the Ministry of Labour and Employment | (1) Mr. Kamran T. Rahman,
President.

(2) Mr. Alamgir M. Z. Rahman,
Vice-President.

(3) Mr. M. Anis Ud Dowla,
Member of the Committee.

(4) Mr. Md. Tipu Sultan,
Chairman,
Bangladesh Finished Leather,
Leathergoods and Footwear
Exporters' Association.

(5) Mr. M. Salman Ispahani,
Chairman,
Bangladeshiyo Cha Sangsad.

(6) Mr. Samson H. Chowdhury,
Member, Advisory Committee,
Bangladesh Aushad Shilpa Samity. |



- (7) Mr. Md. Fazlul Hoque,
President,
Bangladesh Knitwear Manufacturers
and Exporters Association.
 - (8) Mr. Nazmul Huq ,
Member,
Bangladesh Jute Mills Association.
 - (9) Mr. Abdul Hai Sarker,
Chairman,
Bangladesh Textile Mills Association.
 - (10) Mr. Shabbir Yusuf,
Chairman,
Bangladesh Jute Spinners' Association
 - (11) Mr. Ferdous Perves Bivon,
Vice-President,
Bangladesh Garment Manufacturers &
Exporters Association.
 - (12) Mr. A. K. M. Rafiqul Islam, FCA
Managing Director,
Pragati Insurance Limited
 - (13) Chairman,
Bangladesh Jute Mills Corporation.
 - (14) Mr. Habibullah N. Karim
Managing Director,
Technohaven Company Ltd.
 - (15) Mrs. Sabrina Islam
President
Women Entrepreneurs' Association,
Bangladesh
 - (16) Mr. Ashfaque ur Rahman
Managing Director
Novartis (Bangladesh) Limited
 - (17) Mr. C. K. Hyder,
Secretary-General
 - (18) Mr. Kazi Saifuddin Ahmed,
Labour Adviser
 - (19) Chairman
Bangladesh Steel and Engineering
Corporation
 - (20) Chairman
Bangladesh Chemical Industries
Corporation
6. Bangladesh University of
Engineering & Technology (BUET)
- Mr. A. S. M. Quasem,
Chairman,
Newage Garments Ltd.



X. REPRESENTATIVES ON THE LABOUR COURTS (PROPOSED):

At the request of the Ministry of Labour & Employment, Government of Bangladesh, the Federation proposed the following names of employers' representatives for inclusion in the panel of members for the seven Labour Courts in the country:

First Labour Court, Dhaka	Mr. A. K. M. Firoz Alam Mr. Md. Rafiqul Islam Mr. Md. Monirul Islam Mr. A K M Samsuzzaman Mr. Mohammed Serajul Islam Mr. Abu Taher
Second Labour Court, Dhaka	Mr. Md. Aminur Rahman Khan Mr. Syed Abdul Aziz Mr. Md. Jubayer Alam Mr. Md. Bahar Uddin Mr. Md. Shariful Azam Chowdhury Mr. Sultan Mahmud Hosseinee
Third Labour Court Dhaka	Mr. Mustafa Abdud Dayan Mr. Md. Nurul Islam Mr. Narayan Chandra Lodh Mr. Md. Momtazur Rahman Mr. Pulin Bihari Biswas Mr. Mollah Nurul Islam
Labour Court, Rajshahi	Mr. A. S. M. Wasiq Billah Mr. Md. Motahar Hossain Mr. Md. Mortoza Reza Mr. Md. Alauddin Mr. Kazi Shamsuddin Ahmed Mr. K. M. Abdul Mumin
Labour Court, Khulna	Mr. Rafiqul Islam Mr. S M Sudarshan Mr. Sk. Shamim Ahmed Mr. S. M. A. Halim Mr. Bhuiyan Waliur Rahman Mr. Md. Shah Alam Sikder
First Labour Court, Chittagong	Mr. Mohammad Mohshin Chowdhury Mr. A. M. M. Sajjad Mr. Tarique Hossain Mr. Mir Delwar Hossain Mr. Morshedul Alam Quaderi Mr. Md. Mosharraf Hossain
Second Labour Court, Chittagong	Mr. Golam Mustafa Mr. Mohammad A. Jabbar Chowdhury Mr. Md. Amir Ali Mr. K. A. M. Khaled Mr. M. A. Gaffer (Shapon) Mr. Md. Golam Newaz



XI. AFFILIATION WITH WORLD BODIES:

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

Sd/-
(Kamran T. Rahman)
PRESIDENT

Sd/-
(C.K. Hyder)
SECRETARY-GENERAL



YEARLY REPORT ON THE ACTIVITIES OF THE FEDERATION FOR THE PERIOD FROM THE 1ST JANUARY TO 31ST DECEMBER, 2007

A. Participation in NICC / other International Organisation's Training Programmes :

The Federation nominated a number of participants to different training programmes conducted by the Nippon-keidanren International Cooperation Center (NICC) and other International Organisations :

Sl. No.	Name of Participant	Designation & Name of Firm	Training Programme	Place & Duration
1.	Mr. Tanvirul Islam Khan	Production Manager, Singer Bangladesh Limited	NICC's Programme on "Occupational Safety and Health Management and Work Environment Improvement"	Tokyo, Japan 17th - 31st January 2007
2.	Mosammat Kamrun Nahar	Training Coordinator, Dhaka Sheraton Hotel	NICC's Trainers' Training Course on Management Training Programme (MTP-TT)	Tokyo, Japan 14th May - 1st June 2007
3.	Mr. Farooq Ahmed	Secretary, Bangladesh Employers' Federation	ILO's training course on "Building a Global Alliance Against Forced Labour"	ILO Turin Centre, Italy 21st - 25th May 2007
4.	Mr. Khaled Masud Md. Iqbal	Operations HR Manager, Coats Bangladesh Limited	NICC's Programme on Industrial Relations (IR) and Human Resource Management (HRM)	Tokyo, Japan 12th - 26th June 2007
5.	Ms. Vidiya Amrit Khan	Executive Director, Desh Garments Limited	NICC's Programme on "Human Resource Development (HRD) by use of Total Quality Management (TQM)"	Tokyo, Japan 10th - 26th July 2007
6.	Mr. Firoz A. Siddiquey	Human Resources Manager, Singer Bangladesh Limited.	Training course on "Competency-based Human Resources Management"	ITC ILO, Turin, Italy 8th - 19th October 2007
7.	Mr. Farooq Ahmed Mr. Golam Sarwar Bhuiyan	Secretary, Bangladesh Employers' Federation Senior General Manager, MIDAS	NICCs Joint Study workshop on "Strengthening management capability of SMEs in Asia focusing on recruitment and development of human resources in	Bangkok, Thailand 21st - 23rd November 2007



HIGH COURT DIVISION
(Special Original Jurisdiction)
Writ Petition No. 6436 of 2001.

Syed Mahmud Hossain J
Syed Refaat Ahmed J

Abdur Razzaque Zoarder and others Petitioners
vs
Government of Bangladesh and others Respondents

November 9th, 2004

Judgment

Syed Refaat Ahmed J : In this Application under Article 102 of the Constitution a Rule Nisi was issued calling upon the respondents to show cause as to why the Impugned Order contained in Memo No. 225-Paubo-Kop/B-Ka/Shal-1/B-2/2001 (Part-4) dated 5-9-2001 (Annexure-D) issued under the signature of the respondent No. 5 amending the final seniority list of Assistant Engineer prepared by Memo No. 65-Paubo (Kop)/B-l/Shal-l/l-Ja-l/95 dated 2-3-2000 thereby fixing seniority of respondent Nos. 6 to 13 above the petitioners shall not be declared to have been passed without lawful authority and is of no legal effect and why the respondent Nos. 1 to 5 shall not be directed to withdraw and cancel the same and/or such other or further order or orders passed as to this Court may seem fit and proper.

2. It is the case of the five petitioners that upon obtaining their Diplomas in Engineering (Civil) they variously joined in the service of the Bangladesh Water Development Board (hereinafter referred to as the BWDB) as Sub-Assistant Engineers between 1975 and 1977. While so serving as Sub-Assistant Engineers, the petitioners were promoted to the post of Assistant Engineer by an order of promotion dated 7-12-1999 (Annexure -A) and they joined variously in their respective posts in December 1999. After so assuming their responsibilities as Assistant Engineers, a Final Seniority List (Gradation List) of Assistant Engineer (Civil) was prepared and published vide Memo No. 65-Paubo (Kop)/B-l/Shal-l/l-Ja-l/95 dated 2-3- 2000 (Annexure-B) wherein the name of the petitioner Nos. 1,2,3,4 and 5 were placed at Serial Nos. 104, 97, 113, 100 and 101 respectively amongst a total of 116 Assistant Engineers. The petitioners show that the respondents No. 6 to 13 were appointed to the post of Assistant Engineer (Civil) by order of appointment contained in Memo No. 67- Paubo (Kop)/B-l/Shal-l/B-2/88 (Part-3) dated 5-3- 2000 (Annexure-C) upon specific terms and conditions. The petitioners now stand aggrieved by the fact that subsequent to the said appointments of the respondent Nos. 6 to 13 and without any prior notice to that effect having been given to the petitioners, the respondent Nos. 2 to 5 amended the Final Seniority List of Assistant Engineers dated 2-3-2000 (Annexure-B) and thereby fixed the seniority of respondent Nos. 6 to 13 by Memo No. 225-Paubo (Kop)/B-l/Ka/Shal-l/B-2/2001 (Part-4) dated 5-9-2001 (Annexure-D) in a manner as placed the respondent Nos. 6, 7, 8, 9, 10, 11, 12 and 13 at Serial Nos. 56(Ka), 57(Ka), 57(Kha), 57(Ga), 57(Gha), 57(Uma), and 57 (Chha) respectively of the amended List. The petitioners contend that it was only after preparation and publication of the Final Seniority List of Assistant Engineers as under Annexure-B that the respondent Nos. 6 and 13 were appointed to that post by order of appointment dated 5-3-2000 (Annexure-C) and that accordingly, the Final Seniority List of Assistant Engineers as was prevalent on 2-3-2000 should have been maintained in accordance with law and not been amended as done in the instant case



on 5-9-2001. In this regard, the petitioners contend that the respondent Nos. 1 to 5 are not authorised by law to amend the Final Seniority List in a manner as places junior office-holders above their seniors and by that reason the Impugned Order in Annexure-D is liable to be declared to have been passed without lawful authority and to be of no legal effect. In response, the respondent Nos. 2 and 3 adopt the general position that the list termed as a Final Seniority List by the petitioner is, in fact, not final at all. Rather, the respondent Nos. 2 and 3 contend that list dated 2-3-2000 as evident in Annexure-B is merely representative of a part of a legally sanctioned process of continuous rearrangement and/updating of the service hierarchy as necessitated by new appointments and promotions. Proceeding on this premise, the respondent Nos. 2 and 3 have appraised this Court of the factual context against which the respondent Nos. 6 to 13 have been promoted as per terms evident in Annexure-C and D. In this regard, it is stated that 12 persons namely, Md Anwar Hossain, Md Nasir Uddin, Apurba Kumar Bhowmik, Abdul Khaleque and respondent Nos. 6 to 13 having the requisite qualification of Diploma in Engineering Degree were serving in the BWDB as Sub-Assistant Engineers. They variously obtained BSc in Engineering from BIT Gazipur or AMIE Degree from the Institution of Engineers Bangladesh (IEB) and applied to the BWDB for appointment/absorption as Assistant Engineers. They underwent an oral examination in 1995 and a merit list was accordingly prepared. In keeping with their ranking by merit, the first three persons on the merit list namely, Md Anwar Hossain, Md Nasir Uddin and Apurba Kumar Bhowmik were appointed as Assistant Engineers on 27-8-1995. Thereafter, Abdul Khaleque was appointed as Assistant Engineer on 25-11-1997 with antedated seniority and his position was at Serial No. 57 of the seniority list. However, the matter of appointment of the other eight qualifying persons, i.e. respondent Nos. 6 to 13 was kept pending. Their cases were discussed in the 27th meeting of the Parliamentary Standing Committee regarding the Ministry of Water Resources held on 19-12-1999. As per decision of the Parliamentary Standing Committee, a five-member Committee on appointment/promotion/absorption was formed to enquire into their cases and which subsequently recommended the seniority of the respondents to be determined in accordance with the principle of the Next Below Rule. Proceeding on this recommendation the said Ministry directed the BWDB to implement the same and accordingly, the respondent Nos. 6 to 13 were appointed as Assistant Engineers on 5-3-2000 (Annexure-C) and their seniority fixed by the Impugned Order dated 5-9-2001 (Annexure-D). The Respondents contend, without further explanation, that this matter concerning the respondent Nos. 6 to 13 was awaiting disposal since 1995 and accordingly, a merit list for appointment had already been prepared in the year 1995. This, the respondents state, is reflected in the impugned order in Annexure-D wherein the serial numbers assigned to the respondent Nos. 6 to 13 reflect their seniority computed from 1995. The respondents also state that the impugned order reflects an attempt by the concerned authority undertaken with bonafide intention to mitigate an anomaly and thereby secure justice. In that view of the matter, the respondents state that the impugned order is correct and lawful, the validity of which is further greatly enhanced by the fact that no injustice has indeed been caused to the petitioners but rather justice has been secured to the respondent Nos. 6 to 13.

3. Heard the Learned Counsel for the petitioners, the Learned Counsel for the respondents, perused the Writ Petition. Affidavit-in-Opposition filed on behalf of the respondent Nos. 2 and 3, Supplementary Affidavit to Affidavit-in-Opposition filed on behalf of the respondent Nos. 2 and 3, an Application for Injunction, Affidavit-in-Opposition on behalf of the petitioner to the Application for Injunction filed on behalf of the respondent Nos. 6 to 8 and 13, and all annexures.

4. This Court at the outset takes note of the distinction drawn by the Learned Counsel for the petitioner Mr Oziullah between the circumstances of the petitioners compared to that of the respondent Nos. 6 to 13. In this regard Mr Oziullah submits that since the petitioners have been promoted to the post of Assistant Engineer their seniority in their respective posts is governed by



Rule 18 of the Bangladesh Water Development Board (Employees) Service Rules, 1982 (hereinafter referred to as the Rule) as distinct from that of the respondent Nos. 6 to 13 who have been appointed to the post of Assistant Engineer by a fresh order of appointment dated 5-3-2000 (Annexure-C) and accordingly, their seniority in the post falls to be determined as per Rule 16 of the Rules. Mr Oziullah submits that the impugned order in Annexure-D has been issued to the prejudice of the petitioners in ignoring this essential distinction between Rules 16 and 18 and is accordingly, to be deemed to have been passed without lawful authority and to be of no legal effect. This Court upon a perusal of these two provisions of the Rules notes that a distinction is indeed, made under the Rules concerning the determination of seniority accruing on first appointment and that accruing on promotion, the relevant provisions of Rules 16 and 18 are reproduced below :

"16. Seniority on first appointment: Seniority on first appointment shall be regulated as under:

(a) where the appointment is made on the recommendation of a Selection Committee, the seniority shall be fixed by the Selection Committee on the merit of the candidates and the seniority thus fixed should be taken as the seniority in the cadre provided the candidate or candidates joined within the time limit given in the appointment order and, where no such time limit is given, within 21 days from the date of issue of the order."

"18. Seniority on promotion: (1) Seniority on promotion shall take effect from the date of issue of the promotion order or from the date mentioned in such order."

5. For their pan, the respondent Nos. 2 and 3, in further explaining the legal and administrative sanction operating over and beyond the above referred provisions of the Rules, draw this Court's attention to various office orders in particular as evidence of entitlement having legally accrued to respondent Nos. 6 to 13 in the facts and circumstances of this case to be considered for appointment as effected under Annexure-C to the Writ Petition. In this regard attention is drawn to an Officer Order in Memo No. 1130-UP(c)IV/6A- 36/66 dated 11-8-1966 issued by then East Pakistan Water and Power Development Authority (Annexure 1 to the Supplementary Affidavit to Affidavit- in-Opposition on behalf of the respondent Nos. 2 and 3) the relevant portion of which reads as hereunder:

"2. Assistant Technical Officers: As soon as any Assistant Technical Officer passes completely AMIE Examination he will forth- with become eligible for appointment as Assistant Engineer. Such people will get preference over other candidates.

6. It is also stated that the said Office Order of 1966 was modified by the BWDB by Office Order Memo No. 268(300) cvD†ev/mwP/†evW©-2/mfv-24/91 dated 1-11-1992 (Annexure-2 to the Supplementary Affidavit of the respondent Nos. 2 and 3). The relevant portion of the said Office Order reads thus:

“(ক) পূর্ব সিদ্ধান্ত অনুযায়ী বোর্ডে কর্মরত কর্মচারীগণ বি,আই,টি ঢাকা (গাজীপুর) হইতে প্রকৌশলী ডিগ্রীপ্রাপ্ত হইলে এ,এম,আই,ই/অন্যান্য অনুমোদিত বি,আই,টি/ প্রকৌশল বিশ্ববিদ্যালয় হইতে উত্তীর্ণ প্রার্থীদের ন্যায় বোর্ডের সহকারী প্রকৌশলী হিসাবে নিয়োগের জন্য বিবেচিত হইবে।”

7. In light of the respondents' statements above, this Court upon a perusal of the Office Order dated 5-3-2000 in Annexure C to the Writ Petition notes that respondent Nos. 6 to 13 were appointed as apprentices under the Officer Order. Further, Clause 9 of the said Office order declares the seniority of those so appointed to be computed from the date of the said Order provided the said appointees joined in the service within 21 days from the date of the Order. Clause 9 additionally provides that in the event of joining in service beyond the prescribed 21-day

period, seniority would in that instance be computed from the actual date of joining in service. This Clause, which appears to this Court to be clearly derived from Rule 16 as quoted above, deals with first time appointees and appears to be prospective in its application in determining seniority. As perusal of the Impugned Order in Annexure-D) makes it evident that the seniority secured to the respondent Nos. 6 to 13 thereunder by amending the Final Seniority List in Annexure-B has ostensibly been effected further to a recommendation made on 1-2-2000 by the Five-member Committee on appointments/ promotion/ absorption (Annexure-5 to the Supplementary Affidavit of the respondent Nos. 2 and 3). The relevant portion of that Committee's decision is as follows :

“৩। (খ) ১৯৯২ সালের বাংলাদেশ পানি উন্নয়ন বোর্ডের আবেদনকৃত ১৯-২-১৯৯৫ তারিখে মৌখিক পরীক্ষার মূলে গ্রহণ করা ১২(বার) জন উপ-সহকারী প্রকৌশলীগণের মধ্যে বাকী ৮(আট) জন অন্যান্য কর্মকর্তাদের পরে সহকারী প্রকৌশলী পদে নিয়োগ লাভ করিলেও Next Below Rule এর আওতায় Inter-se জ্যেষ্ঠতা অনুযায়ী চাকুরীতে তাদের জ্যেষ্ঠতা নির্ধারিত হবে (অর্থাৎ যে তারিখে তাহাদের কনিষ্ঠ কর্মকর্তা সহকারী প্রকৌশলী পদে নিয়োগ লাভ করেছেন, সেই তারিখ থেকে তাদের নিয়োগ/পদোন্নতি গন্য হবে এবং তাদের Inter-se জ্যেষ্ঠতা উক্ত পরীক্ষার মেধাক্রম অনুযায়ী নির্ধারিত হবে)।

8. The Learned Counsel for the respondent Nos. 2 and 3 at this juncture submits that the said recommendation for determining inter se seniority by applying the Next Below Rule principle is based upon the provisions in Rule 23 of the Rules the relevant provisions of which read thus :

"Seniority and Promotion, etc: Seniority of candidates for the purpose of promotion upto former NPS Grade VIII shall be taken from the position in the seniority list... (while seniority of those) promoted from Grade VIII and upward shall be on the basis of the inter se seniority of the personnel in all offices under the Board including the Zonal Offices and offices subordinate thereto a combined seniority list for each category or cadre of personnel shall be maintained centrally for this purpose."

9. In response, Mr Oziullah submits that Rule 23, properly read, deals with a determination of seniority upon promotion and does not bring within its purview the case of the respondents which is essentially one of fresh or first appointment as evident in Annexure-C. Upon a reading of Rule 23 it is further evident to this Court that its provisions are indeed, of a specific nature and ambit and, accordingly, are to be deemed to override the otherwise general provisions of the Next Below Rule principle as relied upon by the above referred Committee recommendation dated 1-2-2000.

10. This Court also notes that while it has been argued on behalf of the respondents that the recommendation in Clause 3(Kha) of Annexure 5 above with regard to securing seniority by applying the Next Below Rule principle is reflected in the impugned action taken under Annexure-D), it has also been acknowledged at the same time by the learned Counsel for the respondents that the legal authority for such recommendation and action is evident in Clause 9 of the appointment letter in Annexure C which is otherwise clearly derived from Rule 16 of the Rules.

11. Being so apprised of the factual and legal context of the issuance of the Impugned Order in Annexure-D. it is evident to this Court that an attempt has been made in Annexure-D to secure seniority to the respondent Nos. 6 to 13 in a manner contemplated in Rule 18 of the Rules, dealing with seniority on promotion thereby somehow justifying such seniority to be effected with retrospective effect. But, it is equally evident to this Court that prior, to issuance of the Impugned Order in Annexure D there has clearly been an intervening act of appointing respondent Nos. 6 to 13 as Assistant Engineers (Civil) for a provisional period in apparent compliance with Rule 16 of the Rules that deals with seniority on first appointment. In the view of this Court, this intervening act of the fresh appointment of the respondent Nos. 6 to 13 as apprentices under Annexure C is to overriding consideration in determining how and when the seniority of the respondents is to be determined. In this Court's view, that has to be determined under Rule 16 of the Rules as deals



with seniority on first appointment and is intended to be of prospective effect. In this regard, this Court has also had to consider the factual effect. In this regard, this Court has also had to consider the factual context of the case, a part of which has remained unexplained to this Court, i.e. concerning the delay since 1995 in considering the respondents cases for appointment/promotion. In this regard, the general position taken by the respondent Nos. 2 and 3 is that the process of securing the appointment of the respondent Nos. 6 to 13 has been delayed and held in abeyance some-what inexplicably since 1995 and that the appointment and the seniority on promotion secured to the said respondents under Annexure C and D are to be considered the conclusion to this rather protected yet continued process of evaluating prospects' of such appointment and promotion. This Court is, however, inclined not to accept this position on the basis of facts and submissions made before it. being satisfied that the appointments under Annexure C are clearly intended to be governed by Rule 16 of the Rules, this Court finds that there is nothing before this Court to show that the respondent Nos. 6 to 13 were at any material time intended to be treated otherwise than as first time appointees to the post of Assistant Engineer. In this regard, this Court has also referred to Annexure 6 to the Supplementary Affidavit to the Affidavit-in-Opposition on behalf of the respondent Nos. 2 and 3 wherein it is evident that prior to their appointment on 5-3-2000 the respondent Nos. 6 to 13 had undergone a process of examination and verification of their academic and professional qualifications securing a recommendation for their future appointments to the post of Assistant Engineer thereby further substantiating the view that they were given fresh appointments under Annexure C.

12. In light of the above, and upon an examination of the terms and conditions under which the respondent Nos. 6 to 13 were appointed as apprentices by a fresh order of appointment of 5-3-2000 (Annexure C), this Court fails to see any legal sanction for their seniority to be determined upon terms as effected under Annexure D as opposed to those more appropriately provided for under Rule 16 of the Rules. Accordingly, this Court finds that the Impugned Order in Annexure D has been passed in violation of the Rules and is liable to be declared to have been made without lawful authority and to be of no legal effect.

13. In light of the above, this Court finds substance in this Rule.

In the result, the Rule is made absolute. There is no order as to costs.

Ed.

Source : The Dhaka Law Report (May 2006)



HIGH COURT DIVISION
(Special Original Jurisdiction)
Writ Petition No. 5114 of 2003.

ABM Khairul Haque J
ATM Fazle Kabir J

Ayub Ali Chowdhury Petitioner
vs
Government of Bangladesh and others Respondent

August 8th, 2004

Judgment

ABM Khairul Haque J: This Rule Nisi was issued at the instance of Ayub Ali Chowdhury, calling upon the Government of the People's Republic of Bangladesh, represented by the Secretary, Ministry of Religious Affairs and six others to show cause as to why the impugned office order contained in Memo No. Bdv t cÖkvt/Z`š--20(6)349/2002/211 dated 24-7-2003 issued by the respondent No. 4 (Annexure-R) compulsorily retiring the petitioner from the post of Director, Islamic Foundation Bangladesh, Divisional Office, Khulna, should not be declared to have been made without lawful authority and is of no legal effect.

2. It appears that the petitioner joined the Islamic Foundation Dhaka, Bangladesh on 16-2-1987 temporarily as Director Finance (Annexure-A) and he was regularised in the said post Director (Finance and Accounts), vide notification dated 28-6-1998 (Annexure-C). It appears that a charge-sheet dated 30-7-2002 was issued against him and following a disciplinary proceeding initiated against him, he was compulsorily retired from his post vide order No. Bdv t cÖkvt/Z`š--20(6)349/2002/211 dated 24-7-2003 (Annexure-R).

3. Being aggrieved, the petitioner obtained the present Rule. At the time of issuance of the Rule the operation of the impugned order was stayed for a period of 4(four) months which was extended from time to time.

4. It appears that the copy of the Rule had already been served upon the respondents. But none appears on behalf of the respondents to oppose the Rule.

5. Mr Shafique Ahmed, Advocate, appears with Mr Abdur Rahman Howlader, Advocate, on behalf of the petitioner.

6. Mr Shafique Ahmed, the learned Advocate appearing on behalf of the petitioner, submits that while he was the Director (Finance and Accounts) of the Islamic Foundation a notice to show cause was issued to him containing several charges on the basis of a charge-sheet to which he denied all the allegations, followed by an enquiry conducted by an enquiry committee, formed in violation of the Service Regulations of the Islamic Foundation.

He submits that although regulation 43(3) of the Regulations provided for formation of an enquiry committee with the officials of the Foundation but, in this case, the Enquiry Committee was composed of one of the members of the Board of Governors of the Islamic Foundation which is the appellate authority, that this petitioner was the convener of an enquiry committee formed to



enquire into the allegations against Md Lutful Huq, Director and one of the members of the said enquiry committee, that besides, the petitioner is senior to the respondent No. 7 by about 12 years, as such, the said enquiry committee was formed in violation of the provisions of the Service Regulations, principles of natural justice and fairness.

He further submits that the enquiry committee did not give the petitioner any personal hearing and he was not given any opportunity to explain the allegation illegally raised against him, that no enquiry was made in respect of the additional charge contained in the notice dated 13-3-2003 and his reply dated 23-3-2003 nor the witnesses in support of the allegations were examined in his presence with the right to cross-examine them or he was allowed to cite his own witnesses in his defence in violation of the Service Regulations itself. In that view of the matter, Mr Ahmed submits that there was a total failure of the principles of natural justice in conducting the enquiry and since the enquiry was conducted in violation of the Service Regulations it was no enquiry in the eye of law. In that view of the matter, he submits, the penalty imposed upon the petitioner should be declared illegal.

7. None appears on behalf of the respondents although the record shows that the notices were duly served.

8. We have gone through the petition and also heard the learned Advocate on behalf of the petitioner. It appears that while the petitioner was in the service of the Islamic Foundation a notice to show cause containing several charges was issued on 30-7-2002 (Annexure-E) upon the petitioner. He replied to the said charge-sheet by his letter dated 22-8-2002 denying all material allegations and further stated that he was not involved in the transaction, publication and distribution of the concerned book.

It appears that the petitioner was asked to appear before the Director General of the Foundation, the respondent No. 4 on 10-9-2002 for personal hearing. It is stated in the petition that he duly appeared before the respondent No. 4, on 10-9-2002 and denied all the allegations brought against him in his statement (Annexure-H). Thereafter, an enquiry committee was convened by an office order being Memo No. Bdv t cÖkvt/Z`š--20(6)348/2002/758 dated 10-10-2002 with three persons as members of the enquiry committee (Annexure-I). From the aforesaid Memo dated 10-2-2002, it appears that the enquiry committee was formed with the following members:

- i) Dr Jowardar Abdur Rashid, Member, Board of Governors of Islamic Foundation, respondent No.5
- ii) Mr. Muhammad Lutful Huq, Director, respondent No.6
- iii) Mr Muhammad Nurul Amin, Director, respondent No. 7

Sub-section (gaga) of section 2 of Islamic Foundation Act, 1975 (XVII of 1975), defines the Governor. It means a member of the Board of Governors of Islamic Foundation. Section 5 vests the powers of general directions and functions of the Islamic Foundation upon its Board of Governors. Section 5 reads as follows:

৫. সাধারণ নির্দেশনা। - (১) ফাউন্ডেশনের সাধারণ পথ নির্দেশনা ও কার্যবলী পরিচালনার দায়িত্বটো বোর্ড অব (গভর্নরস)-এর হাতে ন্যস্ত থাকিবে। বোর্ড অব গভর্নরস ফাউন্ডেশন কর্তৃক প্রয়োগ ও সম্পাদিত হইতে পারে এমন যাবতীয় মতাব প্রয়োগ এবং যাবতীয় কার্য সম্পাদন করিবে।

9. It appears that the Board of Governors is the highest body of the Foundation and apparently, its



appellate authority. Dr Jowardar Abdur Rashid is a member of the said Board of Governors. As such, he ought not to have been appointed a member of the enquiry committee.

It also appears that earlier in 1999 an enquiry committee was formed with the petitioner as its convener vide Memo No. Bdv t cÖkvt/wKtg -1(64) 52/99/932 dated 29-11-1999 (Annexure-O) to enquire into the allegations against Mr Md Lutful Huq, a Director of the Foundation. It appears that the said Md Lutful Huq is also a member of this enquiry committee to enquire into the allegations against the petitioner. This is also against the principle of natural justice and fairplay since the petitioner himself was once a member of the enquiry committee to enquire into the charges raised against him, he ought not to have been appointed a member of this enquiry committee to enquire the charges brought against the petitioner.

It is alleged that Mohammed Nurul Amin, Director, the respondent No. 7 another member of this enquiry committee, is junior to the petitioner by about 12 (twelve) years although of the same rank. Still, fairness requires that such a person should ordinarily be not appointed as a member of an enquiry committee in respect of allegations against a person who is so senior to him.

10. So far the enquiry itself is concerned, it is stated at para 16 of the petition as follows:

That it is submitted that the said inquiry committee did not ask the petitioner to appear before the inquiry committee at the time of inquiry nor he was asked to produce any witnesses in his defence or to cross-examine any witnesses who deposed against him before the inquiry committee. The inquiry committee did not give the petitioner any personal hearing even though he prayed for such personal hearing in his reply to the show cause.

11. This allegation has not been refuted on behalf of the respondents, rather, on perusal of the enquiry report dated 23-1-2003 (Annexure-M(1)), it appears that the enquiry report does not refer to any statement of the petitioner or it does not show that the witnesses were examined in front of the petitioner with opportunity for him to cross-examine them. A disciplinary proceeding against an employee of the Foundation has to be conducted in accordance with the provisions of Islamic Foundation (Karmakarta 0 Karmachari) Chakuri Bidhimala, 1998 (Service Regulation, in short). Regulation 43 of the Service Regulations provides the procedure to be followed in an enquiry of the allegations which may call for major punishment while regulation 44 provides the procedure to be followed by an enquiry officer or an enquiry committee in conducting an enquiry in connection with a disciplinary proceeding. Regulation 44(2) reads as follows

৪৪. তদন্ত কর্মকর্তা কর্তৃক পরিচালিত তদন্তে-

(ক) অভিযুক্ত ব্যক্তি যেই সকল অভিযোগ অস্বীকার করেন সেই সকল :-

.....
.....

(২) তদন্ত--কারী কর্মকর্তা কর্তৃক পরিচালিত তদন্তে--

(ক) অভিযুক্ত ব্যক্তি যেই সকল অভিযোগ অস্বীকার করেন সেই সকল অভিযোগ সম্পর্কে মৌখিক স্য গ্রহণ ও লিপিবদ্ধ করা হইবে এবং অভিযোগ সম্পর্কিত প্রাসংগিক বা গুরুত্বপূর্ণ দালিলিক স্য উপস্থাপনের যুক্তিসংগত সুযোগ উভয়পক্ষে প্রদান ও বিবেচনা করতে হইবে;

(খ) অভিযুক্ত ব্যক্তি প্রতিপরে স্বীগণের জেরা করার, তিনি ব্যক্তিগত ভাবে স্য প্রদান করার এবং তাহার প সমর্থনকারী কোন ব্যক্তিকে স্বী হিসাবে উপস্থাপন করার অধিকারী হইবেন।

.....
.....

12. The enquiry report does not indicate the presence of the petitioner in the enquiry. Apparently, it



appears that the enquiry was conducted in the absence of the petitioner, that apparently a number of persons were examined by the enquiry committee but the petitioner allegedly was not given any opportunity to cross-examine any of them or he was not given an opportunity to state his side of the story in respect of the statements made by those witnesses examined by the enquiry committee. This is a gross violation of regulation 44 and also violation of the principle of natural justice.

13. It appears that regulation 48 of the service Regulations of the Islamic Foundation provides for an appeal. But no appeal has been filed in this case, as such, maintainability of the writ petition also arises. But since apparently, the enquiry committee was constituted in violation of the provisions of the Service Regulations and since the enquiry itself was conducted illegally which cuts to the root of the disciplinary proceedings against the petitioner, we do not think that failure to file an appeal may in any way dent the right of the petitioner under the provisions of the Constitution of the people's Republic of Bangladesh, to challenge his order of compulsory retirement before this Court. Reliance in this respect can be made in the decisions reported in 13DLR (SC) 105, 29 DLR SC 232 and 52 DLR (AD) 17.

14. It appears that the enquiry committee conducted its enquiry without following the provisions of the concerned regulations or the principle of natural justice as stated above. Obviously this report has got no legal validity.

15. Since it appears that the penalty of compulsory retirement was imposed upon the petitioner without following the provisions of the Service Regulations, specially regulations 43 and 44, and also in violation of the principle of natural justice, the order imposing the penalty of compulsory retirement cannot be allowed to stand.

16. In that view of the matter, we have no hesitation to declare that the Memo No. Bdv t cÖkvt/Z`š--20(6)349/2002/211 dated 24-7-2003 (Annexure-R) is illegal and without lawful authority and is of no legal effect.

In the result, the Rule is made absolute but without any order as to costs.

Ed.

Source : The Dhaka Law Reports (September 2005)



HIGH COURT DIVISION
(Special Original Jurisdiction)
Writ Petition No. 667 of 2001.

MM Hossain J
Farid Ahmed J

Siddiquir Rahman Petitioner
vs
Chairman, Divisional Labour Court and others Respondents

March 12th, 2006

Judgment

Md Muzammel Hossain J: This Rule Nisi was issued at the instance of the petitioner calling upon the respondents to show cause as to why the decision and order of the Chairman of the Labour Court, Khulna passed in Case No. C9 of 1997 (Annexure-A) should not be declared to have been made without lawful authority and to be of no legal effect and/or such other or further order or orders passed as to this Court may seem fit and proper.

2. The petitioner was initially appointed on 26-1-1977 as Bag Checker worker under the respondent No. 2 company and thereafter he was promoted to the post of Harakal helper. The petitioner being a Trade Union leader of the respondent mill was elected as the Vice-President of the Union in the session 1993-95 but he could not succeed in the election held in 1995. Because of his participation in different elections he had disputes with the ruling CBA leaders and because of the conspiracy of the respondent Mill Authority and some leaders of the union he was dismissed from service on 5-3-1994. Subsequently, he was reinstated on 6-12-1994. Though the petitioner was discharging his duty with sincerity, honesty and devotion the respondent No.2 Mill Authority raised false allegations against him on 12-8-1996. The petitioner gave reply to the charge framed by the respondent No. 2 Mill Authority. Without considering his reply the Mill Authority constituted an Enquiry Committee for investigation of the matter. The Enquiry Committee was not neutral. The petitioner was not given any opportunity to defend himself. On the basis of false assurance given by the Enquiry Committee the petitioner put his signature on some blank paper. The Enquiry Committee having used the said blank papers submitted report. The respondent No. 2 Company on the basis of the Enquiry Report dismissed him from service on 15-2-1997.

3. Being aggrieved by the order of dismissal the petitioner sent a grievance petition to the respondent No. 2 employer by registered post dated 28-2-1997. But the respondent No. 2 company did not cancel the order of dismissal. Being aggrieved by the order of dismissal the petitioner filed a case being Case No. C9 of 1997 before the Labour Court.

4. The respondent No. 2 Company contested the case by filing written objection before the Labour Court denying material allegations made in the case stating, inter alia, that the petitioner used to work as Harakal Machine Man in 'Ka' Shift in Mill No. 2 of the respondent No. 2 Company and for misconduct a charge was framed against the petitioner on 12-8-1996. Since his reply to the show cause notice was not satisfactory the respondent Company formed one-member Enquiry Committee to investigate the allegations raised against the petitioner. The petitioner was given enough opportunity to defend himself before the Enquiry Committee. He cross-examined witnesses of the respondent No. 2 Company. He also examined 2 witnesses on his behalf including himself.



The petitioner put his signature in all the documents of the proceedings before the Enquiry Committee and the allegations raised against the petitioner was proved and accordingly, he was dismissed from service on 15-2-1997. At the time of dismissal of the petitioner his first service record which was not clean, was taken into consideration. He had a bad record of service. He was guilty of negligence for unauthorised absence and also for threatening his colleagues and superior officers using filthy language. In some cases he was exonerated and in some other cases disciplinary actions were taken, He was dismissed on 5-3-1994. But on the advice of the Jute Minister he was reinstated but even thereafter there was no change in the attitude or conduct of the petitioner. On 12-8-1996 he wanted to assault Tally Clerk Shahjan Ali and on 10-9-1996 he uttered filthy words against Abdul Khaleque, Deputy General Manager and for the said reasons charge was framed against him and consequently he was dismissed. The order of dismissal was legal and it was passed in accordance with law and, as such, the case is liable to be dismissed.

5. According to the report of the Enquiry Committee, the petitioner was found guilty and he was legally dismissed from service. At the time of trial the first party petitioner examined himself as PW 1 and he also examined the witnesses and crossexamined the witnesses of the 2nd party respondents. The Chairman, 2nd Labour Court, Khulna by his decision and order dated 4-2-2001 (AnnexureA) dismissed the case and affirmed the order of dismissal.

6. Being aggrieved by the impugned decision and order dated 4-2-2001 passed by the Chairman, Divisional Labour Court, Khulna the petitioner preferred the writ petition and obtained the instant Rule from this Hon'ble Court.

7. The respondent No. 2 company contested the Rule by filing Affidavitin-Opposition denying the material allegation made in the petition stating, inter alia, that the writ petition is not maintainable in its present form. The respondent No. 2 employer have complied with the requirements of law including the principles of natural justice by affording the petitioner an opportunity of being heard and he was allowed examination and crossexamination of the witnesses and, as such, he cannot have any grievance against an order passed by the Labour Court. The inquiry was held by duly constituted Enquiry Committee and the allegations were duly enquired into and the inquiry was held in accordance with law and the Enquiry Committee submitted its report to the authority. The Labour Court rightly found that the enquiry was held impartially and properly giving the petitioner enough opportunity of self-defence. The petitioner having never raised any objection regarding the conduct of the inquiry by duly constituted Enquiry Committee it does not lie in his mouth to question the validity of the Enquiry Committee. The Labour Court rightly found that the inquiry was conducted properly. The Labour Court adjudicated the matter in accordance with the provisions of law. The Labour Court was duly constituted and the members constituting the Labour Court were consulted as is evident from the judgment itself. The mere omission of the names of the members constituting the Court does not establish the fact that the Labour Court was not duly constituted. In the judgment it has been stated that the members were consulted. Had the court not been duly constituted the parties would have brought the same to the notice of the Court and refrained from proceedings any further. But having participated in the proceeding of the Court it is not proper on the part of the petitioner to question the validity of the proceedings. The grounds taken in the petition are misconceived and without any substance and, as such, the Rule is liable to be discharged.

8. Mr Md. Nawab Ali, the learned Advocate appearing for the petitioner, submits that impugned decision and order passed by the Chairman, Divisional Labour Court, Khulna is wrong and misconceived in law and that the Chairman of the Labour Court wrongly relied upon the order of dismissal made by the respondent No. 2 without compliance with the provisions of law and, as



such, the impugned decision and order is liable to be set aside and the Rule is liable to be made absolute. He then submits that the Labour Court having been constituted and the proceedings having been proceeded in violation of section 35 of the Industrial Relations Ordinance 1969 the impugned decision and order is liable to be declared to have been passed without lawful authority and to be of no legal effect and the Rule is liable to be made absolute. In support of his contention Mr. Nawab Ali has cited the decision in the case of Bangladesh Steamer Agents' Association vs Bangladesh & ors reported 31 DLR (AD) 272.

9. Mr. Tufailur Rahman, the learned Advocate appearing for the respondent No. 2 company, submits that the Enquiry Committee, having been constituted in accordance with law and the said committee having complied with the requirements of law, allowed the petitioner to examine and cross-examine the witnesses and thereby submitted the Enquiry Report finding the guilt of the petitioner and the respondent No.2 Company having considered the reply to the show cause notice of the petitioner found him guilty of misconduct and negligence and accordingly, dismissed him from service and, as such, the Labour Court rightly found the petitioner guilty of the charge framed against him and dismissed him from the service of the company. He then submits that the Labour Court having been constituted with the Chairman and 2 members as per provisions of section 35 of the Industrial Relations Ordinance, 1969 and proceeded in accordance with law, there is no scope for this Hon'ble Court to interfere with the decision and order passed by the Labour Court. He contends that the decision reported in 31 DLR (AD) 272 does not help the petitioner since the Enquiry Committee having complied with the provisions of law and giving the petitioner an opportunity of being heard submitted its report. He finally submits that the Labour Court having been constituted in accordance with law passed the order without facing any objection raised by the petitioner and, as such, there is no merit in the submission of the learned Advocate for the petitioner and the Rule is liable to be discharged.

10. Mr Zaman Akhtar, the learned Deputy Attorney-General for the respondents, having adopted the submission of the learned Advocate for the respondent No. 2, submits that the Rule is liable to be discharged.

11. We have perused the writ petition with Annexures, Affidavit-in-Opposition filed on behalf of the respondent No. 2 company and the materials on record.

12. On perusal of the impugned decision and order dated 4-2-2001 passed by the Chairman, Divisional Labour Court, Khulna it appears that on the top of the order and decision the name of the Chairman was written and the column of the member was kept blank and the Chairman, Divisional Labour Court had signed the decision and order at the bottom of the same. On careful scrutiny of the judgment it could not be gathered when the member were present in the proceedings of the case before the Labour Court though before the operative part of the decision and order is has been noted by the Chairman, Divisional Labour Court to the following effect: On perusal of the impugned decision and order it could not be gathered which member was present in the proceedings of the Labour Court, Khulna in Case No. C9/97. The order dated 17-8-1998 reads as follows:

“১৭-৮-৯৮/১৩ উভয় প হাজির আছে। বিজ্ঞ সদস্য মোহসীন আহম্মদ ও সর্দার মোতাহার হোসেনকে লইয়া আদালত গঠন করিয়া মামলাটি উন্মুক্ত করা হইল। আগামী ৫-১০-৯৮ তারিখে শুনানী।”

13. From the aforesaid order passed by the Divisional Labour Court it appears that on 17-8-1998 the Labour Court was properly constituted with the required number of members in accordance with the provisions of section 35(2) of the Industrial Relations Ordinance, 1969. Before considering



the other issues in the matter, we would like to examine the constitution of the Labour Court i.e. whether the proceeding of the Court was started with the required number of members. In ground No. 5 of the writ petition it has been stated that no member was appointed for deciding the Case No. C9/97 as no name of a member could be found from the heading of the decision and order (AnnexureA) passed by the Labour Court. But on perusal of the order dated 17-8-1998 passed by the Divisional Labour Court we have noticed that the Court was constituted in accordance with law before the commencement of the hearing of the case on 17-8-1998.

14. In this context we would like to refer to section 35 of the Industrial Relations Ordinance 1969 which reads as follows:

"(1) The Government may, by notification in the official Gazette, establish as many Labour Courts as it considers necessary and, where it establishes more than one Labour Court, shall specify in the notification the territorial limits within which each one of them shall exercise jurisdiction under this Ordinance.

(2) A Labour Court shall consist of a Chairman appointed by the Government and two members to advise the Chairman, one to represent the employers and the other to represent the workmen appointed in the manner hereinafter provided.

(3) A person shall not be qualified for appointment as Chairman unless he has been or is, or is qualified to be a Judge, or Additional Judge of the High Court Division or is a District Judge, or an Additional District Judge.

(4) The Government shall constitute, in the prescribed manner, by notification in the official Gazette, two panels, one of which shall consist of representatives of employers and the other of representatives of the workmen, each consisting of not more than five persons:

Provided the Government shall reconstitute such panels after every two years, but the members of the panels, notwithstanding the expiry of the said period of two years, shall continue on the panels till the new panels are constituted and notified in the official Gazette;

(4A) The Chairman shall, for adjudication, enquiry, determination or disposal of a case relating to a specific industrial dispute, select one person from each of the two panels constituted under sub-section (4), and persons so selected, together with the chairman, shall be deemed to have constituted the Labour Court in respect of that industrial dispute.

Provided that the Chairman may select any member from either of the panels as a member of the Labour Court in respect of more than one case pending before the Labour Court;

(5) A Labour Court shall have exclusive jurisdiction to

(a) adjudicate and determine an industrial dispute which has been referred to or brought before it under this Ordinance;

(b) enquire into and adjudicate any matter relating to the implementation or violation of a settlement which is referred to it by the Government;

(c) try offences under this Ordinance and such other offences under any other law as the Government may, by notification in the official Gazette, specify in this behalf;



(d) exercise and perform such other powers and functions as are or may be conferred upon or assigned to it by or under this Ordinance or any other law.

(6) Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (VII of 1923) or the payment of Wages Act, 1936 (IV of 1936), the [Government] may, by notification in the official Gazette, appoint a Labour Court to be, or confer upon it any power or function of, any authority under any of the said Acts, and upon such notification, the said Acts, and upon such notification, the Labour Court shall be deemed to be such authority and shall exercise the powers and perform the functions of such authority under the relevant Act.

(7) If any member of the Labour Court is absent from, or is otherwise unable to attend, any sitting of the Court, the proceedings of the Court may continue, and the decision or award may be given in the absence of such member; and no act, proceeding, decision or award of the Court shall be invalid or be called in question merely on the ground of such absence, or on the ground of any vacancy in, or any defect in the constitution of, the Labour Court."

15. Section 35 of the Industrial Relations Ordinance enumerates the provisions regarding the constitution and function of the Labour Court. Sub-section (2) of section 35 provides that a Labour Court shall consist of a Chairman appointed by the Government and two members to be appointed to advise the Chairman. Sub-section (3) of section 35 enumerates the provisions for the qualification of the Chairman who is qualified to be a Judge, or Additional Judge of a High Court or is a District Judge, or an Additional District Judge. But the qualification of the members are not properly spelt out except that one to represent the employer and the other to represent the workmen and the Chairman shall select one member from the panel of the representatives of the workmen and the other member from that of the employers. Sub-section (7) of section 35 of the Ordinance provides that if any member of the Labour Court is absent from, or is otherwise unable to attend, any sitting of the Court, the proceedings of the Court may continue and the decision or award may be given in the absence of such member; and no act, proceedings, decision or award of the Court shall be invalid or be called in question merely on the ground of such absence of the member.

(To be continued)

Source : The Dhaka Law Reports (February 2007)



HIGH COURT DIVISION
(Special Original Jurisdiction)
Writ Petition No. 667 of 2001.

MM Hossain J
Farid Ahmed J

Siddiqur Rahman Petitioner
vs
Chairman, Divisional Labour Court and others Respondents

March 12th, 2006

Judgment
(From the previous issue)

16. In order to decide as to the constitution of the Labour Court, functioning of the court in the absence of a member and whether the advice of the members of the court is mandatory, reliance may be placed on two leading decisions of the Appellate Division in the cases of General Manager, Jamuna Oil Co. Ltd vs Golap Rahman and another reported in 34 DLR (AD) 166 and Aminul Islam and others vs James Finlay and Co. Ltd reported in 26 DLR (AD) 33. In the case reported in 26 DLR (AD) 33 the appellate Division while considering section 9(6) of the East Pakistan Labour Disputes Act 1965 read with Rule 34 the Industrial Disputes Rules 1960 decided that when a member becomes incapable to sit as a member of the Labour Court or ceases to be so, the Chairman of the Court in giving an award is not under any obligation to have such member's opinion. Acceptance of such member's opinion is merely directory not obligatory. There can be no question of having advice of a member who becomes incapable to sit as a member or ceases to be a member of a panel as under both the circumstances the said member will cease to be a member of the court. The Appellate Division held that Rule 34 of the Industrial Disputes Rules provides that the Chairman while giving an award shall consider the advice given to him by the members of court, but the said advice will not be binding upon the Chairman in making the award. The advice, if given in writing, will merely be a part of the record and not of the award which will be made by the Chairman himself. Though it is enjoined upon the Chairman to consider the advice given to him, the Rule does not require the Chairman to follow the members to obtain their advice in any manner it is possible. If any member intentionally refuses to give advice the Chairman has got no authority to impose any penalty upon him for his non-compliance with the Rule. The Rule is silent as regards the consequence of non-compliance. This clearly indicates that no special importance is attached to the direction as regards advice.

The court also held that under Rule 32(7) of the Industrial Disputes Rules the draft of the award cannot be shown to the member who either becomes incapable to sit as a member or ceases to be a member of the panel. This provision too does not indicate that the advice of the members is indispensable. The Appellate Division further held that under section 9(6) of the Labour Disputes Act, 1965 the legislature has authorised the Labour Court to function in the absence of a member who is absent from any sitting of the Court. This situation indicates directly that the advice is not intended to be mandatory but directory. In this context, the Appellate Division observed as follows: If the legislature intended the advice of the members to be mandatory, it must have made necessary provisions to meet such eventualities either by reconstitution of the court or by substitution of a member from the panel in the place of the one becoming incapable to sit as a member or ceasing to be a member of the panel. Instead, the legislature has authorised the court



to function in the absence of such member. No advice can be sought or obtained from the said erstwhile member. This situation does not indicate that the advice is intended to be mandatory.

There is however, no provision in the Labour Disputes Act, 1965 to penalise a member if he chooses not to give advice or if he intentionally refuses to give advice. It is thus obvious that the Chairman has no control over a member refusing to give advice. In such situation, the prescription in respect of advice of the members will be regarded as intended to be directory as the non-compliance of the Rule as regards advice by the members will cause injustice or inconvenience to the adverse party if such requirements are said to be essential and imperative. We are of the view that the provision regarding advice to be obtained from the member is not mandatory. It is recommendatory, in other words, it is directory.

So, the award if made without any advice from either of the members will not be vitiated if it is otherwise valid."

17. The Appellate Division in its decision reported in 34 DLR (AD) 166 have considered the decisions in the cases of National Bank of Pakistan vs Md Golam Mostafa reported in 27 DLR 158, Aminul Islam and others vs James Finlay and Co. Ltd. reported in 26 DLR (SC) 33 and Paruma (Eastern) Ltd vs Mr Aminur Rahman Khan and another reported in 31 DLR 124.

18. In the case of National Bank of Pakistan vs Md Golam Mostafa reported in 27 DLR 158 at page 161 it has been held that the advice must be tendered and taken into consideration by the chairman before the determination of the case. It has also been held that "any sitting", referred to in sub-section (7) of the section 35, means one or more than one sitting, but it does not mean all the sittings or, in other words, a total absence. Total absence of the members from the entire proceedings is a violation of sub-section' (7) of section 35 and this violation renders the decision of the Labour Court null and void.

19. In the case of Project-in-Charge. Paruma (Eastern) Ltd vs Mr Aminur Rahman Khan and another reported in 31 DLR 124 it has been held that sub-section (7) of section 35 appears to be an enabling provision and that when the proceeding of the Labour Court started with the required number of members it may continue in the absence of a member if a member is absent from any sitting. The High Court Division observed : Sub-section (7) provides for continuation of a proceeding in absence of a member if the proceeding already started with the Chairman and both the members and that the total absence of a member means in effect that the Court has not been duly constituted."

20. In the case of General Manager, Jamuna Oil Co. vs Golap Rahman reported in 34 DLR (AD)166 the Appellate Division of the Supreme Court having considered the provisions of section 9(6) of the Labour Disputes Act, 1965 and section 35(7) of the Industrial Relations Ordinance, 1969 found that the provisions of the former are similar to provisions of the latter. The Appellate Division observed:

"From' the provisions of section 35 of the Industrial Relations Ordinance, 1969 it would appear that if, after the constitution of the Court, a member is absent from any sitting of the Court such absence will not invalidate the decision of the Court. Expression 'any' that qualifies the word 'sitting' means one or all the sittings of the Court. If, therefore, a member is absent from the sitting of the Court or fails to attend any sitting of the Court after his inclusion in the panel there is no obligation upon the Chairman to obtain his advice. To try to obtain advice from a member who had been partially or wholly absent from the sittings of the Court will itself be meaningless. This,



however, does not lead to the conclusion that a Labour Court may proceed to function without any member being present at all. On the other hand, even if a member is absent or ceases to be a member or incapable of sitting as a member, it has been empowered to continue to function. As no obligation has been imposed upon a member to attend the sitting of the Court, no consequence follows his failure to attend the sitting of the Court. What appears to be incumbent is, that a two-member panel was to be created to assist the court."

21. The provision of law is, that a two-member panel will be created to assist the Court. The absence of one member does not render the decision of the Court illegal.

22. In the decision reported in 34 DLR (AD) 166 at page 172, the Appellate Division further observed:

"What has not been provided in the section itself cannot be provided by the court by stretching the language of the section beyond its normal meaning. Accordingly, the proceeding before the Labour Court cannot be declared to have been illegal."

23. The intention of the legislature, as appears from the language employed in sub-section (1) of section 35 of the Ordinance, is that the Court itself either cannot compel the attendance of such member or extract his advice.

24. In the case of Abdus Sattar vs The Chairman. Labour Court. Chittagong and another reported in / MLR 199. at page 200, para 6 it has been observed:

"Labour Court is constituted with a Chairman and two members to advise the Chairman under section 35(2) of the Industrial Relations Ordinance. Advice tendered by the members is not binding on the Chairman. But the Chairman is to consider the advice in deciding a case. If after considering the advice tendered by the members the Chairman finds the same contrary to law or unreasonable then the Chairman can discard the same. But when the advice tendered by the members is well reasoned and in consonance with law and justice the Chairman should give proper weight to such advice. While discarding well reasoned advice of the members or member the Chairman should give reasons for not accepting the same."

25. In the instant case, we have observed that the Labour Court was properly constituted by order No. 13 dated 17-8-1998 but it could not be gathered from the impugned decision and order dated 4-2-2001 and from the Lower Court Records whether any of the members or both the members were present in the proceedings of the Court till the delivery of the decision and order dated 4-2-2001. In the certified copy of the impugned decision and order annexed to the writ petition as Annexure A it is found that the name of the Chairman Md Momin Ullah was written on the top but the name of the member present was kept blank and at the bottom of the said decision and order the Chairman Md Momin Ullah put his signature. But from the original decision and order dated 4-2-2001 of the lower court records we find that at the top sheet of the same the name of the Chairman Mominullah along with a member Moazzam Hossain were shown to have been present on the date of delivery of decision and order. It appears that the Labour Court was properly constituted with the Chairman and 2 members namely, Mohsin Ahmed and Sarder Motahar Hossain on 17-8-1998 but the decision and order dated 4-2-2001 was given by the Labour Court constituted with the Chairman Mominullah and the member Moazzam Hossain. In that view of the matter how it could be accepted that the Labour Court was properly constituted with the member Moazzam Hossain in the midst of a part heard matter without the constitution of the Labour Court afresh with the Chairman and two members including Moazzam Hossain at the beginning of the



proceeding in accordance with the provisions of section 35 and rule 36. From the four corners of the order sheets of the lower Court records we could not find out the constitution of the Labour Court with a member named Moazzam Hossain rather, from the certified copy of the decision and order annexed to the writ petition (AnnexureA) we find that after the name of the Chairman Mominullah, the name of the member was kept blank. This has led to the conclusion that the Labour Court was not duly constituted with the said member Moazzam Hossain.

According to section 35(7), if any member of the Labour Court is absent from, or is otherwise unable to attend any sitting of the Court, the proceedings of the Court may continue and the decision or award may be given in the absence of such member. In the case reported in 31 DLR 124 it has been held that if the proceedings already started with the required number of members and if thereafter, there is any causal absence of a member, the proceeding need not be stopped but it may be carried to its conclusion. But in the instant case by order dated 17-8-1998 the proceedings of the Labour Court had started with required number of members but from the subsequent order it could not be gathered whether the proceedings was carried to its conclusion with the required number of members or not. But it could not be gathered which member, in fact, had attended the proceedings of the Court to its conclusion. From the order dated 17-8-1998 we find the names of 2 members, namely, Mohsin Ahmed and Sarder Motahar, whereas from the original copy of the decision and order the name of one Moazzam Hossain as member appeared on the top of the same after the Chairman. This shows that the Labour Court which was constituted with the required number of members could not proceed with the same constitution till the conclusion of the hearing of the case, rather the order dated 4-2-2001, as appears from the lower court records, does not disclose the name of any of the members who were present but the impugned decision and order discloses the name of Moazzam Hossain as one of the members. This shows that initially the Labour Court was constituted in accordance with law with the required number of members but subsequently till the disposal of the case it could not continue as per provisions of section 35(7). We have noticed that section 35(7) provides for continuation of the proceedings in the absence of a member, if the Labour Court is properly constituted with the Chairman and two members and that the total absence of members means, in fact, the Court is not properly constituted. In the present case we have already noticed that though the Court was properly constituted initially with the required number of members yet it could not be said with certainty that the proceedings continued with the required number of members as per provisions of sub-section (7) of section 35 because the name of a different person as a member appeared in the decision and order after the Chairman of the Labour Court. Though the proceedings commenced with the required number of Members yet subsequently it could not be ascertained that it continued with 2 Members or one member till its disposal rather, on the date of passing the decision and order the name of a different person appeared as a Member of the Court which shows that there was a total nonapplication of mind on the part of the Chairman who in the impugned decision and order observed that the learned Member had been consulted. The provision of law is that the advice of a Member or Members is not binding upon the Chairman. It is also decided in the case reported in 34 DLR (AD) 166 that the intention of the legislature, as appears from the language employed in sub-section (7) of section 35 of the Ordinance, is that the Court itself either cannot compel the attendance of an absentee Member or extract his advice. In the context of the instant case, we are of the view that a Member who has been present in the proceeding till its conclusion should be required to express his advice in writing so that no misunderstanding may arise as to the fate of the advice tendered by him to the Labour Court. In the decision of the case of Abdus Sattar vs Chairman, Labour Court Chittagong and another reported in / MLR 199 it has been held that the opinion of the member of the Labour Court has to be considered by the Chairman with due weight. Nonconsideration of such opinion without discarding with proper reasoning is arbitrary. In the instant case, the act of arbitrariness has been



obvious from very observation of the Chairman when he stated that. OweA m ÷m i ms±½ civgk© Kiv nBqv±QÓ If after considering the advice tendered by the members, the Chairman finds the same to be contrary to law or unreasonable then the Chairman can discard the same. But when the advice tendered by the members is well reasoned and in consonance with law and justice, the Chairman should give proper weight to such advice. While discarding well reasoned advice of the Members or Member, the Chairman should give reasons for not accepting the same. Whether in the instant case the advice had been tendered orally or in writing it is also not stated in the decision. Mere mentioning in the decision and order that Member has been consulted is not enough to justify the decision taken by the Chairman. In considering the advice of a Member a duty is cast upon the Chairman to state as to why he has not concurred with such advice tendered by the Member with the proper reasoning. In the absence of any such reason it amounts to arbitrariness and in the instant case because of the absence of any reason the decision suffers from legal infirmity. With all fairness, in order to remove any misunderstanding or ambiguity, the advice or opinion of the Member should be an express opinion in writing and the Chairman of the Labour Court while dealing with such opinion should consider the same with proper reasonings so that the reasons for the concurring or the dissenting views can be easily understood. A statement to the effect that a Member has been consulted will not suffice. The Chairman is required to state the reason for his concurring or dissenting views. In the instant case we find that the Chairman of the Labour Court failed to apply his judicial mind at the time of passing the decision and order as to the constitution of the Court from the date of its formation till the disposal of the case and thereby a different person is shown to have been a Member of the Court which has vitiated the decision and order. Accordingly, we are of the opinion that in the instant case the Labour Court was not constituted in accordance with law and that the impugned decision and order having been passed without application of mind is declared to have been made without lawful authority. We have refrained from making any comment as to the merit of the case. We have observed that the case has been decided by the court not having been constituted in accordance with law, we are of the view that the case should be sent back on remand to the Labour Court to decide the same on merit after constitution of the Court in accordance with law. The Labour Court shall be constituted according to the provisions of section 35 read with Rule 36. Since the opinion of the Members or a Member is not binding on the Chairman, the decision and order of the Labour Court constituted under section 35(2) of the Industrial Relations Ordinance, 1969 with a Chairman and 2 Members to advise the Chairman, is not required to be signed by the members.

26. In the result, the Rule is made absolute without any order as to costs and the impugned decision and order dated 4-2-2001 is declared to have been made without any lawful authority and to be of no legal effect. The case is sent back on remand to the Divisional Labour Court, Khulna and the Chairman of the said Court is directed to constitute the Court with the required number of members and dispose of the case expeditiously in accordance with law.

Send down the Lower Court Records and a copy of the judgment and order immediately.

Ed.

(Concluded)

Source : The Dhaka Law Reports (February 2007)



HIGH COURT DIVISION
(Civil Revisional Jurisdiction)
Writ Petition No. 667 of 2001.

AKM Fazlur Rahman J

Uttara Bank Ltd. AVP Petitioner
vs
Shahabuddin Khan and others Opposite-Parties

June 27th, 2006

Judgment

This Rule issued on an application under section 115(1) of the Code of Civil Procedure is directed against the judgment and decree dated 9-11-1999 passed by the Subordinate Judge (now Joint District Judge), 1st Court, Mymensingh on Other Appeal No. 126 of 1999 dismissing the appeal and affirming the judgment and decree dated 16-3-1999 passed by the Senior Assistant Judge, Gafargaon, Mymensingh in Other Suit No. 53 of 1994 decreeing the suit.

2. The facts leading to the issuance of the Rule, in brief, are that the opposite party No. 1 as a plaintiff filed Other Class Suit No. 196 of 1992 in the Court of the Senior Assistant Judge, Mymensingh Sadar in which the petitioner was the defendant No. 3 for declaration that the order of dismissal of the plaintiff-opposite party No.1 from the service vide Memo No. HO/ADMN/DD/91/6-B dated 5-1-1991 issued by the petitioner-defendant No.3 is illegal, malafide, inoperative and without legal effect and that the plaintiff-opposite party No.1 is still in service of the Uttara Bank with a direction to reinstate him in service.

3. The case of the plaintiff-opposite party No. 1, in brief, is that he was appointed as a Cashier in the then Nationalised Uttara Bank on 9-11 -1977 and he joined in that post at Ghorashal (Narsingdi) Branch of the Bank on 25-11 -1977. Subsequently, he was transferred to the different branches of the bank. He was promoted to the post of Officer Grade- II (Cash) and ultimately, posted at Mymensingh Branch of the Bank. While he was working there on 13-5-1989 he met with a road accident and his both hands were fractured. He was under treatment for about 5/6 months and after recovery he joined in his office at Mymensingh Branch in the month of November 1989. In spite of specific instruction from the Government that on the Victory Day the national flag would be hoisted on all Government and Semi-Government offices, the defendant No. 5, the Manager of Mymensingh Branch of Uttara Bank Limited did not hoist national flag on the Bank Building. The plaintiff-opposite party No. 1 as a freedom fighter protested his such act. At this he became annoyed upon him. While the plaintiff- opposite party No. 1 was working in Mymensingh Branch he was transferred by the letter dated 4-2 1990 to Khulna Branch. He made a representation to the authority to cancel that order of transfer on the ground of his ill health and requested to transfer him to any other branch of the Bank at Tangail or Netrokona or Kishoregonj. But the authority did not pay heed to it and by an order dated 7-3-1990 released him.

After receipt of that order of release he fell ill and was under treatment for 7 (seven) months. After recovery from illness he by a letter dated 22-3-1990 requested the defendant No.4 to cancel his transfer order but the defendant No. 4 instead of considering his such prayer by a memo dated 3-4-1990 asked him to join in his new place of posting in the Khulna Branch of the Bank. He again,



by another letter dated 10-4-1990 with a Medical Certificate prayed for cancellation of the transfer order informing the authority that due to illness he was not in a position to join at the new place of posting.

The defendant No. 4 by the letter dated 21-5-1990 framed charge against him for gross negligence of duty, insubordination and misconduct asking him to show cause within 7(seven) days as to why disciplinary action would not be taken against him. He submitted his reply on 3-6-1990. The defendant No.6, the Vice-President of the Bank, by a letter dated 23-6-1990 illegally asked him to appear before him at Khulna with all the necessary papers and documents for the purpose of enquiry. He on receipt of such notice informed the defendant No. 6 that due to illness he was not in a position to appear before him at Khulna and requested him to make necessary arrangement for holding enquiry at Mymensingh, but in vain. The defendant Nos. 6-8, the members of the Enquiry Board, without intimating him submitted an ex parte report finding him guilty of the charges levelled against him.

He after recovery from the illness went to Khulna and joined his duty on 7-10- 1990. But the Manager of Khulna Branch did not allow him to join in duty. The defendant No. 4 by a letter dated 28-10-1990 informed him that the authority had decided to dismiss him from the service of the Bank and asked him to show cause within 10(ten) days as to why punishment of dismissal from service would not be imposed upon him. Then, by a letter dated 11-11-1990 he gave reply. But the authority without giving him an opportunity of being heard, by a letter dated 5-1-1991 issued under the signature of the defendant No. 4 dismissed him from the service. Thereafter, he submitted a grievance petition on 6-2-1991 to the higher authority which was rejected. Then he filed the suit.

4. The suit was contested by the defendant No. 3 by filing a written statement denying the material allegations made in the plaint and contending, inter alia, that the suit was not maintainable in its present form; that the plaintiff-opposite party was a worker as defined in section 2(v) of the Employment of Labour (Standing Orders) Act, 1965 and, as such, his remedy is available in the Labour Court, not in the Civil Court; that by memo dated 4-2-1990 the plaintiff-opposite party No. 1 was transferred to Khulna from Mymensingh; that his service was not satisfactory; that he was always irregular in his duty and used to remain absent from his duties without prior permission of the authority; that for such negligence and unauthorised absence in duties he was warned on different occasions, that after transfer to Khulna Branch from Mymensingh Branch he did not join in his new place of posting, that he was released from Mymensingh Branch on 7-3-1990 with a direction to join Khulna within six days and for that purpose he was given advance of Taka 5,000, that on receipt of the release order and advance traveling allowance he abstained himself from joining in the new place of posting; that ultimately, he was charge sheeted for negligence of duty, misconduct and insubordination and the same was communicated to him vide a memo dated 21-5-1990; that he denied the charges brought against him by filing a written statement on 3-6-1991; that an Enquiry Committee was set up for holding enquiry; that the Enquiry Committee notified him to appear before them on 23-6-1999 with all papers and witnesses; that he in spite of receipt of nonce did not appear before the Enquiry Committee and, as a result, enquiry was held ex parte in his absence and the Enquiry Committee submitted report finding him guilty of the charges levelled against him; that on 10-7-1990 he tendered his resignation to the management of the Bank, on receipt of which the management informed him to adjust all the arrear dues for consideration of this resignation letter; that he did not give any reply; that thereafter, the authority of the Bank by a letter dated 28-10- 1990 issued a second show cause notice asking him to explain why he would not be dismissed from the service; that he by a letter dated 11-11-1990 gave reply to such second show cause notice, which was found not satisfactory by the authority and accordingly, he was dismissed from service by the letter dated 5-1-1991, on receipt of which he



filed a grievance petition before the appropriate authority of the Bank, which was ultimately rejected affirming the order of his dismissal; that he was given an opportunity of being heard before dismissal and that he had no managerial or administrative function in the Bank.

5. In that suit the defendant No. 3 (petitioner) filed an application under Order VII, rule 11 of the Code of Civil Procedure for rejecting the plaint on the ground that the suit was not maintainable as the plaintiff as a worker was defined in section 2(v) of the Employment of Labour (Standing Orders) Act, 1965 and, as such, his remedy was available in the Labour Court, created under a special law and, as such, the suit was barred by law. The plaintiff filed written objection, against that application.

The trial Court after hearing both the sides by the order dated 15-5-1994 rejected that application filed by the defendant No. 3. Against that order the defendant No. 3 filed a revisional application in this Court, being Civil Revision No. 2800 of 1994, in which the Rule issued was ultimately made absolute in part directing the trial Court for giving the plaintiff a chance to amend the plaint in respect of the nature and character of the duties performed by him and to dispose of the application under Order VII, rule 11 of the Code of Civil Procedure at the time of the trial of the suit and to decide maintainability of the suit.

6. Accordingly, the plaintiff amended the plaint averring that he was in-charge of cash section of the Bank and used to supervise the work of that section that there were two subordinate staffs under him in that section; that one of the two keys of the strong room of the Bank was kept with him; that he along with the Manager of the Bank jointly used to open the strong room; that the Manager of the branch used to grant leave to the staffs of the cash section on his recommendation and used to write ACR of the subordinate staffs of the Cash section in consultation with him; that he as an Officer Grade II used to get first class traveling allowance; that after recovery from the ailment he joined in Khulna Branch on 7-10-1990 and performed his duty. After such amendment of the plaint the contesting defendant No. 3 filed additional written statement denying the material allegations made in the amended plaint and contending that the plaintiff was never in charge of the Cash section and there was no subordinate staffs under him and that he had no managerial, administrative or supervisory power.

7. At the trial six PWs and three DWs were examined. Besides this, both sides adduced documentary evidence. The learned Senior Assistant Judge on consideration of the evidence on record decreed the suit with the finding that the plaintiff was not a worker as defined in section 2(v) of the Employment of Labour (Standing Orders) Act, 1965 and, as such, the suit was not barred under that Act and the order of his dismissal from service was passed in violation of the principle of natural justice as he was not given an opportunity of being heard and, as such, the dismissal order was illegal and without any lawful authority.

8. Against that judgment and decree the defendant No. 3 preferred appeal in the Court of the District Judge, Mymensingh, which was heard by the Subordinate Judge (now Joint District Judge), 1st Court, Mymensingh, who by the judgment and decree dated 9-11-1999 dismissed the appeal affirming those of the trial Court. Against that judgment and decree the defendant No. 3 petitioner moved this Court filing a revisional application under section 115(1) of the Code of Civil Procedure and obtained this Rule.

9. Mr AQM Safiullah, the learned Advocate appearing on behalf of the petitioner, submits that the finding of the Courts below that the plaintiff- opposite party No. 1 was not a 'Worker' as defined in section 2(v) of the Employment of Labour (Standing Orders) Act, 1965 not being founded on legal evidence is perverse. There is no evidence that the plaintiff-opposite party No. 1 ever performed managerial, administrative or supervisory power.

He further submits that mere designation is not sufficient to indicate whether a person is a worker or not. Nature of work performed is determining factor whether a person is a 'worker' or not. Since



the plaintiff-opposite party No. 1 failed to prove that he exercised administrative, managerial or supervisory power in the Bank he must come within the definition of 'worker' under the Employment of Labour (Standing Orders) Act and, as such, his remedy was with the filing of a grievance petition under section 25 of Employment of Labour (Standing Orders) Act to the Labour Court.

As remedy under the special law is available the suit is not maintainable and barred under section 9 of the Code of Civil Procedure. In support of his above submissions he refers the cases of Mujibur Rahman Sarkar vs Chairman, Labour Court, Khulna and another, 31 DLR 301, Indo-Pakistan Corporation Ltd vs The Chairman, Labour Court and another, 21 DLR 265, Dosta Textile Mills Ltd vs Sudhansu Bikash Nath, 40 DLR (AD) 45 and Managing Director, Rupali Bank Limited and others vs Tofazzal Hossain and others, 44 DLR (AD) 260.

He further submits that the trial Court failed to appreciate the principle of law enunciated in the case of the Managing Director, Rupali Bank Limited vs Md Nazrul Islam Patwary and others 1995 BLD (AD) 169 and fell in error in holding that the suit was maintainable and not barred under section 9 of the Code of Civil Procedure.

10. Mr Habibul Islam Bhuiyan, the learned Advocate appearing on behalf of the plaintiff- opposite party No. 1, submits that both the Courts below on consideration of the evidence on record came to the concurrent finding of facts that the petitioner was not a 'Worker' as defined in section 2(v) of the Employment of Labour (Standing Orders) Act, 1965. This Court in exercising revisional Jurisdiction under section 115(1) of the Code of Civil Procedure has no scope of interfering with such concurrent findings of fact of the Courts below. He adds that there was sufficient evidence that the plaintiff-opposite party No. 1 performed administrative, managerial and supervisory function. Therefore, the Court below rightly and legally held that he was not a 'worker'.

11. Admittedly, the plaintiff-opposite party No. 1 was appointed as a cashier of the then Nationalised Uttara Bank. He worked in different branches of the Bank. In the meantime he was promoted in the rank of Officer Grade-II (Cash) and Uttara Bank was denationalised and became a private bank. While the plaintiff was posted in Mymensingh Branch of the Bank in the year 1989 by the letter dated 4-2-1990 he was transferred to the Khulna Branch of the Bank and on 7-3-1990 he was released from the Mymensingh Branch for joining in his new place of posting; but he did not join there. Thus, he remained absent from duty for long without leave. At this a proceeding was drawn against him wherein charge was framed for negligence of duty, misconduct and insubordination, asking him to show cause within 7(seven) days as to why disciplinary action would not be taken against him, which was communicated to him. He filed a written statement. An enquiry committee was formed for holding enquiry on the charge levelled against him and to submit report on enquiry. The Enquiry Committee asked him to appear before it, but he did not appear and, as such, the Committee holding enquiry in his absence submitted a report finding him guilty of the charge levelled against him. Then the second show cause notice was also served upon him asking him to show cause as to why punishment of dismissal from service would not be imposed on him. He gave a reply of that second show cause notice, but the Bank authority not being satisfied dismissed him from the service. Thus, the finding of the Court below that the order of dismissal of the plaintiff from service was passed in violation of the principle of natural justice and therefore, void is perverse.

12. In the case of Indo-Pakistan Corporation Ltd vs Chairman and another 21 DLR 285 it is held, "The Exceptions to the definition of the word 'worker' as given in the exception 2 of clause (v) of section 2 of the East Pakistan Employment of Labour (Standing Orders) Act clearly indicate that if



a person who is mainly employed in a managerial or administrative capacity exercises functions mainly of managerial or administrative nature then and then only a worker shall be taken out of the purview of the definition of worker. In the present case, respondent Hari Bandhu Sarker's job was to maintain accounts in the head office whereby he was in the position of a worker and it was only by way of exception that he was made by the authority to sign cheque jointly with the manager. Mere signing of cheques jointly with manager did not take Hari Bandhu Sarker out of the category of a worker within the meaning of section 2, clause (v), Exception 2 of the Act."

13. In the case of Mujibur Rahman Sarkar vs Chairman, Labour Court Khulna and another 31 DLR 301 it was held, "Therefore, what is important in determining whether a person is a 'worker' or not is to see the main nature of the job done by him and not so much his designation. Of necessity, the point has to be resolved in each case with reference to the evidence on record. Thus, in the ultimate analysis it becomes a matter of appreciation of evidence. A person does not cease to be a 'worker' merely because he is employed in a supervisory capacity. To be able to say that he is not a worker it has to be established further that he exercises functions mainly of a managerial or administrative nature."

14. In the case of Managing Director, Rupali Bank Limited and others vs Tafazzal Hossain and others, 44 DLR (AD) 260 it was held. "He is, on his own pleading in the plaint of his suit, an Assistant Cashier of the Rupali Bank. As such, he clearly falls within the definition of 'worker' under the Employment of Labour (Standing Orders) Act, 1965, briefly, the Standing Orders Act, as well as under the Industrial Relations Ordinance, 1969. Under section 2(v) of the Standing Orders Act, 'worker' means any person employed in any shop, commercial or industrial establishment to do any skilled, unskilled or clerical work, but does not include any person who is employed mainly in a managerial or administrative capacity. Under section 2(h) of this Act, any person employed in such an establishment to do 'managerial or administrative' functions falls into the class called 'employer'. In the corresponding provision of the Industrial Relations Ordinance, 1969, worker/workman has been defined in almost same terms. An individual work seeking redress of any grievance, such as redress against his removal or termination, may file a complaint to the Labour Court constituted under section 35 of the Industrial Relations Ordinance. Similarly, a worker/workman may file an application to the Labour Court seeking enforcement of any right secured to him by law, award or settlement. The Labour Court is the only forum for a worker/workman to seek remedy against grievances relating to his employment. In the instant case of the respondent, who felt aggrieved by his termination, remedy lay before the Labour Court under section 25(1) or the Standing Orders Act."

15. It is further held in the same case that "A Labour Law, such as the Employment of Labour (Standing Orders) Act, or the Industrial Relations Ordinance, is a special law vis-a-vis the Code of Civil Procedure which is a general law. The latter affects the community at large; all people of the state are governed by it. While the former relates to and affects particular persons or things; it operates upon a selected class, rather than the public generally. Relation between a general law and a special law is by the principle known as *Generalia specialibus non derogant* which, in English, means 'general words do not derogate from the special.' In other words, if any legal remedy is ordinarily available under both general law and special law the remedy prescribed by the special law must be sought to the exclusion of the remedy otherwise available under the general law."

16. In the above case, it was held, that the respondent, admittedly a 'worker', filed the suit challenging the legality of termination from the service before the civil Court whose jurisdiction to entertain the suit was ousted by necessary implication and when the Labour Court was there his remedy lay before that Court only.

17. The plaintiff of the present suit as PW 1 stated that he used to work in the Cash section of the Bank. Every morning he along with Manager of the Bank used to open the vault of the Bank and used to hand over the cash and cash register to the Cashier. He at the end of the office hours



verifying the cash with the register and putting his signature in the Cash Book would place the same to the Manager and then he and the Manager jointly would keep the cash and cash book in the strong room. There was an Assistant Cashier, Peon and a Guard under him in the cash section, whose works he used to supervise. The Manager used to grant leave to those staffs on his recommendation and used to write their ACR in consultation with him. He further said, in cross-examination, that he was not the Manager, but was an employee under the Manager. He used to obey the order and directions of the Manager. At the end of banking hours each day the cash would have been handed over to him. He could not allow leave to any employee, but he would recommend leave for the employees of the Cash section. He did not know whether there was any provision of taking recommendation in granting leave. He had no power to write ACR of any staff. The Manager in writing ACR of the staffs of the Cash section used to take his opinion. The managerial and administrative power was laid on the Manager. PW 2 stated that all the employees of a branch of the Bank were under the Manager.

18. Mere designation of the plaintiff as Officer Grade II (Cash) is not sufficient to indicate that he was not a 'worker'. It is the nature of his work knowing the extent of his authority which determines whether he is a worker or not. Even if it is accepted that he was employed in a supervisory capacity it will not bring him into the category of 'employer' unless he functioned mainly managerial and administrative in nature. In this regard reliance is being placed on the case of Dosta Textile Mills Ltd., Ranirhat, Feni and others vs Sudhansu Bikash Nath 40 DLR (AD) 45. Thus it can rightly be held that the plaintiff was a 'worker' as defined in section 2(v) of the Employment of Labour (Standing Orders) Act and, as such, his remedy against his dismissal order was with the filing of a grievance petition under section 25 of that Act to the Labour Court and the present suit is not maintainable and barred under section 9 of the Code of Civil Procedure.

19. Moreover, Uttara Bank Limited is a private bank. It is not a statutory financial institution or corporation. It is not a creation of any statute. Therefore, the service of the plaintiff in this bank was guided by principle of master and servant. Section 42 of the Specific Relief Act provides that any person entitled to any legal character, or to any right to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the court in its discretion may make therein a declaration that he is so entitled. As the terms and conditions of the service of the plaintiff are not regulated by any legal instrument he has no legal character and, as such, the declaration he sought for does not attract section 42 of the Specific Relief Act. Therefore, the suit is not maintainable. In this regard reliance is being placed on the case of Eastern Mercantile Bank Ltd vs Mohammad Shamsuddin 21 DLR (SC) 365.

20. On the above reasons it is held that the impugned judgment and decree is not sustainable and are liable to be set aside.

21. In the result, the Rule is made absolute without any order as to the costs. The impugned judgment and decree dated 9-11-1999 passed by the Subordinate Judge (now Joint District Judge) 1st Court, Mymensingh, in Other Appeal No. 126 of 1999 affirming the judgment and decree dated 16-3-1999 passed by the Senior Assistant Judge, Gafargaon, Mymensingh in Other Suit No. 53 of 1994 decreeing the suit is hereby set aside and the suit is dismissed without any order as to the cost.

Send down the lower Court's records at once with a copy of this judgment for information and taking necessary action.

Ed.

Source : The Dhaka Law Reports (April 2007)



High court division
(Civil Revisional Jurisdiction)
Civil Revision No. 2719 of 2003.

AKM Fazlur Rahman J

Shafique Ullah (Md) Petitioner
vs
Chairman, Rupali Bank Ltd and others Opposite Parties

August 2nd, 2006

Judgment

This Rule issued on an application under section 115(1) of the Code of Civil Procedure is directed against the judgment and decree dated 31-5-2003 passed by the Additional District Judges Bankruptcy Court, Dhaka, in Title Appeal No. 621 of 2000 allowing the appeal and reversing the judgment and decree dated 31-7-2000 passed by the Senior Assistant Judge, Second Additional Court, Dhaka in Title Suit No. 172 of 1997 decreeing the suit.

2. The petitioner as plaintiff filed the above suit against the opposite parties for directing the defendant No. 2, the Deputy General Manager, Rupali Bank, to accept his joining report and to allow him to join in his service treating him still in service and giving him all past financial benefits of service including salary. The plaintiff petitioner's case, in brief, is that while he was serving as Second Officer/Accountant of Rupali Bank, Matiganj Branch on 12-8-1984 the defendant No. 3, Manager of that branch of the bank, lodged First Information Report at Sonagazi Police Station against him and Kutubuddin, the cashier of that branch of the Bank. Police after investigation submitted charge sheet against him and Cashier Kutubuddin. They were tried by the District & Sessions Judge, Feni and were convicted. Against that order of conviction and sentence he preferred Criminal Appeal No. 30 of 1986 in this Court, which was re-numbered as Criminal Appeal No. 1787 of 1991, which was allowed on 24-5-1993 and he was acquitted of the charge. Thus the allegation brought against him was proved false. After getting acquittal of the charge he in writing and orally repeatedly requested the defendant No. 2 to allow him to join in his service, but in vain. Then he on 10-9-1995 through his lawyer served a legal notice upon the defendant No. 2, who asked him to meet with him in his office on 1-10-1995. But on that date due to absence of defendant No. 2 in the office he could not join in the office. Thus the defendant No. 2 on various pleas was killing time in allowing him to join in his service. Lastly, on 8-1-1997 the defendant No. 2 disclosed his inability to allow him to join in the service. Thus the defendants illegally did not allow him to join in the service. Hence the suit.

3. The defendant Nos. 1-3 contested the suit by filing a joint written statement denying the material allegations made in the plaint and contending, inter alia, that the suit is not maintainable in its present form. Their positive case, in brief, was that the plaintiff on 29-10-1972 was appointed on an hoc basis in the Rupali Bank in the post of Clerk. The service of the plaintiff was guided by Rupali Bank Service Rules. While he was posted at Matiganj Branch of the Bank from 10-10-1983 to 9-1-1984 he, in collusion with Kutubuddin, the Cashier of that Bank, misappropriated Taka 28,868.91 received from fourteen account holders for depositing the same against their respective account. For that he (plaintiff) was served with a notice to show cause as to why he would not be dismissed from service for defalcation of the amount. On receipt of such notice on 12-2-1986, he



filed a written statement, which was not satisfactory and accordingly, final notice was served upon him proposing the penalty of removing him from the service and lastly, on 22-4-1986 he was removed from the service. Since then he was no more an employee of the defendant Bank. On the allegation of misappropriation of aforesaid amount the first information report was lodged at Sonagazi Police Station on 12-4-1984 against him and the Cashier. Police after investigation submitted charge sheet and on trial he and the Cashier were convicted. The Bank authority also filed a money suit against them for realisation of the defalcated amount, which was decreed. After inquiry by the domestic inquiry committee in accordance with Rupali Bank Employees Service Rules he was removed from service. So, he was not liable to be reinstated in the service.

4. At the trial, the learned Assistant Judge after recording evidence both oral and documentary adduced by the parties on consideration of the same decree the suit with the finding that since the plaintiff was acquitted of the charge levelled against him in the criminal case by this Court in appeal, his removal from the service is without basis and, as such, illegal. He is still in service and entitled to be reinstated with past salary and other emoluments. Against that judgment and decree the defendants preferred appeal which was heard by the Additional District Judge of Bankruptcy Court, Dhaka, who allowed the appeal and dismissed the suit reversing the judgment and decree of the trial Court with the finding that the suit was barred by limitation as it was not filed within six years from the date of the plaintiff's removal from the service on 22-4-1986. Challenging the legality and propriety of that judgment and decree the plaintiff moved this Court under section 115(1) of the Code of Civil Procedure and obtained this Rule.

5. Mr Khair Ahmed, the learned Advocate appearing on behalf of the petitioner, submits that this suit for simple declaration under section 42 of the Specific Relief Act is governed under Article 120 of the Limitation Act, which provides limitation of 6 years from the date when right to sue accrues. In the instant case, the right to sue accrued on 24-5-1993 when the petitioner got acquittal of the criminal charge by this court in the Criminal Appeal. Thus, the suit was filed within the prescribed period and, as such, not barred by limitation. The appellate Court being misconceived wrongly counted the limitation from the date of plaintiff's removal from the service and came to a wrong finding that the suit is barred by limitation. He further submits that there was no basis of removal of the plaintiff from service as he was found not guilty of the charge levelled against him and was acquitted in appeal. He being honourably acquitted of the criminal charge he is entitled to get reinstatement in his service and the period of his absence in service might be treated as leave and he is entitled to get all arrear financial benefits of service. In this regard, he refers Rule No. 1972 of the Bangladesh Service Rules, part I.

6. Mr Md Golam Mostafa, the learned Advocate appearing on behalf of the opposite parties, opposes the Rule. He submits that in accordance with the Rupali Bank Employees Service Rules, a departmental proceeding was drawn against the plaintiff on the charge of misappropriation of money deposited by some account holders against their respective account, where show cause notice as to why he would not be removed from service was served upon him. He filed a written statement admitting the allegation of misappropriation of the amount. On inquiry held by a domestic inquiry committee he was found guilty of the charge. Then second show cause notice suggesting punishment of removal from service was served on him and then on 22-4-1986 he was removed from service. He did not prefer any appeal against such order of removal from service. The suit was hopelessly time barred as not filed within 6 years of removal from service when the right to sue accrued. The appellate Court rightly found the suit hopelessly time barred. The plaintiff was not removed from service on the ground of his being convicted in the criminal case. So, on acquittal of the criminal charge he, as of right, cannot claim reinstatement in service. He adds that the finding of the Criminal Court acquitting the plaintiff is not binding upon the Civil Court. The



plaintiff not being a Government servant the rules of the Bangladesh Service Rules is not applicable in his case.

7. While the plaintiff was serving as the Second Officer of Matiganj Branch of Rupali Bank Ltd, a departmental proceeding was started against him on the charge of misappropriation of money deposited by some account holders against their respective account. At the same time a criminal case was started against him, in which on trial he and another were convicted by the Special Judge, Feni, under section 409 of the Penal Code read with section 5(2) of the Prevention of Corruption Act, 1947 and were sentenced to suffer rigorous imprisonment for two years with a fine of Taka 500 in default to suffer further rigorous imprisonment for 3 (three) months, but on appeal he got acquittal by this Court on 24-5-1993. In the departmental proceeding, on receipt of the show cause notice he filed a written statement with which the authority was not satisfied. It appears from Exhibit Uma that he admitted his guilt of misappropriation of the amount. Then second show cause notice was served upon him, wherein it was stated that the charge brought against him had been established in domestic inquiry and he was found guilty. Thereafter, by the letter dated 22-4-1986, Exhibit 'ga', he was removed from the service. In accordance with the Rupali Bank Employees Service Rules he did not prefer any appeal against such order. He also filed no suit for declaration that such removal order was illegal and void. In this suit, he sought for declaration that he was entitled to be reinstated as he was acquitted in appeal in the criminal proceeding. His right to sue accrued with the removal from service.

8. By the judgment and order dated 5-4-1986 the appellant was convicted under section 409 of the Penal Code read with section 5(2) of the Prevention of Corruption Act and sentenced to suffer rigorous imprisonment for two years with fine. He preferred appeal against that judgment and order of conviction and sentence. In that appeal he was released on bail. He did not serve out entire period of sentence of rigorous imprisonment for two years. Before that he went out of the custody, but he did not prefer any departmental appeal against the order of his removal nor he filed any civil suit challenging the legality and propriety of such order of removal from service. After getting acquittal by this Court in appeal on 24-5-1993 he filed the suit on 8-4-1997. Therefore, the appellate Court rightly held that the suit was time barred as not filed within 6 years of removal from service when right to sue accrued.

9. He was not removed from service on the ground of his being convicted in criminal charge. So with the acquittal of the charge in the criminal case he as of right cannot claim reinstatement in the service. If he would have been a government servant and dismissed from service due to conviction in criminal case under section 3 of the Public Servant (Dismissal on Conviction) Ordinance 1985, after acquittal in appeal he could claim reinstatement in the service. But he not being a public servant that law is not applicable for him. There is no legal bar in drawing departmental proceeding simultaneously with the criminal case on the charge of misappropriation of bank money. There is no question of double jeopardy. In this regard the case reported in 1996 BLD (AD) 99 may be referred. He was proceeded departmentally and being found guilty he was removed from service. It cannot be held that there was no basis of his removal from service as he was acquitted in the criminal proceeding.

10. Moreover, the relief prayed by the plaintiff in this suit is vague and unspecified. It is neither a suit for declaration under section 42 of the Specific Relief Act nor for mandatory injunction under section 55 of the same Act. Rupali Bank being a private bank the relationship between the bank and the plaintiff is governed by the rule of master and servant (vide 21 DLR (SC) 365). Thus, plaintiff has no legal character and, as such, the suit is not maintainable.



11. On the above reasons, no illegality causing failure of justice having been committed by the appellate Court the impugned judgment and decree do not warrant interference by this court in exercising revisional jurisdiction under section 115(1) of the Code of Civil Procedure.

12. In the result, the Rule is discharged without any order as to costs. The impugned judgment and decree dated 31-5-2003 passed by the Additional District Judge, Bankruptcy Court, Dhaka in Title Appeal No. 621 of 2000 is hereby affirmed.

Send down the lower Court's records at once with a copy of this judgment for information.

Ed.

Source : The Dhaka Law Reports (September 2007)



High court division
(Special Original Jurisdiction)
Writ Petition No. 3316 of 2004.

Nazmun Ara Sultana J
Farid Ahmed J

Sylhet Gas Fields Ltd Petitioner

vs

Chairman, 2nd Labour Court and another Respondents

March 25th, 2007

Judgment

Nazmun Ara Sultana J: This Rule Nisi was issued calling upon the respondent to show cause as to why the judgment and order dated 29-5-2004 (Annexure-G) passed by the Chairman, 2nd Labour Court, Chittagong in RO Case No. 19 of 2003 directing the petitioner to withdraw and repeal the order of punishment of reduction of basic wages of the respondent No. 2 from Taka 2700 to Taka 2340 together with suspension of promotion for three years maintaining the punishment for recovery of Taka 25,984.00 out of total value of the cable Taka 1,03,937.17 and to implement the judgment within 40 days should not be declared to have been passed without any lawful authority and is of no legal effect and/or such other or further order or orders passed as to this Court may seem fit and proper.

2. The writ petitioner Sylhet Gas Fields Limited is a registered company under Petrobangla and the respondent No. 2 is an employee of this petitioner company.

3. The facts necessary for disposal of this Rule, in short, are as follows :

The respondent No. 2 was working as a Typist-cum-Clerk (Gradc-2) in the Store Department of the petitioner company. On 29-1-2001 a show cause notice was served upon the respondent No. 2 stating the allegation that he supplied PVC cable_the book value of which was Taka 1,03,937.17 from the store beyond the specification given in the requisition slip with malafide intention and asking him to show cause within 7 days as to why disciplinary action should not be taken against him for the said act of misconduct. The respondent No. 2 submitted his reply to that show cause notice and ultimately, an enquiry committee was formed which held enquiry and found the allegation brought against the respondent No. 2 true and submitted inquiry report on 14-7-2002. On the basis of that enquiry report the respondent No. 2 was found guilty of misconduct and was inflicted punishments of (I) reduction of basic wages from Taka 2,700 to 2,340 (II) Stoppage of promotion for 3 years and (III) recovery of Taka 25,948.20 being 25% of the loss of Taka 1,03,937 by the respondent No. 2.

Against that order of punishment the respondent No. 2 filed the case being IRO Case No. 19 of 2003 under section 34 of the Industrial Relations Ordinance, 1969 in the Second Labour Court, Chittagong. The petitioner appeared in that case and submitted written statement. The material defence case of this petitioner in the Labour Court was that the charge of misconduct having been proved against the respondent No. 2 he was punishable with dismissal, but the authority, taking lenient view of the matter, punished him less severely as per provision of law.

4. The Labour Court, on consideration of all the facts, circumstances and materials adduced before it, passed the impugned judgment allowing the case in part directing this present petitioner to repeal the order of punishment of reduction of basic wages of the respondent No. 2 from Taka 2700 to Taka 2340 together with suspension of promotion for 3 years. The Labour Court by this Judgment maintained the punishment of recovery of 25% of the damage amounting to Taka 25,984 imposed on the respondent No. 2. Being aggrieved by this Judgment of the Labour Court the petitioner has preferred this writ petition and Rule was issued as aforesaid.

5. We have heard the learned Advocates of both the sides in detail. The learned Advocate Mr



Mohsen Ahmed Chowdhury appearing for the writ petitioner has mainly argued that the impugned IRO case under section 34 of the Industrial Relations Ordinance was not maintainable at all and, as such, the impugned judgment passed in that case cannot be maintained. The learned Advocate has argued that section 34 of the Industrial Relations Ordinance is meant for enforcement of any right guaranteed or secured by or under any law. The learned Advocate has argued also that the punishments which were imposed on the respondent No. 2 were all in conformity with section 17 of the Employment of Labour (Standing Orders) Act, 1965 and as such there is no question of infringement of any right of the respondent No. 2. The learned Counsel of the petitioner has submitted also that there is specific forum for challenging the legality or propriety of punishment imposed on any worker and the respondent No. 2 also earlier availed that forum by filing a case being Complaint Case No. 9 of 2003 under section 25 of the Employment of Labour (Standing Orders) Act 1965 in the same Labour Court but could not get the result in his favour. The learned Counsel has contended that after dismissal of that earlier case filed under section 25 of the Employment of Labour (Standing Orders) Act 1965 the subsequent case under section 34 of the Industrial Relations Ordinance, 1969 was not maintainable at all.

6. On the other hand, Mr Sirajul Huq, the learned Advocate appearing for respondent No. 2, has argued that a worker has a right not to be punished otherwise than in accordance with law. That the punishments which are imposed on the respondent No. 2 were not in accordance with law. That these punishments contravene section 17 of the Employment of Labour (Standing Orders) Act, 1965 which provides specific punishments for a worker found guilty of misconduct. That the imposition of punishments on the respondent No. 2 in contravention of the provisions of section 17 of the Employment of Labour (Standing Orders) Act, 1965 infringed the right of the respondent No. 2 guaranteed and secured under that section and, as such, his case under section 34 of the Industrial Relations Ordinance as well as the impugned judgment passed in that case were maintainable. In support of this contention, the learned Advocate has cited a decision of this Court reported in 32 DLR 164.

7. For better appreciation of the arguments advanced by the learned Advocates of both the sides, let us examine first what has been provided in section 17 of the Employment of Labour (Standing Orders) Act, 1965. In sub-section (1) of section 17 of this Act it has been provided that a worker may be dismissed if he is found guilty of misconduct. In sub-section (2) of section 17 it has been provided "Any worker found guilty of misconduct but not dismissed under the provisions of sub-section (1) in consideration of any extenuating circumstances, may be discharged, or suspended, as a measure of punishment, without wages as well as subsistence allowance, for a period not exceeding seven days and such period may be within or in addition to the period of the suspension of the worker for enquiry under sub-section (2) of section 18, if any or he may be otherwise punished less severely."

8. The analysis of this section 17 of the Employment of Labour (Standing Orders) Act, 1965 clearly shows that a worker found guilty of misconduct can be imposed any one of 3 punishments mentioned in this section namely, dismissal, discharge and suspension without wages and subsistence allowance for a period not exceeding seven days or can be imposed any other punishment which is less severe than the above mentioned 3 types of punishment.

9. So, it is clear that if any worker found guilty of misconduct is not imposed any of the 3 punishments mentioned in section 17 of Employment of Labour (Standing Orders) Act he can be imposed any other punishment which is less severe than the punishment of suspension without wages and subsistence allowance for a period of 7 day_-the most less severe among the 3 punishments mentioned in this section.

10. In the present case, the respondent No. 2 was imposed 3 types of punishment namely (i) reduction of basic wages from Taka 2700 to Taka 2340 (ii) stoppage of promotion for 3 years and (iii) recovery of Taka 25,948.29 being 25% of the loss caused by him. Obviously, the punishments of reduction of basic wages and stoppage of promotion for 3 years were not less severe than the punishment of suspension without wages and subsistence allowance for a period of 7 days. The



Labour Court, therefore, rightly found that the imposition of these punishments on the respondent No. 2 was contrary to the provision of section 17(2) of the Employment of Labour (Standing Orders) Act as these were not less severe than the punishments mentioned in that section. So, evidently, the direction given by the Labour Court to this petitioner to repeal and withdraw the order of punishment of reduction of basic wages of the respondent No. 2 together with the suspension of his promotion for 3 years, was just and proper and, as such, maintainable.

11. From the above discussion it is clear that imposition of 3 types of punishment on the respondent No. 2 being in contravention of section 17 of the Employment of Labour (Standing Orders) Act infringed the right of the respondent No. 2 guaranteed and secured under that section and, as such, his case filed under section 34 of the Industrial Relations Ordinance was maintainable. It should be mentioned here that this Court has already decided this point in a case reported in 32 DLR 164 (as cited by the learned Advocate for the respondent No. 2). In that case it has been clearly held "Industrial worker's right under sections 17, 18 & 19 of Employment of Labour (Standing Order) Act can be enforced through section 25 of that Act or through section 34 of the Industrial Relations Ordinance."

12. It is true that the respondent No. 2 earlier filed a complaint case being No. 3 of 2003 under section 25 of the Employment of Labour (Standing Orders) Act in same Labour Court challenging the impugned order of punishment which was ultimately disallowed for non-compliance of the mandatory provision of submitting grievance within the statutory period of 15 days. (The judgment passed in that complaint case No. 9 of 2003 has been filed as Annexure 'H'). But dismissal of earlier complaint case under section 25 of the Employment of Labour (Standing Orders) Act on mere technical ground only does not debar a worker to seek remedy available under section 34 of the Industrial Relations Ordinance for which there is no period of limitation. Since a worker has two forums to enforce his right under section 17 of the Employment of Labour (Standing Orders) Act the closure of one forum for some technical reasons only does not frustrate the worker's right to avail the other forum.

13. In view of above discussion, it is evident that the impugned order of punishments infringed the right of the respondent No. 2 secured under section 17 of the Employment of Labour (Standing Orders) Act and, as such, the case being IRO Case No. 19 of 2003 under section 34 of the Industrial Relations Ordinance filed by the respondent No. 2 challenging these punishments was well maintainable. The impugned judgment and order passed in that IRO Case No. 19 of 2003 also is maintainable for the reasons already discussed above.

14. Evidently, there is no merit in this writ petition.

15. In the circumstances, the Rule is discharged on contest without any order as to cost. The stay order passed at the time of issuance of the Rule stands vacated.

Ed.

Source : The Dhaka Law Reports (October 2007)

DISTRIBUTION OF POPULATION BY ECONOMIC ACTIVITIES

(In million)

Sl. No.	Major occupation	1999 – 2000			2002-2003			2005 – 06(♦)		
		Male	Female	Total	Male	Female	Total	Male	Female	Total
	Professional, technical	1.19	0.37	1.57	1.32	0.40	1.72	1.74	0.49	2.23
	Administrative, managerial	0.17	0.02	0.19	0.09	-	0.09	0.20	0.02	0.22
	Clerical workers	1.08	0.13	1.21	1.34	0.18	1.52	0.87	0.14	1.02
	Sales workers	5.32	0.44	5.76	6.26	0.29	6.55	6.48	0.23	6.71
	Service workers	0.99	1.24	2.24	1.03	0.95	1.98	1.89	0.87	2.78
	Agriculture, forestry & fisheries	15.58	3.77	19.34	16.99	5.77	22.76	9.68	1.81	22.93
	Production & transport labourers and others	6.74	1.93	8.67	7.45	2.24	9.69	9.68	1.81	11.49
	Total	31.09	7.89	38.98	34.48	9.84	44.32	36.08	11.28	47.36

Note: (♦Provisional) indicates population 15 years and above as per LFS 2005 – 06

Source: Labour Force Survey 1999 – 2000, 2002 – 03 and 2005-06 Bangladesh Bureau of Statistics.

DISTRIBUTION OF POPULATION BY ECONOMIC ACTIVITIES

(In percentage)

Sl. No.	Major occupation	1999 – 2000			2002-2003			2005 – 06(♦)		
		Male	Female	Total	Male	Female	Total	Male	Female	Total
	Professional, technical	3.8	4.7	4.0	3.8	4.1	3.9	4.8	4.4	4.7
	Administrative, managerial	0.6	0.2	0.5	0.3	0.0	0.2	0.6	0.2	0.5
	Clerical workers	3.5	1.7	3.1	3.9	1.9	3.4	2.4	1.3	2.1
	Sales workers	17.1	5.6	14.8	18.2	2.9	14.8	5.2	7.7	5.8
	Service workers	3.2	15.7	5.7	3.0	9.7	4.5	18.0	2.1	14.2
	Agriculture, forestry & fisheries	50.1	47.7	49.6	49.3	58.6	51.4	42.2	68.3	48.4
	Production & transport labourers and others	21.7	24.4	22.3	21.6	22.8	21.9	26.8	16.0	24.3
	Total	100.0								

Note: (♦Provisional) indicates population 15 years and above as per LFS 2005 – 06

Source: Labour Force Survey 1999 – 2000, 2002 – 03 and 2005-06 Bangladesh Bureau of Statistics.



POPULATION AGED 15 YEARS AND ABOVE BY MAJOR INDUSTRY

(In million)

Sl. No.	Major Industry	1999 – 2000			2002-2003			2005 – 06(♦)		
		Male	Female	Total	Male	Female	Total	Male	Female	Total
	Agriculture, forestry & fisheries	16.14	3.65	19.79	17.16	5.77	22.93	15.08	7.68	22.77
	Mining and quarrying	0.09	0.08	0.17	0.08	0.00	0.08	0.04	0.01	0.05
	Manufacturing	2.33	1.39	3.72	2.64	1.71	4.34	3.93	1.29	5.22
	Electricity, Gas and water	0.12	0.02	0.13	0.09	0.01	0.09	0.07	0.00	0.08
	Construction	0.99	0.09	1.09	1.45	0.09	1.54	1.42	0.10	1.53
	Trade, hotel and restaurant	5.63	0.50	6.15	6.42	0.25	6.67	7.37	0.45	7.82
	Transport, storage & communication	2.43	0.05	2.47	2.99	0.03	3.02	3.91	0.07	3.98
	Finance & business services and real estate	0.36	0.05	0.40	0.39	0.03	0.42	0.62	0.13	0.75
	Health, education, public administration & defense	1.74	0.38	2.12	2.13	0.55	2.68	1.98	0.57	2.55
	Community and personal services	1.23	1.69	2.92	1.14	1.41	2.55	1.65	0.97	2.62
	Total	31.09	7.89	38.98	34.48	9.84	44.32	36.08	11.28	47.34



POPULATION AGED 15 YEARS AND ABOVE BY MAJOR INDUSTRY

(In percentage)

Sl. No.	Major Industry	1999 – 2000			2002-2003			2005 – 06(♦)		
		Male	Female	Total	Male	Female	Total	Male	Female	Total
	Agriculture, forestry & fisheries	51.9	46.2	50.8	49.8	58.7	51.8	41.8	68.1	48.1
	Mining and quarrying	0.3	1.0	0.4	0.2	0.0	0.2	0.1	0.1	0.1
	Manufacturing	7.5	17.6	9.5	7.6	17.3	9.8	10.9	11.5	11.0
	Electricity, Gas and water	0.4	0.2	0.3	0.3	0.1	0.2	0.2	0.0	0.2
	Construction	3.2	1.2	2.8	4.2	1.0	3.5	4.0	0.9	3.2
	Trade, hotel and restaurant	18.1	6.3	15.8	18.6	2.5	15.1	20.4	4.0	16.5
	Transport, storage & communication	7.8	0.6	6.3	8.7	0.3	6.8	10.8	0.6	8.4
	Finance & business services and real estate	1.1	0.6	1.0	1.1	0.3	0.9	1.7	1.1	1.6
	Health, education, public administration & defense	5.6	4.8	5.4	6.1	5.6	6.0	5.5	5.1	5.4
	Community and personal services	4.0	21.4	7.5	3.3	14.4	5.8	4.6	8.6	5.6
	Total	100.0								

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

(In million)

Sl. No.	Employment Status	National			Urban			Rural		
		Male	Female	Total	Male	Female	Total	Male	Female	Total
	Regular paid employee	5.25	1.32	6.57	2.62	0.89	3.50	2.63	0.43	3.06
	Employer	0.12	0.01	0.13	0.03	0.00	0.03	0.09	0.01	0.09
	Self-employed	18.06	1.79	19.85	3.88	0.08	4.67	14.18	0.99	15.17
	Unpaid family worker	3.49	6.78	10.27	0.48	0.59	1.07	3.01	6.19	9.19
	Irregular paid worker	0.78	0.16	0.95	0.23	0.04	0.26	0.55	0.13	0.68
	Day labour (agri.)	4.79	0.28	5.07	0.23	0.02	0.25	4.57	0.26	4.83
	Day labour (non agri.)	3.09	0.45	3.54	0.97	0.16	1.13	2.13	0.29	2.41
	Domestic worker/maid servant	0.07	0.26	0.33	0.01	0.09	0.10	0.06	0.17	0.23
	Paid/unpaid apprentice	0.21	0.03	0.24	0.07	0.01	0.08	0.14	0.03	0.16
	Others	0.23	0.19	0.42	0.06	0.06	0.13	0.17	0.12	0.29
	Total	16.08	11.28	47.36	8.57	2.66	11.22	27.51	8.62	36.13

Note: (♦Provisional) indicates population 15 years and above as per LFS 2005 – 06

Source: Labour Force Survey 1999 – 2000, 2002 – 03 and 2005-06 Bangladesh Bureau of Statistics.

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

(In percentage)

Sl. No.	Employment Status	National			Urban			Rural		
		Male	Female	Total	Male	Female	Total	Male	Female	Total
	Regular paid employee	14.6	11.7	13.9	30.5	33.3	31.2	9.6	5.0	8.5
	Employer	0.3	0.1	0.3	0.3	0.1	0.3	0.3	0.1	0.3
	Self-employed	50.0	15.9	42.0	45.3	29.9	41.7	51.5	1.6	42.0
	Unpaid family worker	9.7	60.1	21.7	5.6	22.3	9.5	11.0	71.8	25.5
	Irregular paid worker	2.2	1.5	1.9	2.7	1.3	2.3	2.0	1.5	1.9
	Day labour (agri.)	13.3	2.5	10.7	2.7	0.7	2.2	16.6	3.0	13.4
	Day labour (non agri.)	8.5	4.0	7.5	11.3	6.1	10.1	7.7	3.3	6.6
	Domestic worker/maid servant	0.2	2.3	0.7	0.1	3.6	0.9	0.2	2.0	0.6
	Paid/unpaid apprentice	0.6	0.3	0.5	0.8	0.3	0.7	0.5	0.3	0.4
	Others	0.6	1.6	0.8	0.7	2.4	1.1	0.6	1.4	0.8
	Total	100.0								

Note: (◆Provisional) indicates population 15 years and above as per LFS 2005 – 06

Source: Labour Force Survey 1999 – 2000, 2002 – 03 and 2005-06 Bangladesh Bureau of Statistics.

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

Period	Jute		Cotton		Paper		Steel	
	Production Workers	All Employees						
1999-00	74.43	71.59	72.06	72.15	70.83	77.22	56.26	36.22
2000-01	71.13	68.31	71.78	71.86	68.79	75.29	38.10	37.96
2001-02	52.58	69.88	71.79	71.87	67.17	52.53	-	-
2002-03	68.19	66.46	71.66	71.77	37.75	42.82	-	-
2003-04	69.07	66.56	71.69	71.81	29.47	34.19	-	-
2004-05	65.46	62.58	71.76	71.78	26.72	30.38	-	-
2005-06	65.87	63.12	71.90	71.97	29.86	31.42	-	-
2006-07	65.14	59.06	72.47	72.49	27.11	30.59	-	-
2007								
January	63.91	57.38	72.48	70.50	27.07	30.86	-	-
February	63.84	57.38	72.49	72.52	27.02	30.73	-	-
March	64.55	57.96	72.50	72.54	26.75	29.95	-	-
April	64.10	57.57	72.50	72.54	26.66	29.87	-	-
May	64.16	57.63	72.49	72.54	26.57	29.90	-	-
June	64.27	57.72	72.51	72.55	26.32	29.14	-	-

(Continue.....)

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

Period	Cement		Fertilizer		Petroleum		Paints & Varnishes	
	Production Workers	All Employees						
1999-00	135.02	119.79	107.01	107.77	103.26	118.69	145.98	138.66
2000-01	142.44	126.14	105.44	106.33	93.73	116.58	157.75	150.22
2001-02	145.87	128.71	100.56	105.24	92.91	115.76	166.84	152.09
2002-03	143.00	127.06	99.90	104.30	95.00	114.90	168.00	155.62
2003-04	143.96	127.82	95.45	100.28	99.46	116.44	167.91	155.35
2004-05	145.05	128.64	92.22	96.25	109.26	118.55	167.37	156.27
2005-06	146.56	130.23	89.69	94.57	110.35	121.13	193.58	155.80
2006-07	148.62	132.79	89.13	94.16	107.90	118.71	185.56	152.32

2006

January	149.04	133.34	89.48	94.88	105.44	116.92	183.95	157.62
February	149.04	133.34	89.10	94.20	105.44	116.92	183.95	157.62
March	149.04	133.34	88.89	93.63	105.44	116.92	183.95	157.62
April	149.17	133.47	88.72	93.40	105.44	116.92	183.95	157.62
May	149.17	133.55	88.40	93.08	105.44	116.92	183.95	157.62
June	149.31	133.63	88.30	92.52	105.44	116.92	181.81	149.90

Source: Monthly Statistical Bulletin, Bangladesh Bureau of Statistics.

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

Period	Jute		Cotton		Paper		Steel	
	Production Workers	All Employees						
1999-00	89.24	92.78	136.09	135.93	90.56	83.07	468.74	469.52
2000-01	93.88	97.76	142.79	142.63	86.72	79.24	494.36	496.18
2001-02	94.66	98.32	142.48	142.32	69.85	64.69	-	-
2002-03	89.79	92.13	152.48	152.25	93.54	69.93	-	-
2003-04	80.99	84.04	201.92	201.59	114.49	98.68	-	-
2004-05	82.55	86.35	251.28	246.96	113.10	99.47	-	-
2005-06	76.02	79.34	287.38	287.10	107.68	95.48	-	-
2006-07	79.32	87.48	366.28	366.18	98.56	87.34	-	-

2007

January	76.71	85.44	379.04	378.94	107.36	94.17	-	-
February	80.59	89.66	379.47	379.31	107.66	94.66	-	-
March	81.39	90.64	387.86	387.64	131.57	117.56	-	-
April	83.36	92.82	388.51	388.29	114.96	102.61	-	-
May	80.93	90.10	391.68	391.41	87.58	77.65	-	-
June	85.80	95.54	391.99	391.99	93.73	84.66	-	-

(Continued.....)

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

Period	Cement		Fertilizer		Petroleum		Paints & Varnishes	
	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employee
1999-00	295.80	333.42	110.37	110.52	127.56	111.02	337.33	356.38
2000-01	341.32	385.42	123.49	122.45	137.41	110.48	413.55	434.28
2001-02	335.10	379.67	106.96	104.23	144.25	115.78	380.65	417.57
2002-03	353.00	379.13	143.00	105.76	136.00	112.00	411.00	444.00
2003-04	362.82	408.64	144.11	137.17	132.72	113.92	473.17	511.39
2004-05	413.94	466.74	142.62	136.64	106.99	98.63	617.39	661.24
2005-06	435.50	490.11	134.38	127.45	115.78	105.48	577.40	717.41
2006-07	454.46	508.63	139.13	131.70	118.96	108.03	663.97	808.86

2007

January	440.50	492.43	144.90	136.66	88.07	79.42	694.63	842.75
February	444.02	496.51	124.64	117.89	105.69	95.32	696.22	844.67
March	469.80	525.12	148.58	141.06	106.92	96.42	657.71	790.68
April	471.49	526.95	130.59	124.04	130.80	117.96	635.81	771.39
May	476.64	532.39	131.77	125.15	141.26	127.39	643.76	781.03
June	542.76	542.76	146.25	139.58	147.00	132.56	648.12	785.12

Source: Monthly Statistical Bulletin, Bangladesh Bureau of Statistics.



AVERAGE DAILY WAGE RATES OF CONSTRUCTION LABOUR IN PRINCIPAL TOWNS

(Value in Taka)

Types of Labour	Town	2002 – 03	2003 – 04	2004 - 05	2005-06	2006 - 07		
						Oct	Nov	Dec
Mason (Skilled)	Chittagong	210.00	187.00	194.60	210.00	234.00	235.00	236.00
	Dhaka	200.00	200.00	204.25	210.83	147.00	248.00	249.00
	Khulna	148.33	155.00	160.00	175.00	196.00	197.00	198.00
	Narayanganj	200.00	200.00	200.00	209.16	250.00	250.00	250.00
	Rajshahi	133.67	150.00	154.67	170.00	194.00	195.00	196.00
	Rangpur	150.00	150.00	184.00	175.00	250.00	250.00	250.00
	Sylhet	180.00	150.00	150.00	185.00	-	-	200
Helper to Mason	Chittagong	98.33	100.00	104.50	106.00	130.00	130.00	130.00
	Dhaka	95.00	200.00	119.25	112.25	145.00	145.00	145.00
	Khulna	80.00	85.00	91.75	90.00	106.00	107.00	108.00
	Narayanganj	106.67	200.00	100.00	112.10	-	-	100.00
	Rajshahi	81.67	85.00	89.25	90.00	100.00	100.00	100.00
	Rangpur	70.00	72.00	93.75	85.00	90.00	90.00	280.00
	Sylhet	119.45	100.00	100.00	127.27	-	-	150.00

(Continued.....)



AVERAGE DAILY WAGE RATES OF CONSTRUCTION LABOUR IN PRINCIPAL TOWNS

(Value in Taka)

Types of Labour	Town	2002 – 03	2003 – 04	2004 – 05	2005-06	2006 - 07		
						Oct	Nov	Dec
Carpenter (Skilled)	Chittagong	208.33	210.00	205.42	226.00	280.00	280.00	280.00
	Dhaka	197.00	198.08	200.00	200.00	300.00	220.00	-
	Khulna	150.00	150.00	150.00	150.00	160.00	160.00	180.00
	Narayanganj	200.00	200.00	200.00	200.00	-	250.00	250.00
	Rajshahi	120.00	120.00	120.00	128.00	160.00	160.00	170.00
	Rangpur	120.00	120.00	160.00	152.00	150.00	150.00	170.00
	Sylhet	153.33	158.33	180.00	185.45	-	-	200.00
Plumber (Sanitary fitter)	Chittagong	210.00	210.00	210.00	250.00	250.00	250.00	250.00
	Dhaka	200.00	230.00	230.00	200.00	300.00	200.00	-
	Khulna	150.00	140.00	151.25	151.00	190.00	190.00	200.00
	Narayanganj	200.00	200.00	200.00	200.00	250.00	250.00	300.00
	Rajshahi	200.00	200.00	200.00	200.00	150.00	150.00	170.00
	Rangpur	135.00	135.00	186.25	177.00	250.00	250.00	250.00
	Sylhet	150.00	180.00	180.00	185.45	-	-	200.00

(Continued.....)



AVERAGE DAILY WAGE RATES OF CONSTRUCTION LABOUR IN PRINCIPAL TOWNS

(Value in Taka)

Types of Labour	Town	2002 – 03	2003 – 04	2004 – 05	2005-06	2006 - 07		
						Oct	Nov	Dec
Painter	Chittagong	210.42	210.42	207.50	209.00	250.00	250.00	250.00
	Dhaka	200.00	200.00	200.00	200.00	300.00	300.00	-
	Khulna	140.00	140.00	142.19	149.00	170.00	170.00	185.00
	Narayangaj	200.00	200.00	200.00	200.00	250.00	250.00	250.00
	Rajshahi	98.75	100.00	120.00	127.00	150.00	150.00	170.00
	Rangpur	135.00	135.00	181.25	176.00	180.00	185.00	200.00
	Sylhet	147.50	180.00	180.00	185.45	-	-	200.00
Electrician	Chittagong	210.00	210.00	225.00	250.00	300.00	300.00	300.00
	Dhaka	200.00	243.00	250.00	200.00	250.00	300.00	-
	Khulna	150.00	150.00	144.13	149.00	170.00	170.00	185.00
	Narayangaj	200.00	213.33	250.00	200.00	300.00	300.00	300.00
	Rajshahi	121.25	125.00	120.00	127.00	150.00	150.00	200.00
	Rangpur	140.00	146.00	187.92	181.00	200.00	200.00	210.00
	Sylhet	177.50	180.00	180.00	185.45	-	-	200.00
Brick Breaking 1" size khua per 100 cft	Chittagong	620.00	600.00	745.84	875.00	700.00	700.00	700.00
	Dhaka	670.83	700.00	800.00	983.33	1000.00	1000.00	-
	Khulna	600.00	600.00	600.00	622.00	550.00	550.00	1000.00
	Narayanganj	-	630.00	833.00	953.33	1000.00	1000.00	800.00
	Rajshahi	500.00	603.00	500.00	490.00	800.00	800.00	720.00
	Rangpur	590.00	603.00	600.00	670.00	700.00	700.00	800.00
	Sylhet	600.00	466.66	800.00	120.00	-	-	-

(Continued.....)

Types of Labour	Town	2002 – 03	2003 – 04	2004 – 05	2005-06	2006 - 07		
						Oct	Nov	Dec
Situ Mosaic per sft. (fitting charge)	Dhaka	16.50	17.00	16.50	18.83	25.00	25.00	-
Glazed Tile per sft (fitting charge)	Dhaka	17.50	18.00	15.00	18.00	25.00	25.00	-
Floor Tile Per sft (fitting charge)	Dhaka	18.50	19.00	15.00	18.00	25.00	25.00	-

Source: Monthly Statistical Bulletin, Bangladesh Bureau of Statistics.

AVERAGE WAGE RATES FOR INDUSTRIAL WORKERS IN BANGLADESH
(Nominal wages in Taka)

Industry	Types of Labour	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07		
							Oct	Nov	Dec
Medium & Large Scale Industry									
(i) Cotton Textile	Skilled	107.77	129.67	129.67	129.67	129.67	145.00	150.00	155.00
	Unskilled	85.50	109.94	109.94	109.94	109.94	112.00	113.00	114.00
(ii) Jute Textile	Skilled	107.77	129.67	129.67	129.67	129.67	145.00	115.00	155.00
	Unskilled	85.50	109.94	109.94	109.94	109.94	112.00	113.00	114.00
(iii) Match	Skilled	107.77	129.67	129.67	129.67	129.67	145.00	150.00	155.00
	Unskilled	85.50	109.94	109.94	109.94	109.94	112.00	113.00	114.00
(iv) Engineering (fitter)	Skilled	181.25	187.25	211.74	245.17	262.38	299.50	300.00	301.25
	Unskilled	118.75	131.94	141.23	142.71	146.00	196.75	197.00	197.75
(v) Edible Oils	Skilled	112.50	132.55	121.25	123.56	126.50	193.25	198.75	194.75
	Unskilled	96.50	98.63	102.25	104.48	107.67	140.50	141.75	142.00
(vi) Small & Cottage Industry (weaver)	Skilled	108.00	115.00	127.56	139.44	152.61	180.00	181.00	181.75
	Unskilled	-	-	-	-	-	-	-	-
(vii) Construction	Skilled	167.75	173.00	171.56	177.63	191.49	217.75	218.75	219.75
	Unskilled	90.25	88.75	94.65	99.50	99.56	120.25	120.50	120.75

Source: Monthly Statistical Bulletin, Bangladesh Bureau of Statistics.

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

Period	General	Nominal Indices			
		Agri	Fishery	Manufacturing	Construction
2001-02	2637.00	2262.00	2411.00	3035.00	2444.00
2002-03	2926.00	2443.00	2563.00	3501.00	2624.00
2003-04	3111.00	2582.00	2775.00	3764.00	2669.00
2004-05	3293.00	2719.00	2957.00	4015.00	2758.00
2005-06	3906.00	2925.00	3133.00	4293.00	2889.00
2006-07	3779.00	3151.00	3332.00	4636.00	3135.00

2007

January	3795.00	3164.00	3345.00	4653.00	3162.00
February	3823.00	3187.00	3365.00	4688.00	3184.00
March	3852.00	3224.00	3382.00	4723.00	3211.00
April	3876.00	3233.00	3387.00	4752.00	3248.00
May	3894.00	3250.00	3413.00	4771.00	3263.00
June	3914.00	3226.00	3428.00	4795.00	3287.00

Source: Monthly Statisticalw Bulletin, Bangladesh Bureau of Statistics

CONSUMER PRICE INDEX: NATIONAL
(Base: 1995 – 96 = 100)

Period	General	Food, Beverage & Tobacco	Non-food	Clothing & Foot wear	Gross rent, fuel & lighting	Furniture, House hold Equip	Medical care & health expense	Transport	Recreation Education	Misc goods & services
2001-02	130.26	132.43	127.89	124.62	124.95	126.07	136.22	144.36	131.03	123.47
2002-03	135.97	137.01	135.13	130.55	131.20	132.32	145.25	159.52	136.94	129.40
2003-04	143.90	146.50	141.03	135.25	136.19	137.95	154.36	170.79	141.31	133.82
2004-05	153.23	158.08	147.14	142.15	141.43	143.18	162.67	179.94	150.24	137.78
2005-06	164.21	170.34	156.56	148.35	152.02	151.21	169.62	191.66	165.42	143.25
2006-07	176.06	184.18	165.79	156.79	162.32	162.61	178.49	201.15	171.47	151.44
2007-08	193.54	206.79	176.26	164.53	174.70	178.56	185.66	211.01	174.86	166.69

2008

January	192.39	204.59	176.59	164.59	174.91	179.85	186.07	211.48	175.16	167.22
February	192.81	205.25	176.69	164.59	174.95	180.63	186.08	211.72	175.19	167.40
March	194.83	208.58	176.78	164.68	174.98	180.67	186.11	211.77	175.25	168.00
April	194.57	207.71	177.42	165.25	175.76	181.34	186.25	211.88	176.21	168.76
May	195.25	208.45	178.02	166.23	176.09	182.99	186.34	212.35	176.65	170.08
June	203.45	221.57	179.32	167.58	178.67	184.27	187.25	213.37	178.08	174.99

Source: Monthly Advance Release, Bangladesh Bureau of Statistics

CONSUMER PRICE INDEX: ALL RURAL
(Base: 1995 – 96 = 100)

Period	General	Food, Beverage & Tobacco	Non-food	Clothing & Foot wear	Gross rent, fuel & lighting	Furniture, House hold Equip	Medical care & health expense	Transport	Recreation Education	Misc goods & services
2001-02	130.40	130.99	129.41	123.70	128.78	127.55	136.88	144.15	134.26	122.38
2002-03	136.58	136.29	137.06	130.49	136.00	133.40	146.97	159.11	140.00	128.65
2003-04	144.46	145.22	143.18	136.21	141.79	137.67	157.35	170.28	144.28	132.51
2004-05	154.03	156.82	149.29	141.73	147.64	141.90	166.56	178.92	153.78	134.90
2005-06	165.37	168.77	159.59	148.19	160.63	149.45	175.03	191.31	168.85	139.40
2006-07	177.42	182.18	169.33	155.88	172.14	160.38	185.41	201.06	174.74	147.95
2007-08	195.14	203.93	180.19	162.08	185.85	174.31	191.72	211.49	178.03	164.03

2008

January	193.83	201.71	180.44	162.07	186.06	174.69	191.74	211.68	178.33	165.10
February	194.17	202.21	180.49	162.04	186.12	174.68	191.74	211.90	178.37	165.14
March	196.42	205.75	180.56	162.17	186.16	174.71	191.75	211.93	178.42	165.29
April	196.07	204.78	181.26	162.91	187.20	175.42	191.94	212.00	178.98	165.67
May	196.67	205.43	181.78	163.46	187.61	177.36	191.96	212.22	179.33	166.26
June	205.27	218.23	183.25	164.88	188.40	178.01	192.92	213.22	181.25	170.98

Source: Monthly Advance Release, Bangladesh Bureau of Statistics

CONSUMER PRICE INDEX: ALL URBAN
(Base: 1995 - 96 = 100)

Period	General	Food, Beverage & Tobacco	Non-food	Clothing & Foot wear	Gross rent, fuel & lighting	Furniture, House hold Equip	Medical care & health expense	Transport	Recreation Education	Misc goods & services
2001-02	129.92	135.93	124.19	126.87	115.60	122.46	134.64	144.85	123.15	126.12
2002-03	134.49	138.77	130.40	130.69	119.51	129.72	141.04	160.53	129.50	131.22
2003-04	142.54	149.60	135.80	136.37	122.56	138.61	147.08	172.02	134.10	137.01
2004-05	151.29	161.14	141.90	143.18	126.31	146.30	152.49	182.41	141.60	144.80
2005-06	161.39	174.18	149.20	148.72	131.07	155.49	156.47	192.53	157.05	152.62
2006-07	172.73	189.06	157.17	159.02	138.41	163.05	161.64	201.38	163.51	159.93
2007-08	189.65	213.73	166.69	170.51	147.54	188.92	170.90	209.84	167.16	173.16

2008

January	188.88	211.62	167.22	170.72	147.75	192.41	172.27	211.00	167.46	172.38
February	180.51	212.66	167.44	170.79	147.75	196.11	172.31	211.28	167.46	172.90
March	190.96	215.48	167.58	170.80	147.76	195.20	172.37	211.38	167.52	174.61
April	190.90	214.85	168.06	170.76	147.89	195.75	172.40	211.60	169.48	176.29
May	191.78	215.81	168.88	172.97	148.05	196.71	172.67	212.65	170.12	179.37
June	199.02	229.72	169.76	174.15	148.09	199.51	173.43	213.75	170.35	184.77

Source: Monthly Bulletin, Bangladesh Bureau of Statistics