



**PROCEEDINGS  
OF  
THE ELEVENTH ANNUAL GENERAL MEETING  
OF  
BANGLADESH EMPLOYERS' FEDERATION**

held in the Conference Hall of the "Chamber Building", 122-124, Motijheel CA, Dhaka 1000, on Wednesday, the 29th July, 2009, at 12:30 p.m.

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

The following members of the Federation were present:

Sl. No	Name of the Member-Firm	Name and Designation of the Representative attending the AGM
01.	Abdul Monem Limited	Mr. A. S. M. Mainuddin Monem Deputy Managing Director
02.	Abdul Monem Sugar Refinery Limited	Mr. A. S. M. Mainuddin Monem Deputy Managing & CEO
03.	Advanced Chemical Industries Limited	Mr. M. Anis Ud Dowla Chairman
04.	ACI Formulations Limited	Mr. M. Anis Ud Dowla Managing Director
05.	American Life Insurance Co.	Mr. Md. Nurul Islam Regional Senior Vice President Middle East, Africa & South Asia-East
06.	Bangladeshiyo Cha Sangsad	Mr. M. Salman Ispahani Chairman
07.	Bangladesh Knitwear Manufacturers and Exporters Association	Dr. Muhammad Abdul Moyeen Director



# Annual Report-2008

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| 08. | Bangladesh Knitwear Manufacturers and Exporters Association        | Mr. M. A. Baset<br>Second Vice President                 |
| 09. | Bangladesh Jute Mills Association                                  | Mr. Kaihan N. Rahman<br>Executive Committee Member       |
| 10. | Bangladesh Jute Spinners Association                               | Mr. Ahmed Hossain<br>Chairman                            |
| 11. | Bangladesh Garment Manufacturers and Exporters Association (BGMEA) | Mr. Khondoker Jamil Uddin<br>Director                    |
| 12. | Berger Paints (Bangladesh) Ltd.                                    | Mrs. Rupali Chowdhury<br>Managing Director               |
| 13. | BRAC Bank Limited  | Mr. Muhammad A. (Rumeel) Ali,<br>Chairman                |
| 14. | Coats Bangladesh Ltd.  | Mr. Shafiq Uz Zaman<br>Managing Director                 |
| 15. | Consumer Products Limited  | Mr. Alamgir M. Z. Rahman<br>Managing Director            |
| 16. | Desh Garments Limited  | Mrs. Rokeya Quader<br>Chairman                           |
| 17. | Dohatec New Media  | Mrs. Luna Shamsuddoha<br>Chairman                        |
| 18. | Duncan Products Limited  | Mr. Imran Ahmed<br>Managing Director & CEO               |
| 19. | JF (Bangladesh) Limited  | Mr. Morshed Ahmed Choudhury<br>General Manager, Dhaka    |
| 20. | GlaxoSmithKline Bangladesh Ltd.                                    | Mr. M. Azizul Huq<br>Managing Director                   |
| 21. | G4S Security Services Bangladesh (P) Limited                       | Mr. Lion Tareque Nasir Ally<br>Manager Administration    |
| 22. | Igloo Dairy Limited  | Mr. A. S. M. Mainuddin Monem<br>Deputy Managing Director |



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23.	Karnaphuli Fertilizer Co. Ltd. (KAFCO)	Dr. Kabir Ahmed General Manager – HR
24.	Khadim Ceramics Limited	Mr. Sakif Ariff Tabani Managing Director
25.	K. Rahman & Company	Mr. A. S. M. Mainuddin Monem, Director, Finance & Administration and CEO, Beverage Units.
26.	Lungla (Sylhet) Tea Co. Ltd.	Mr. Imran Ahmed Managing Director & CEO
27.	Mir Ceramic Limited	Mr. Mir Nasir Hossain Managing Director
28.	Mirpur Ceramic Works Limited	Mr. Sakif Ariff Tabani Director
29.	Novartis (Bangladesh) Ltd.	Mr. Ashfaque ur Rahman Managing Director
30.	Osman Textiles Limited	Mrs. Sabrina Islam Director
31.	Pragati Insurance Ltd.	Mr. A. K. M. Rafiqul Islam, FCA Managing Director & CEO
32.	Property Development Ltd.	Mr. Nayem Md. Shaheen Ghani Group Welfare Officer
33.	Pubali Jute Mills Limited	Mr. Kamran T. Rahman Managing Director
34.	Rahimafrooz Batteries Ltd.	Mr. Shubha Muhammad al Amin Manager, Reporting, Planning & Treasury
35.	Reliance Insurance Limited	Mr. Akhtar Ahmed Managing Director & CEO
36.	R. R. Cold Storage Limited	Ms. Rokia Afzal Rahman Chair and Managing Director
37.	Sanofi-aventis Bangladesh Limited	Mr. Iftekharul Islam Managing Director
38.	Social Marketing Company	Mrs. Perveen Rasheed Managing Director



39.	Square Fashions Limited	Mr. Anjan Chowdhury Director
40.	Square Pharmaceuticals Ltd.	Mr. Anjan Chowdhury Director
41.	Square Textiles Limited	Mr. Anjan Chowdhury Director
42.	Square Toiletries Ltd.	Mr. Anjan Chowdhury Managing Director
43.	Tiffany's Wears Ltd.	Mr. Alamgir M. Z. Rahman Managing Director
44.	United Insurance Company Limited	Mr. Shed Shahriyar Ahsan Managing Director
45.	Women Entrepreneurs' Association – Bangladesh	Mrs. Sonia Bashir Kabir Director

There being a quorum, the Chairman called the eleventh Annual General Meeting (AGM) of the Federation to order, and in doing so, he welcomed the members present.

The Chairman stated that the notice for the meeting giving the agenda and the requisite enclosures were circulated to all the members and requested that the notice be taken as read. There being no dissent the notice was taken as read.

The Chairman then said that the Annual Report circulated with the notice for the AGM contained the report of activities of the Federation during



the year ended on the 31st December, 2008. Some of the important developments, events, and activities which took place during the period, January – July, 2009, should be highlighted briefly before taking up the agenda for the meeting, he said.

The Chairman then mentioned about the Federation's commitment in protecting the interest of the employers in desired fields. The Chairman referred to holding of several meetings with the Minister for Labour and Employment and Expatriate Welfare and Overseas Employment and submitted its views/proposals on different issues, like (i) situation under the global economic crisis and recession, (ii) employment creation, (iii) U.S. Department of Labour study report on use of child labour, (iv) labour situation in Chittagong port, (v) reconstitution of the Tripartite Consultative Council (TCC), etc.

The Chairman informed the members that the Government took note of the Federation's proposals on the foregoing issues, particularly the move to reconstitute the TCC by the Ministry of Labour and Employment as per the Federation's suggestion.

The Chairman then stated that the Ministry of Labour and Employment took a move to review the Bangladesh Labour Act, 2006. In that context, a meeting was held at the Ministry of Labour and Employment on 8th February 2009, chaired by the Deputy Minister of Labour and Employment. A team of 4 members represented the Federation. Following the meeting, a delegation from the Federation called on the Minister for Labour and Employment and suggested that the Government should move carefully in reviewing the Bangladesh Labour Act 2006, which was promulgated after 12 years of prolonged tripartite negotiation. Later, a Committee was formed consisting of members from government, employers and workers to review the concerned clauses of the Bangladesh Labour Act 2006. The Committee asked the parties to submit proposals and accordingly, the Federation did so after necessary review and consultation with members.

The Chairman mentioned that a two member delegation from the Dutch Employers Cooperation Programme (DECP) visited the Federation. The purpose of the DECP delegation's visit to the Federation was to strengthen cooperation between BEF and DECP. The Federation explored possible technical assistance from DECP in terms of skills development for the member organizations. The delegation was impressed with the activities of the Federation and noted the concerns of the Federation for skills development needs.

The Chairman then added that the Federation consistently reviewed the labour relations situations during the global financial melt-down. The Federation had voiced its concerns at different fora highlighting the impact of the global financial crisis in the labour market. A study on the labour market situation was conducted by Centre for Policy Dialogue (CPD) under the sponsorship of ILO Dhaka office and the Federation provided its inputs to the CPD Research Team through an interactive discussion covering all major industrial sectors. The Federation stressed the need for stimulus packages for the affected sectors and also for creation of a special fund to meet up immediate financial needs of the employers in case of adverse scenarios like closure of mills and factories.



The Chairman then continued that the Federation had been regularly reviewing the labour relations situation in the country. The Federation held an emergency meeting with the Presidents of Bangladesh Garment Manufacturers and Exporters Association and Bangladesh Knitwear Manufacturers and Exporters Association to discuss the recent labour unrest, vandalism and arson in some of the garment factories at Ashulia and Savar. The Federation offered all possible assistance to them for long-term resolution of the crisis. The Federation also discussed ways and means to strengthen the capacity of the Crisis Management Committee to respond rapidly to any untoward situation.

The Chairman then mentioned that the Federation remained actively involved in various activities of the ILO and the Nippon-keidanren International Cooperation Center (NICC), Japan. The Federation continued to provide support in ILO's TVET Reform Project. The Federation also assisted in reviewing the ILO's Decent Work Country Programme which would end in December 2009. He mentioned that a fresh programme was expected to be launched next year. The Federation arranged a half-day workshop for the former participants of the NICC. The purpose of the workshop was to strengthen cooperation among the NICC participants and to utilize their expertise in skills development at enterprise level.

The Chairman informed that a 3-member team from BEF was included in the Bangladesh delegation to attend the 98th Session of the International Labour Conference (ILC), held in Geneva from the 1st June to the 19th June 2009. He represented the Federation as the employers' delegate while the Federation's Vice-President Mr. Alamgir M.Z. Rahman and the Secretary-General Mr. Farooq Ahmed participated as the Substitute-Delegates. In 2009, the focus of the ILC was to discuss the global financial crisis and its impact in the labour market. A Global Summit had also been organized in which the Presidents of Poland, Finland, Mozambique, Brazil, France, Argentina and the Togolese Republic, as well as the Prime Ministers of Burkina Faso, and Jamaica participated. The Prime Minister of Bangladesh Sheikh Hasina sent a video message since she could not attend in person. In addition, Ministers of 17 different countries, 4 government officials, 6 worker representatives and 7 employer representatives participated.

The Chairman mentioned that he was requested by the IOE Secretariat, as a representative of BEF, to address the Plenary during the Summit on behalf of the developing countries. Prior to that, the International Organization of Employers (IOE) had organized a debate on "Global Financial Crisis and Job Creation" where BEF President was invited to deliver the LDC's views as one of the panelists representing the Asia-Pacific region. The Chairman mentioned that the views and recommendations of the Federation were well appreciated and had drawn the attention of the international community.



With these words, the Chairman took the agenda and moved the Resolution under Agenda No.1

“That the Report of the proceedings of the Committee of the Federation for the period from the 1st January to 31st December, 2008 be and is hereby passed and accepted.”

Mr. Anis Ud Dowla of Advanced Chemical Industries Ltd. seconded the proposal, which was passed unanimously.

At the request of the Chairman, the Vice-President, Mr. Alamgir M. Z. Rahman proposed the Resolution No. 2

“That the Income and Expenditure Accounts for the year ended on the 31st December 2008 and the Balance-Sheet as at that date, as audited and certified by the Federation’s Auditors, be received and passed.”

Mr. Sakif Ariff Tabani of Khadim Ceramics Limited seconded the proposal, which was passed unanimously.

At the request of the Chairman, the Vice-President Mr. Alamgir M. Z. Rahman then proposed Resolution No. 3.

“That Messrs. A. Qasem & Co., Chartered Accountants, be and are hereby appointed as the Federation’s Auditors for the year 2009 at the remuneration of Tk. 25,000/-.”

Mr. M.A. Baset of Bangladesh Knitwear Manufacturers and Exporters Association scoded the proposal, which was passed and adopted without any dissent.

The Chairman then took up Agenda No. 4 relating to filling up of vacant seats and announced that that there were 8 (eight) valid candidates against 8 (eight) vacant seats representing the Ordinary members and there were 6 (six) valid candidates against 8 (eight) vacant seats representing Group members. Hence, election was not required.

The Election Board declared the following persons (in alphabetical order) ipso facto elected to the Federation’s Committee for the term, 2009–2011 under the Rule 12 of the Bangladesh Employers’ Federation (Election of the Members of the Committee) Rules, 1998 (as amended in 2001 & 2005), subject to approval at the AGM:

#### Ordinary Members

(1) Mr. Akhtar Ahmed Managing Director  
Reliance Insurance Ltd.

(2) Mr. Muhammad A. (Bumeel) Ali Chairman



- |      |                            |   |
|------|----------------------------|---|
| (3)  | Mr. M. Azizul Huq          | Managing Director<br>GlaxoSmithKline Bangladesh Ltd.                        |
| (4)  | Mr. Md. Nurul Islam        | Regional Senior Vice President<br>American Life Insurance Co.               |
| (5)  | Mrs. Sabrina Islam         | Director<br>Osman Textiles Limited  |
| (6)  | Mr. A.S.M. Mainuddin Monem | Deputy Managing Director<br>Abdul Monem Ltd.                                |
| (7)  | Ms. Rokia Afzal Rahman     | Chair & Managing Director<br>R.R. Cold Storage Limited                      |
| (8)  | Mrs. Rokeya Quader         | Chairman<br>Desh Garments Ltd.<br>Group Members                             |
| (9)  | Mr. Ahmed Hossain          | Chairman<br>Bangladesh Jute Spinners<br>Association                         |
| (10) | Mr. Ardashir Kabir         | Vice-Chairman<br>Bangladeshiyo Cha Sangshad                                 |
| (11) | Mrs. Sonia Bashir Kabir    | Director<br>Women's Entrepreneurs<br>Association                            |
| (12) | Dr. Muhammad Abdul Moyeen  | Director<br>Bangladesh Knitwear<br>Manufacturers &<br>Exporters Association |
| (13) | Mr. Kaihan N. Rahman       | Executive Committee Member<br>Bangladesh Jute Mills Association             |
| (14) | Mr. Khondoker Jamil Uddin  | Director<br>Bangladesh Garment<br>Manufacturers & Exporters<br>Association  |



The Chairman then added that the following Ordinary members would remain on the Committee as they were elected last year:

- (1) Mr. Akhter Matin Chaudhury
- (2) Mrs. Simeen Hossain
- (3) Ms. Perveen Rasheed
- (4) Mr. Sakif Ariff Tabani

The Chairman then announced the composition of the full Committee (in alphabetical order):

- (1) Mr. Akhtar Ahmed
- (2) Mr. Muhammad A. (Rumeen) Ali
- (3) Mr. Akhter Matin Chaudhury
- (4) Mr. Ahmed Hossain
- (5) Mr. M. Azizul Huq
- (6) Mrs. Simeen Hossain
- (7) Mr. Md. Nurul Islam
- (8) Mrs. Sabrina Islam
- (9) Mr. Ardashir Kabir
- (10) Mrs. Sonia Bashir Kabir
- (11) Mr. A.S.M. Mainuddin Monem
- (12) Dr. Muhammad Abdul Moyeen
- (13) Mrs. Rokeya Quader
- (14) Ms. Rokia Afzal Rahman
- (15) Mr. Kaihan N. Rahman
- (16) Ms. Perveen Rasheed
- (17) Mr. Sakif Ariff Tabani
- (18) Mr. Khondoker Jamil Uddin

He then moved the Resolution No.4

“That election of the 8 (eight) Ordinary members, viz. (1) Mr. Akhtar Ahmed, (2) Mr. Muhammad A. (Rumeen) Ali, (3) Mr. M. Azizul Huq, (4) Mr. Md. Nurul Islam, (5) Mrs. Sabrina Islam, (6) Mr. A.S.M. Mainuddin Monem, (7) Mrs. Rokeya Quader and (8) Ms. Rokia Afzal Rahman and 6 (six) Group members, viz. (1) Mr. Ahmed Hossain, (2) Mr. Ardashir Kabir, (3) Mrs. Sonia Bashir Kabir, (4) Dr. Muhammad Abdul Moyeen, (5) Mr. Kaihan N. Rahman, and (6) Mr. Khondoker Jamil Uddin to the Federation’s Committee for the term, 2009-2011, as per the report of the Election Board, be confirmed.”



Mr. Anjan Chowdhury of Square Toiletries Ltd. seconded the proposal which was passed unanimously.

Then the Chairman announced that at the meeting of the new Committee, Ms. Rokia Afzal Rahman has been elected as the President for the term 2009-2011 and Mr. Muhammad A. (Rume) Ali has been elected as the Vice-President of the Federation.

The Chairman, on behalf of the Federation, thanked Mrs. Laila Rahman Kabir, Chairman of the Election Board and Mr. A.K.M. Rafiqul Islam, FCA and Mr. A.S.M. Quasem, Members of the Election Board for providing their valuable time in conducting the election.

At the same time, the Chairman also expressed his gratitude to Mr. Mahbubur Rahman, Chairman of the Appeal Board and Mr. Mahbub Jamil and Mr. Obaidur Rahman Khan, Members of the Appeal Board for having agreed to serve on the Board.

Before concluding, the Chairman thanked the Vice-President Mr. Alamgir M.Z. Rahman and all members of the Committee, for their unstinted support during the last two years, in promoting and protecting the interests of employers nationally as well as at the international level.

He also thanked Mr. C. K. Hyder, Adviser to the Committee, for his invaluable guidance and support to the Committee and to himself during his entire tenure.

The Chairman expressed his thanks and appreciation to Mr. Farooq Ahmed, Secretary-General of the Federation, and the members of the staff of the Secretariat, for their continuous support and cooperation, which was essential in carrying out the activities of the Federation.

Thereafter, the Chairman congratulated the newly elected President Ms. Rokia Afzal Rahman, the Vice-President Mr. Muhammad A. (Rume) Ali, and the members of the Committee for the term 2009-2011. The Chairman expressed hope that the new Committee under the able leadership of Mrs. Rokia Afzal Rahman would uphold the interests of the employers in both local and international fora.

The Vice President Mr. Alamgir M.Z. Rahman, on behalf of all members, offered a vote of thanks to the President, Mr. Kamran T. Rahman for his untiring efforts and leadership given to the Federation during his tenure. He mentioned that the dynamic involvement of the President with the Ministry of Labour and Employment, ILO, IOE, and other national/ international organizations including trade unions had given the Federation a new image of professionalism.

Then the Vice-President extended his welcome and congratulations to the New President, Vice-President, and the Committee members.



The Vice-President also thanked Mr. C.K. Hyder, Adviser to the Committee, for his valuable guidance and the Secretary-General and all staff-members of the Secretariat.

Then the newly-elected President of the Federation, Mrs. Rokia Afzal Rahman delivered a speech to all the members present.

The new President thanked the outgoing President, Mr. Kamran T. Rahman and all the members of the outgoing Committee for their outstanding work for the Federation, and expressed hope that they would continue doing the same.

She then congratulated the members of the new Committee, and the newly-elected Vice-President, Mr. Muhammad A. (Rumeel) Ali.

The new President then mentioned that there were some challenging issues raised by the members, and said that the Federation would like to chalk out some programmes to deal with them. Thanking all the members again, she urged all for collaboration and working together for going forward.

Finally, the Chairman thanked all present and closed the meeting at 1:30 p.m.

Sd/-  
(Kamran T. Rahman)  
PRESIDENT

Sd/-  
(Farooq Ahmed)  
SECRETARY-GENERAL



**BANGLADESH EMPLOYERS' FEDERATION (BEF)  
ANNUAL REPORT 2008  
(January – December, 2008)**

The Committee of Bangladesh Employers' Federation has the pleasure of submitting to its members the following Annual Report for the year 2008.

During the period, the Federation continued its efforts to uphold the interests of the employers at all levels. The Federation held several meetings with the Adviser in Charge of the Ministry of Labour and Employment on issues like industrial relations, impact of spiraling prices of essential commodities, closure of public sector jute/textile mills, increasing functional effectiveness of the Crises Management Committee, introduction of open market sales in industrial belts etc. The Federation also made due emphasis on reactivation of the Tripartite Consultative Council meetings which remained non-functional under the state of emergency. The Federation played its due role in the Skills Development Working Group under the Bangladesh Better Business Forum – a body formed under public-private partnership mode. The Federation regularly shared its views/opinions on growth, employment generation, social protection and social dialogue, productivity improvement, compliance, etc. with various national /international organizations including government. The Federation represented the employers in the Minimum Wage Board on regular basis and made skillful negotiations on fixation of minimum wages of concerned sectors which had been referred to the Board by the government. The Federation made effective contribution in revising the draft on the National Child Labour Policy.

On the international front, the Federation held several meetings with the International Labour Organisation (ILO), the International Organisation of Employers (IOE), the Confederation of Asia-Pacific Employers (CAPE) and Nippon-Keidanren International Cooperation Centre (NICC). In all those meetings, the Federation projected the need for strengthening capacity of the employers' organizations for rendering better services to their members. The Federation also emphasized the need for development of Small and Medium Enterprises for greater employment generation and poverty reduction. The Federation continued to highlight the need for achieving greater workforce discipline along with special focus on effective functioning of Chittagong Port.

The Federation correctly perceived the likely consequences of the global financial crisis and reviewed the situation on regular basis; kept the government as well as its member-firms updated in order to face the challenges without much damage. The Federation also submitted to the government for required support in the form of banking, fiscal, tariff and other policy measures. In addition, the Federation, from time to time, advocated its members to take relevant industry-specific steps in order to overcome the challenges posed by the global economic crisis and job loss.



## 1. PROPOSED AMMENDMENTS TO THE BANGLADESH LABOUR ACT, 2006

The Federation regularly represented at the meetings organized by the Ministry of Labour and Employment on the proposed amendments to the Bangladesh Labour Act, 2006. The Federation also participated at the meetings of the Tripartite Consultative Council (TCC) and expressed its position on the key issues on freedom of association, developing sound trade union cultures, mode of workers' participation in the company profits, etc. While preparing the amendment proposals, the Federation had given due emphasis, among others, on the following issues:

- (1) The maximum number of trade unions in each enterprise should be three. There was a proposal to amend the relevant provision of the Bangladesh Labour Act 2006 introducing one trade union per enterprise. Bangladesh Employers' Federation opposed the proposal and stressed for retention of the existing provision of a maximum 3 trade unions in an enterprise.
- (2) The provision of enforcement of employers' obligations by mobile courts might create disastrous consequences as most of the disputes at the enterprise level occur due to wage-related issues; and
- (3) The provision for transfer of contributions in the Companies Profits (Workers' Participation) Fund to the workers' welfare fund.

## 2. MEETINGS WITH ADVISERS/ EMPLOYERS/ WORKERS/ OTHER GOVERNMENT OFFICIALS

During the period, the Federation held several 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 as and when required. Some of the key issues raised were as under:

Government's initiative to frame new Rules for apprenticeship training in educational institutions. The Federation pointed out that since apprenticeship scheme was a part of the Labour Act, 2006, separate Rules would not be advisable.

In the Government's move to update the Labour Policy, the Federation expressed concern about the timing of such a move, and suggested that promulgation of the Bangladesh Labour Act, 2006 should have followed the Labour Policy and not precede the same.

## 3. REVIEW OF THE LABOUR SITUATION

The Federation Committee regularly reviewed the labour situation prevailing in the country. The Federation also took note of a number of incidents including frequent strikes and agitations of workers that took place during the year, mostly in the garments sector. The Federation also discussed the progress of the Minimum Wage Board to determine the minimum wage in selected sectors, which had been referred to the Board. The Federation pursued the Government for restoration of trade union activities which were suspended due to state of emergency declared by the Government.



The Federation had strongly urged the Government for introduction of Open Market Sales (OMS) of food grains and other essential commodities at fair prices in industrial belts in the country.

#### 4. FEDERATION'S COMMENTS ON THE DRAFT BANGLADESH LABOUR RULES, 2008

The Government had requested for comments from all stakeholders on the draft Bangladesh Labour Rules, 2008. The Federation also prepared a set of recommendations after seeking feedback from the member organizations. The feedback received from the members were reviewed, tabulated, and compiled, and was forwarded to the concerned authority. The response from the Federation included, among other issues, the following comments:

Maintenance of the different formats as laid down in the Service Rules should not be mandatory as records related to service and attendance were maintained electronically in many companies.

Under section 3 of Bangladesh Labour Act 2006, every establishment may have its own rules regulating employment of workers. Under rule 5 of the proposed Bangladesh Labour Rules 2008, every employer needs to obtain a fresh approval of the rules which is framed in accordance with the existing rules. The Federation suggested that the service rules which were approved earlier under the previous Rules should be accepted without any further approval in case of any alteration/modification.

Provisions with regard to working conditions, such as, temperature control, dust extraction, lighting, were too stringent and ought to be made more realistic.

Working amenities such as chilled drinking water, toilet facilities, number of toilets, etc. should also be laid down realistically.

#### 5. 97TH SESSION OF THE ILC: BEF'S PARTICIPATION

The 97th session of the International Labour Conference (ILC) was held in Geneva from the 28th May to the 13th June, 2008. As in the past, the Committee nominated the President, Mr. Kamran T. Rahman as the Delegate and the Secretary General, Mr. C.K. Hyder and the Secretary, Mr. Farooq Ahmed as the Substitute Delegates. Later, the Secretary General, Mr. C.K. Hyder requested to withdraw his nomination due to other important occupation.

The following items, among others, were included in agenda of the 97th Session of the ILC 2008:

- 1) Information and reports on the application of Conventions and Recommendations;
- 2) Promotion of rural employment for poverty reduction - General discussion based on an integrated approach;
- 3) Skills for improved productivity, employment growth and development - General discussion;
- 4) Strengthening the ILO's capacity to assist its Members' efforts to reach its objectives in the



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- 3) Skills for improved productivity, employment growth and development - General discussion;
- 4) Strengthening the ILO's capacity to assist its Members' efforts to reach its objectives in the



context of globalization – Continuation of the discussion on strengthening the ILO’s capacity and possible consideration of an authoritative document, possibly in the form of a Declaration or any other suitable instrument, together with any appropriate follow-up, and the form they make;

## I. MEMBERSHIP:

New Members:

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

### Ordinary Members

- Sadat Jute Industries Ltd.
- Janata Jute Mills Ltd.
- The Kapna Tea Co. Ltd.
- Asian Paints (Bangladesh) Ltd.
- Mir Ceramic Limited

### Group Member:

Bangladesh Insurance Association

Successor Members: Change of Names

During the period, the following member was elected as the successor member of the company named against it as under:

<b>Successor-member</b>	<b>Previous name</b>
Sanofi-Aventis Bangladesh Limited	Fisons (Bangladesh) Ltd.

## II. MANAGING COMMITTEE

At the commencement of the year, i.e. on the 1st January, 2008, the managing Committee of the Federation comprised of the following:

1.	Mr. Kamran T. Rahman	President	Chairman and Managing Director Pubali Jute Mills Limited
2.	Mr. Alamgir M. Z. Rahman	Vice-President	Managing Director Consumer Products Limited
3.	Mr. M. Anis Ud Dowla	Member	Chairman Advanced Chemical Industries Limited



4.	Mr. Habibullah N. Karim	"	Managing Director Technohaven Company Limited
5.	Mr. Masih Ul Karim	"	Managing Director Berger Paints Bangladesh Ltd.
6.	Mr. Salahuddin Kasem Khan	"	Chairman A. K. Khan & Company Limited
7.	Mr. Golam Mainuddin	"	Chairman, British American Tobacco Bangladesh Company Limited
8.	Mr. Feroz Rahim	"	Managing Director Rahimafrooz Batteries Limited
9.	Mr. Ashfaque ur Rahman	"	Managing Director Novartis (Bangladesh) Ltd.
10.	Ms. Perveen Rasheed	"	Managing Director Social Marketing Company
11.	Ms. Luna Shamsuddoha	"	Chairman Dohatec New Media
12.	Mr. Shafiq uz Zaman	"	Managing Director Coats Bangladesh Ltd.
<b>Group Members</b>			
13.	Mr. M. A. Baset	"	Director Bangladesh Knitwear Manufacturer and Exporters Association
14.	Mr. Ferdous Perves Bivon	"	Vice-President Bangladesh Garments Manufacturers and Exporters Association
15.	Mr. Najmul Huq	"	Committee Member Bangladesh Jute Mills Association
16.	Mr. M. Salman Ispahani	"	Chairman Bangladeshiyo Cha Sangsad.



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| 17. | Mr. Abdul Hai Saker        | " | Chairman<br>Bangladesh Textile Mills Association                |
| 18. | Mr. Muhammad Shams-uz Zoha | " | Former Committee Member<br>Bangladesh Jute Spinners Association |

The following members retired on the eve of 10th A.G.M. due to completion of two-year term 2006-08:

### **From Ordinary Members**

- |     |                           |  |
|-----|---------------------------|--|
| (1) | Mr. Masih Ul Karim        | Former Managing Director<br>Berger Paints Bangladesh Limited |
| (2) | Mr. Salahuddin Kasem Khan | Managing Director<br>A. K. Khan & Co. Limited                |
| (3) | Ms. Perveen Rasheed       | Managing Director<br>Social Marketing Company                |
| (4) | Ms. Luna Shamsuddoha      | Chairman<br>Dohatec New Media                                |

### **From Group Members**

- |     |                      |  |
|-----|----------------------|--|
| (1) | Mr. Abdul Hai Sarker | Chairman<br>Bangladesh Textile Mills Association |
|-----|----------------------|--|

Of the 5(five) retiring members mentioned above, only Mr. Salahuddin Kasem Khan and Ms. Perven Rasheed representing Ordinary members and Mr. Abdul Hai Sarker representing Group members who were co-opted during the year, remained eligible to seek election for the term, 2008-2010.

At the Tenth A.G.M (held on the 31st July, 2008), there were 4 (four) vacant seats representing Ordinary members and 3 (three) vacant seats representing Group members.

There were 4 (four) valid candidates against 4 (four) vacant seats from the Ordinary members and there was no candidate for the 3 (three) 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, 2008-2010:



## Ordinary Members

1. Mr. Akhter Matin Chaudhury  
Managing Director  
Nuvista Pharma Limited
2. Mrs. Simeen Hossain Executive  
Director & Chief  
Executive Officer  
Transcom Limited
3. Ms. Perveen Rasheed  
Managing Director  
Social Marketing Company
4. Mr. Sakif Ariff Tabani  
Managing Director  
Khadim Ceramics Limited

## Group Members

There was no election held for the 3 (three) vacant positions of the Group members. Later, the following 2 (two) members were co-opted:

1. Mr. Abdul Hai Sarker  
Chairman  
Bangladesh Textile Mills Association
2. Mrs. Sonia Bashir Kabir  
Member  
Women Entrepreneurs' Association,  
Bangladesh

The Management Committee of the Federation as in August 2008 (after the 10th AGM) was as follows (in alphabetical order):

### **PRESIDENT**

- Mr. Kamran T. Rahman  
Chairman & Managing Director  
Pubali Jute Mills Limited

### **VICE-PRESIDENT**

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



## MEMBERS OF THE COMMITTEE

### Ordinary Members:

- |     |                            |  |
|-----|----------------------------|--|
| 01. | Mr. Akhter Matin Chaudhury | Managing Director,<br>Nuvista Pharma Limited                         |
| 02. | Mr. M. Anis Ud Dowla       | Chairman,<br>Advanced Chemical Industries Ltd.                       |
| 03. | Mrs. Simeen Hossain        | Executive Director & Chief<br>Executive Officer,<br>Transcom Limited |
| 04. | Mr. Habibullah N. Karim    | Managing Director<br>Technohaven Company Limited                     |
| 05. | Mr. Golam Mainuddin        | Chairman<br>British American Tobacco<br>Bangladesh Company Limited   |
| 06. | Mr. Feroz Rahim            | Managing Director<br>Rahimafrooz Batteries Limited                   |
| 07. | Mr. Ashfaque ur Rahman     | Managing Director<br>Novartis (Bangladesh) Limited                   |
| 08. | Ms. Perveen Rasheed        | Managing Director<br>Social Marketing Company                        |
| 09. | Mr. Sakif Ariff Tabani     | Managing Director<br>Khadim Ceramics Limited                         |
| 10. | Mr. Shafiq Uz Zaman        | Managing Director<br>Coats Bangladesh Limited                        |

### Group Members:

- |     |                          |  |
|-----|--------------------------|--|
| 11. | Mr. M. A. Baset          | Director<br>Bangladesh Knitwear<br>Manufacturers and Exporters<br>Association      |
| 12. | Mr. Ferdous Perves Bivon | Vice President<br>Bangladesh Garment<br>Manufacturers and Exporters<br>Association |



14. Mr. M. Salman Ispahani  
Chairman,  
Bangladeshiyo Cha Sangsad.
15. Mrs. Sonia Bashir Kabir  
Member,  
Women Entrepreneurs' Association,  
Bangladesh.
16. Mr. Abdul Hai Sarker  
Chairman,  
Bangladesh Textile Mills Association
17. 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 2008-2009:

#### 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

### 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. Mrs. Rupali Chowdhury Berger Paints Bangladesh Limited
4. Mr. Golam Mainuddin British American Tobacco Bangladesh Company Limited
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, Leather Goods 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. Ardasher 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.	Mr. Abdul Hai Sarker (Chairman)	Bangladesh Textile Mills Association
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

## 10. SAFETY AND WORKING CONDITIONS SUB-COMMITTEE

1.	Mr. Golam Mainuddin (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. Sakif Ariff Tabani (Chairman) | Khadim Ceramics Limited                                      |
| 2. | Mr. M. A. Baset                   | Bangladesh Knitwear Manufacturers &<br>Exporters Association |
| 3. | Mr. Ferdouz Perves Bivon          | Bangladesh Garment Manufacturers &<br>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. | Ms. Perveen Rasheed (Chairperson) | Social Marketing Company                        |
| 2. | Mrs. Simeen Hossain               | Transcom Limited                                |
| 3. | Mrs. Sabrina Islam                | Women Entrepreneurs' Association,<br>Bangladesh |
| 4. | Mrs. Rokeya Quader                | Desh Garments Limited                           |
| 5. | Mrs. Zeenat Rahim                 | Rahimafrooz Batteries Limited                   |
| 6. | Mr. Habibullah N. Karim           | Technohaven Company Limited                     |

## 13. SOCIAL DEVELOPMENT SUB-COMMITTEE

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

- |    |                                     |   |
|----|-------------------------------------|---|
| 1. | Mr. Alamgir M. Z. Rahman (Chairman) | Consumer Products Limited                                   |
| 2. | Mr. Ferdous Perves Bivon            | Bangladesh Garment Manufacturers &<br>Exporters Association |



- |     |                               |  |
|-----|-------------------------------|--|
| 3.  | Mr. Jahangir Alamin           | Bangladesh Textile Mills Association                         |
| 4.  | Mr. M. A. Baset               | Bangladesh Knitwear Manufacturers<br>& Exporters Association |
| 5.  | Maj.Gen. Amjad Khan Chowdhury | Property Development Limited<br>(Retd.)                      |
| 6.  | Mr. A. Matin Chowdhury        | Malek Spinning Mills Limited                                 |
| 7.  | Mrs. Sabrina Islam            | Women Entrepreneurs' Association,<br>Bangladesh              |
| 8.  | Mr. Salahuddin Kasem Khan     | A. K. Khan & Company Ltd.                                    |
| 9.  | Mr. Golam Mainuddin           | British American Tobacco Bangladesh<br>Company Limited       |
| 10. | Mr. Ashfaque ur Rahman        | Novartis (Bangladesh) Limited                                |

#### **IV. SECRETARIAT**

Mr. C.K. Hyder continued as the Secretary-General and the CEO of the Federation till he retired on the 31st December, 2008. He accepted the proposal to remain as the Adviser to the Federation Committee with effect from the 1st January, 2009. Mr. Farooq Ahmed was appointed as the new Secretary-General from the 1st January, 2009.

#### **V. Participation in NICC/ other International Organisation's Training Programmes**

The Federation nominated a number of participants from its member firms to different training programmes conducted by the Nippon-keidanren International Cooperation Centre (NICC) and other international organisations:

Sl. No.	Name of Participant	Designation & Name of the Firm	Training Programme	Place & Duration
1.	Mr. Shahidul Alam	Chief of the Economic Research Cell, BEF	Training course on 'Labour Market Information and Analysis'	ITC-ILO, Turin, Italy 5th -16th May 2008
2.	Ms. Sheifta Anwar	Manager, Human Resources, Aventis Limited	NICC's Trainers' Training Course on Management Training Programme (MTP-TT)	Tokyo, Japan 19th May – 6th June 2008
3.	Mr. Arif Shahriar	Head of Human Resources , Rahimafrooz Batteries Limited	NICC's Programme on Industrial Relations (IR) and Human Resource Management (HRM)	Tokyo, Japan 11th -25th June 2008
4.	Mr. Kazi Saifuddin Ahmed	Labour Adviser, BEF	ITC-ILO Programme on "International Labour Standards for Judges, lawyers and Legal Educators"	ITC-ILO, Turin, Italy 1st – 12th September 2008
5.	Mr. M. Murshid Alam	Joint Secretary, BEF	NICC's Programme on "Strengthening Employers' Organisations for Managers of EOs"	Tokyo, Japan 2nd -11th September 2008
6.	Mr. Ziaul Hakim	Personnel Manager, Nuvista Pharma Limited	NICC's Programme on "Total Management System (TMS)"	Tokyo, Japan 6th -21st October 2008
7.	Mr. Farooq Ahmed Mr. N. E. A. Shibly	Secretary, BEF CEO & Chief Consultant Pro-edge Associates	NICC's joint study workshop on "Retention of white-collar employees in comparative perspectives in Asian countries"	Kuala Lumpur, Malaysia 19th -21st November 2008
8.	Mr. Md. Jubayer Alam	Human Resources Manager, Renata Limited	"Sustainable Enterprise Promotion through Good Workplace Practices & Human Resource Management"	ITC-ILO, Turin, Italy 1st -12th December 2008



## VI. Participation At INTERNATIONAL Seminars/ Workshops/Conferences

During the year 2008, representatives of the Federation participated in the following international seminars/workshops/conferences:

(i) Mr. Habibullah N. Karim, Managing Director, Technohaven Company Limited attended the ILO/SKILLS-AP/Korea/ Second Technical Meeting of the Regional Skills Network Partner Organisations in Asia and the Pacific organised in Incheon, the Republic of Korea during the 16th -18th April 2008.

(ii) Mr. Kamran T. Rahman, President, BEF attended the "Asia Pacific Regional High-level Meeting on Socially-Inclusive Strategies to Extend Social Security Coverage" held in New Delhi on the 19th -20th May 2008.

(iii) Mr. Md. Fazlul Hoque, President, BKMEA, attended the ILO's regional workshop on "Addressing Forced Labour : The Role of Employers' Organisations and Business" held in Bangkok, Thailand on the 30th June -1st July 2008.

(iv) Ms. Nilufer Ahmed Karim, Managemnet and Training Consultant and Member, Executive Committee Women Entrepreneurs Association, Bangladesh and Mr. Santosh Kumar Dutta, Joint Secretary, BEF attended the "ILO's Technical Consultation with experts from Employers' Organisations on the Participatory Gender Audit (Assessment) Methodology" held in New Delhi, India during the 8th -11th July 2008.

## VII. PARTICIPATION AT LOCAL SEMINARS/WORKSHOPS/ SYMPOSIUMS

During the year 2008, the Federation participated in various seminars/workshops/symposiums organised by various ministries, organisations and development partners. The major events where the Federation's nominee participated were:

(i) National Seminar on "Education and Child Labour" organised by the ILO Office in Bangladesh, UNICEF and UNESCO in collaboration with the Ministry of Primary and Mass Education on the 12th June 2008 at the Dhaka Sheraton Hotel.

(ii) "Technical and Vocational Education and Training (TVET) System Reform" Inception workshop organised jointly by the Directorate of Technical Education, Ministry of Education and the ILO office in Bangladesh on the 26th July 2008 at the Pan Pacific Sonargaon, Dhaka.

(iii) Workshop on "Occupational Safety and Health" organised by the Ministry of Labour and Employment jointly with the Industrial Safety Board of Bangladesh of the Institute of Engineers, Bangladesh Institute of Labour Studies and Occupational Safety and Health Foundation on the 29th October 2008 at the Institute of Engineers, Dhaka

(iv) Workshop on "Freedom of Association, Collective Bargaining and Welfare of Bangladeshi Migrant Workers" organised by the International Labour Office (ILO) jointly with the Refugee and Migratory Movements Research Unit (RMMRU) on the 26th-27th November 2008, at Hotel Purbani, Dhaka.

(v) Launching ceremony of "Green Jobs Initiatives in Bangladesh" organised jointly by the Ministry of Labour and Employment and the ILO Office in Bangladesh on the 4th December 2008 at the Pan Pacific Sonargaon, Dhaka.



## VIII. Bangladesh Employers' Federation (BEF) – International Labour Organisation (ILO) – Joint programmes

Following joint activities were undertaken with the ILO:

### (1) BEF/ILO Workshop on “Productivity and Productivity Linked Wages”

Bangladesh Employers' Federation (BEF), in collaboration with the International Labour Organization (ILO), organised the workshop on “Productivity and Productivity Linked Wages” in Dhaka under the ILO/BEF joint programme of activities.

The Workshop was held in the Conference Hall at the “Chamber Building” (4th floor), 122-124, Motijheel C.A., Dhaka on the 6th May 2008. Forty (40) participants attended the workshop.

In the opening session, Mr. Kamran T. Rahman, President of the 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. Mr. T. I. M. Nurun Nabi Khan from the ILO Office in Bangladesh also delivered a statement.

Participants representing operations, production department, manufacturing, HR management, general administration, social compliance, industrial relations, employee relations, finance/accounts department, factory HR and administration, and other related officials from different organisations/ industrial establishments of different sectors attended the workshop.

The objectives of the workshop were to renew the awareness of the participants on the productivity and productivity-linked wages. The workshop aimed to discuss productivity and performance based wages (with examples of wage systems), law and practices relating to wages in Bangladesh, wage practices in the private sector and opportunity for productivity-linked wages.

Mr. Gotabaya Dasanayaka, Senior Specialist on Employers Activities for South Asia, ILO – Sub Regional Office, New Delhi and Mr. N. E. A. Shibly CEO and Chief Consultant, Pro-edge Associates conducted and facilitated the workshop.

Mr. Gotabaya Dasanayaka moderated the panel discussion and presentation of case examples. Mr. Md. Abdus Salam, Additional Director, Directorate of Labour and Mr. Syed Sultan Uddin Ahmed, Assistant Executive Director, Bangladesh Institute of Labour Studies (BILS) were present as the panelists. Mr. N. E. A. Shibly and Mr. Muin Uddin Mazumder, Plant Manager, sanofi-aventis Bangladesh Limited made presentations of case examples, highlighting productivity linked wages, competitiveness and productivity improvement.



## 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 :**

At the request of the Ministry of Labour & Employment, Government of Bangladesh, the Federation proposed the names of employers' representatives for inclusion in the panel of members in the Labour Courts. As per the final gazette notification published on the 2nd June, 2008, the panel of members for the country's seven labour courts is as follows:

First Labour Court,  
Dhaka

Mr. Md. Rafiqul Islam  
Mr. A. K. M. Firoz Alam  
Mr. Rafiqul Islam  
Mr. Md. Monirul Islam  
Mr. A K M Anwar Hossain  
Mr. Md. Fazlul Haque

Second Labour Court,  
Dhaka

Mr. Md. Jubayer Alam  
Mr. Md. Aminur Rahman Khan  
Mr. Sultan Mahmud Hosseinee  
Mr. Md. Shafiur Rahman



Third Labour Court,  
Dhaka

Mr. Md. Shafiur Rahman  
Mr. Tofaiel Ahmed  
Mr. Md. Osman Ghani Shaikh

Mr. Pulin Bihari Biswas  
Mr. Mustafa Abdud Dayan  
Mr. Md. Nurul Islam  
Mr. Narayan Chandra Lodh  
Mr. Md. Azizur Rahman  
Mr. Md. Raquibul Rahman

Labour Court,  
Rajshahi

Mr. Md. Motahar Hossain  
Mr. A. S. M. Wasiq Billah  
Mr. Md. Alauddin  
Mr. Md. Mortoza Reza  
Mr. Kazi Shamsuddin Ahmed  
Mr. Md. Abdul Mottalib

Labour Court,  
Khulna

Mr. Rafiqul Islam  
Mr. S M Sudarshan  
Mr. S. M. A. Halim  
Mr. Md. Shah Alam Sikder  
Mr. M. M. Sohrab  
Mr. Md. Abul Kalam

First Labour Court,  
Chittagong

Mr. A. Z. M. Tabarak Ullah  
Mr. Mir Delwar Hossain  
Mr. Mohammad Mohshin Chowdhury  
Mr. A. M. M. Sajjad  
Mr. Md. Manzur Murshed  
Mr. Tarique Hossain

Second Labour Court,  
Chittagong

Mr. Golam Mustafa  
Mr. Md. Amir Ali  
Mr. K. A. M. Khaled  
Mr. Md. Golam Newaz  
Mr. Abdul Gaffer Shapon  
Mr. Mohammad A. Jabbar Chowdhury



## **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/-  
(Farooq Ahmed)  
SECRETARY-GENERAL



## IMPORTANT COURT CASE ON LABOUR MATTERS

High court division  
(Special Original Jurisdiction)  
Writ Petition No. 3852 of 2003

Tariq ul Hakim J  
Afzal Hossain Ahmed J

Abdul Mannan Matubbar ..... Petitioner

vs

Bangladesh Water Development Board and others ..... Respondents

April 23rd, 2007

Judgment

Afzal Hossain Ahmed J: This Rule Nisi was issued calling upon the respondents to show cause as to why Memo No. (56/cvD#ev/k,,s/kv-3/Awf (K) 20/93 dated 11-3-1999 issued by respondent No. 4 (Annexure-E) imposing compulsory retirement upon the petitioner should not be declared to be arbitrary, malafide without lawful authority and to be of no legal effect and/or pass such other or further order or orders as to this court may seem fit and proper.

2. Facts giving rise to this Rule Nisi, briefly, be put thus:

The petitioner was appointed in the post of Sub-Assistant Engineer on 11-11-1982 under the respondent No. 1, Bangladesh Water Development Board and while serving at Serajganj, in Operation and Maintenance Division of the respondent No. 1 he was put under suspension from 18-3-1993 along with other Officers of the Board. On 24-11-1993 a notice was served upon the petitioner requiring him to show cause as to why the disciplinary action should not be taken against him within 7 days from the date of receipt of the said notice which was answered by the petitioner on 6-12-1993 denying all the allegations made therein. After receiving that reply a four-member inquiry committee headed by the Chief Engineer physically inquired into the work done from 8-1-1994 to 10-1-1994 and submitted its report on 28-5-1994 finding that the allegation of issuing false work orders against the petitioner and others was not correct. Thereafter, a regular departmental proceeding was drawn up against the petitioner for the offence punishable under Rule 138 (c)(d) of the Bangladesh Water Development Board (Employees) Service Rules, 1982 appointing one Superintending Engineer as the Inquiry Officer.

In pursuance of the aforesaid show cause notice the petitioner showed cause submitting his statement to the said Inquiry Officer. The petitioner did the alleged works by preparing estimates as per order of his superior Officers. In spite of having got evidence of this fact by the Inquiry Officer during inquiry of the proceeding, the petitioner was served with the second show cause notice without enclosing a copy of the inquiry report. Thereafter, the respondent No. 1, without taking into consideration the facts and circumstances of the case, the explanation submitted by the petitioner as well as the report submitted by the 4-member inquiry committee, arbitrarily passed an order on 5-2-1995 imposing compulsory retirement from the service upon the petitioner against which the petitioner filed Writ Petition No. 2814 of 1996. Ultimately, in the said Writ petition the Rule issued earlier was made absolute directing the respondents to give a second show cause notice afresh to the petitioner enclosing therewith a copy of the inquiry report. Accordingly, a second show cause notice afresh was issued upon the petitioner to which the petitioner replied and ultimately, the Inquiry Officer without having a look at the inquiry report submitted by the aforesaid 4-member Inquiry Committee and in spite of having known of the fact that the petitioner had no other alternative but to prepare the alleged



stimates and do the works as per instruction of his superior Officer, submitted a biased report upon which the petitioner was compulsory retired from the service vide Memo, dated 11-3-1999 (Annexure-E) issued by the respondent No. 4. Thereafter, against the said Memo appeal and review were preferred to the respondent No. 1 but to no effect.

3. Being aggrieved by the said Memo, dated 11-3-1999 (Annexure-E) imposing compulsory retirement from the service upon the petitioner, the petitioner has come to this Court and obtained the present Rule.

4. The respondent Nos. 1-4 contested the Rule by filing an Affidavit-in-opposition wherein they denied all the material allegations made in the Writ petition and contending, inter alia, that when it came to the notice of the respondent No. 1 that some irregularities have been done by issuance of some illegal work orders without the approval of the Chief Engineer or the concerned Superintending Engineers he got the matter inquired into by a four-member Inquiry Committee and found some works have been done or purported to have been done by issuing illegal work orders by the concerned Officers including the petitioner whereupon they were asked to show cause.

Meanwhile, 9 concerned Officers including the petitioner were placed under suspension. Pursuant to that show cause notice the petitioner replied on 6-12-1993 denying the allegations brought against him but the same was not accepted by the Board as satisfactory. So, the Board started a departmental proceeding against the petitioner under Rule 143 of the said Service Rules appointing Mr Saleh Ahmed, Superintending Engineer as its Inquiry Officer vide Memo, dated 31-1-1994. The petitioner was informed about the charges levelled against him and asked to submit explanation to the inquiry Officer within 10 days. Thereafter, the Inquiry Officer, on 23-2-1994, served a notice upon the petitioner to appear before him personally on 3-4-1994. The Inquiry Officer after giving all sorts of opportunities to the petitioner to defend himself and meet the charges brought against him and upon consideration of his reply the Inquiry Officer submitted his report on 23-7-1994 having found the petitioner to be an accomplice of the alleged illegal acts and issuance of the illegal work orders and found him guilty of the charges brought against him. As to the inquiry report submitted by the 4-member committee it has been stated that the said report has no nexus with the departmental proceeding in question drawn up against the petitioner and that the said 4-member inquiry committee was set up to inquire into completely a separate aspect of the matter for ascertaining the extent of the illegal works done and the money paid therefor.

Further, it has been stated that the petitioner was proceeded against by drawing up the aforesaid departmental proceeding wherein he was afforded with all the opportunities according to the aforesaid Service Rules, 1982 to defend himself. It is further stated that the petitioner admitted that he worked in collaboration with his controlling Officer in collecting spot quotations which was completely beyond their power and the petitioner being an employee of the local authority cannot act illegally on the basis of illegal orders of his superior Officers and by doing so the petitioner committed offence under Rule 138(c) and (d) of the Bangladesh Water Development Board (Employees) Service Rules, 1982 and upon consideration of facts, circumstances and documentary evidence produced before him the Inquiry Officer found the petitioner guilty of the offence levelled against him as above. Thereafter the respondent No. 4 rightly issued the impugned Memo, dated 11-3-1999 (Annexure-E) afresh imposing compulsory retirement from the service upon the petitioner and there is nothing to interfere with the same and, as such, the Rule is liable to be discharged with costs.

5. Mr Abdul Quayum, the learned Advocate appearing for the petitioner, submits that prior to initiation of the departmental proceeding in question against the petitioner, a four-member Inquiry Committee headed by



eone Chief Engineer was set up to inquire and ascertain the extent of the alleged illegal works done by issuing illegal work orders and the payment made therefor. The said committee inquired into the matter and submitted report and found the alleged works done by the petitioner by order of his superior Officers which absolves the petitioner of the charges brought against him and that inquiry report being a relevant aspect of the departmental proceeding in question against the petitioner was not produced before the Inquiry Officer. Mr Quayum further submits that besides, natural justice was seriously violated in the instant case as because the petitioner was not given opportunity to examine and cross-examine any witness with regard to matter in issue. It is further submitted that there is absolute discrimination in respect of taking action against the petitioner and not taking any action against some other Officers who are also concerned with the alleged works done and that. in view of the above, the impugned order (Annexure-E) is not sustainable in the eye of law and the Rule is liable to be made absolute.

6. Mr AKM Abdul Hakim, the learned Advocate appearing for the respondent Nos. 1-4, submits that the departmental proceeding in question, was drawn up against the petitioner by the respondent No. 1 for committing offence under Rule 138(c) and (d) of the Bangladesh Water Development (Employees) Service Rules, 1982 appointing one Mr Saleh Ahmed, the Superintending Engineer as its Inquiry Officer who conducted the proceeding after giving all the opportunities as provided under the Rules to the petitioner to defend himself and ultimately, found the charges levelled against the petitioner. Thereafter, the petitioner was served with a second show cause notice afresh as directed by the Hon'ble Court in Writ Petition No. 2814 of 19% giving him opportunity as required under the Rules and thereafter having considered all the aspects of the matter lawfully issued the impugned Memo. (Annexure-E) imposing compulsory retirement from the service upon the petitioner.

Mr Hakim further submits that the petitioner admitted in his statements that he worked in collaboration with his controlling officers in collecting spot quotations and issuing work orders which was completely beyond their power and the petitioner being an employee of a local authority cannot act illegally on the basis of illegal orders of his superior Officers and by doing so the petitioner committed offence under Rule 138(c) and (d) of the Bangladesh Water Development Board (Employees) Service Rules, 1982 and the charges as above being established against the petitioner the impugned Memo was rightly issued imposing compulsory retirement from the service upon the petitioner. The learned Advocate submits that since the petitioner did not show any interest for examination or cross-examination of any witness in course of the departmental proceeding, even he did not disclose any such interest or make any grievance to that effect in his petition in appeal and also in review made to the respondent No. 1, it cannot be said that the petitioner was not given sufficient opportunities to defend himself and to meet the charges brought against him. Mr Hakim lastly submits that in appropriate cases the domestic Tribunal may arrive at a decision simply by questioning the accused and considering his explanation as precisely has happened in the instant case and that it could not also be shown that the petitioner was subjected to discrimination and that the Rule having no merit is liable to be discharged with costs.

7. Heard Mr Abdul Quayum assisted by Mr Debdas Samaddar and Mr Dipayan Saha, the learned Advocate appearing for the petitioner and

Mr AKM Abdul Hakim assisted by Mr AKM Shakawat Hossain, the learned Advocate appearing for the respondent Nos. 1-4 and perused the Writ Petition, affidavit-in-opposition filed on behalf of the respondent Nos. 1-4, affidavit-in-reply filed on behalf of the petitioner and the Annexures filed therewith.

8. Admittedly, a departmental proceeding was drawn up against the petitioner under Rule 138 (c) and (d) of the Bangladesh Water Development Board (Employees) Service Rules, 1982 and after holding inquiry the petitioner having been found guilty of the charges brought against him, the respondent No. 4 vide order dated 5-12-1995 imposed the penalty of compulsory retirement from the service upon the petitioner against which the petitioner filed Writ Petition No. 2814 of 1996 and ultimately, the Rule issued in that case was made absolute directing the respondents to issue a second show cause notice afresh enclosing therewith the inquiry report. The ordering portion of the decision in the aforesaid Writ petition runs thus:

So we are of the view that in the facts and circumstances of the present case, the impugned order cannot be sustained in view of non supply of the Inquiry Report along with the second show cause notice. But at the same time we also hold that the respondents are free from proceeding against the petitioner from the stage of the second show cause notice, if they so desire, after giving the petitioner fresh second show cause notice enclosing therein a copy of the inquiry report.

9. Thus, in view of the above direction given in the aforesaid Writ Petition No. 2814 of 1996 the departmental proceeding drawn against the petitioner will proceed afresh from the stage of second show cause notice and admitted according to the direction as above, a fresh second show cause notice enclosing therewith the inquiry report was served upon the petitioner.

10. Mr Abdul Quayum, the learned Advocate appearing for the petitioner, agitated on the point that in the instant case natural justice has been seriously violated as the petitioner was not given opportunity to examine and cross-examine any witness as to the matter in issue. Mr AKM Abdul Hakim, the learned Advocate appearing for the respondent Nos. 1-4, in opposition to the submission of Quayum as above, has referred to a decision in the case of Bashir Ahmed vs Bangladesh Jute Mills Corporation and others reported in 44 DLR (AD) 267 wherein their Lordship have taken into consideration the decision in the case of Bikash Ranjan Das vs Chairman Labour Court, 29 DLR (SC) 280 wherein the scope and extent of the Court's jurisdiction to examine and scrutinise the findings of a domestic tribunal has been indicated. It has been stated therein that when an order of a domestic tribunal is challenged all that the Court is to see is whether the charge framed against the delinquent constitutes any offence calling for penal action, that the delinquent was given opportunity to defend himself, that the tribunal as constituted with impartial persons and that there was no malafide intention on the part of the tribunal, it has been further held that a domestic tribunal is not bound by the Evidence Act and that the tribunal is to see whether from the materials available before it any conclusion can be drawn. It has been further observed therein that if a different conclusion is possible is no ground for court's interference.

11. In the aforesaid decision reported in 44 DLR (AD) 267 it has been held that.

"The domestic tribunal is not a court to follow procedures of the trial or enquiry according to the Civil Procedure Code. In appropriate cases, considering the facts and circumstances thereof such a tribunal may arrive at a decision simply by questioning the accused and considering his explanation."

12. In view of the above decisions it is to be seen whether the requirements of a domestic inquiry have been fulfilled in the instant case. As we have discussed earlier, in view of the judgment and order passed by the Hon'ble Court in Writ Petition No. 2814 of 1996, the departmental proceeding drawn against the petitioner started afresh from the stage of second show cause notice and admittedly in view thereof, a second show cause notice afresh was served upon the petitioner enclosing therewith the inquiry report. It appears that having received the second show cause notice afresh, marked Annexure-D, the petitioner, in reply, although denied all the allegations brought against him but did not disclose any intention therein to the effect that he would examine or cross-examine any witness with regard to matter in issue. Further, it appears that after the impugned order dated 11-3-1999 being issued by the respondent No. 4 imposing the penalty of compulsory retirement from the service upon the petitioner he preferred appeal and review of the respondent No. 1 wherein too he did not disclose his any such desire to examine or cross-examine any witness whatsoever on any matter in issue.

13. It appears that in the instant case the Inquiry Officer found the petitioner guilty of the charges brought against him and upon consideration of the inquiry report submitted by the Inquiry Officer as well as the facts and circumstances of the case the respondent No. 4 issued the impugned Memo, imposing the penalty of compulsory retirement from the service upon the petitioner.

14. However, as it appears in the present case the petitioner took the stand that the works in question were undertaken in terms of the orders of his superior Officers. But the fact remains that the petitioner being an employee of a local authority cannot act illegally on the basis of illegal orders of his superior Officers. Besides, it could not also be shown that the petitioner was subjected to discrimination in the case.

15. In the face of the materials placed before us it is to be seen whether there is any substance in the ground that the inquiry was not proper or that the petitioner was not given sufficient opportunity to defend himself. As the facts show, examination of witnesses to prove the petitioner's responsibility in the matter was not considered necessary. His responsibility in the matter has been inferred from the proved facts and circumstance. The domestic tribunal is not a court to follow procedures of a trial inquiry according to the Civil Procedure Code. In appropriate cases the domestic tribunal may arrive at a decision simply by questioning the accused and considering his explanation. In some cases examination of witnesses in presence of the accused may be absolutely necessary. In the facts and circumstances of the instant case, the inquiry is found to have been held giving the petitioner reasonable opportunity to defend himself. The principle of natural justice having been followed in this case we find no scope whatever for Court's interference with the authority's finding and decision imposing compulsory retirement from the service upon the petitioner vide the impugned Memo marked Annexure-F.

Accordingly, the Rule is discharged, however, without any order as to costs.

Ed.

Source : The Dhaka Law Reports (November 2007)



High court division  
(Special Original Jurisdiction)  
Writ Petition No. 2066 of 2005

Md. Abdul Matin J  
ATM Fazle Kabir J

Zulfikar Mahmud (Md) ..... Petitioner  
vs  
National University & others ..... Respondents

April 18th, 2006

## Judgment

ATM Fazle Kabir J: This Rule Nisi was issued at the instance of sole petitioner Md Zulfikar Mahmud calling upon the respondents to show cause as to why the order of suspension dated 10-6-2004 as in Annexure-A and the notice dated 21-3-2005 to show cause as in Annexure-'B' should not be declared to have been made without lawful authority and be of no legal effect and why a declaration should not be made to the effect that the petitioner was and continue to be in service with all attending benefits of pay and other service benefits. 2. The short facts relevant for the purpose of the case are that the petitioner obtained the degree of MSc from Rajshahi University in 1987. He joined in the service of the National University as an UDA in the year of 1992. Thereafter, he was appointed as an Assistant Inspector of Colleges on 1-6-1997 and his service was confirmed on 1-6-2000. He was serving sincerely with all satisfaction of his superior authorities. Unfortunately, Mr Abu Yusuf Md Khalilur Rahman MP of Joypurhat was very hostile to the petitioner as both of them hail from Joypurhat. Hon'ble Member of Parliament was a member of the Parliamentary Standing Committee on Education under whose undue pressure, the University authority most illegally placed the petitioner under suspension vide Ref. No. 01 (730) National University/Prosha/2003/8301 dated 10-6-2004 under the signature of the Registrar-in-charge of the University. The order of suspension has been marked as Annexure-'A' to the writ petition.

3. The appointing authority of the petitioner is the Syndicate of the University and the syndicate alone is competent to pass the order of suspension. But the impugned order of suspension was passed in violation of the provisions of National University Service Regulations by the Registrar-in-charge having no jurisdiction to issue the same. The impugned order of suspension is ex-fade illegal and void, since no departmental case was started within 10 months from the date of passing the suspension order by the authority. After the lapse of about 10 months the Registrar-in-charge asked the petitioner to show cause as to why the charge of misconduct and corruption shall not be brought against him vide Memo No. 02 (154)NU/Prosha/93 /1 /7241 dated 21-3-2005. Copy of the notice has been marked as Annexure-'B'. Under the provisions of 10(2) of the National University Employees (Discipline and Appeal) Regulations, a disciplinary proceeding must be completed within 180 days. Clause 10 of the Service Regulations reads as follows :



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(1) neva 5 Gi Aaxtb tKib Kgyixi nei t x tKib AwfthvMi `vtq , i" U cõvbi m-ebv \_wktj, KZ¶¶ cõqvRb ev mgyPxb gtb Kuitj ZinvK mgyqK-fite eiLv-KuitZ cõtib| Zte kZ¶¶K th, KZ¶¶ AcaKZvi mgyPxb gtb Kuitj, GBjfc KgyixK mgyqKfite eiLv-KuitZ cõtib Z¶¶Z Avf k õviv D³ Avf tk Dj¶¶Z ZwiL nBtZ Zinv QjU cõt: Zv mtc:¶¶ ZinvK QjU hBevi Rb` ibt R w tZ cõtib|

(2) eiLv -ev Acmitibi t¶¶T Z` s-Kih¶¶g GKKZ Awk w tbi gta` m-ubokuitZ nBte| Zte mmõ¶¶KU cõqvRbteva GB eqmmgy evaZ KuitZ cõtiteb|

(3) .....

4. In view of the Regulations quoted above it is clear that the impugned order of suspension was not made by any competent authority nor it was followed by a departmental proceeding against the petitioner as provided by the provisions of law as quoted above requiring the proceeding to be completed within 180 days which have already expired. The alleged proceeding against the petitioner is dead now which was started malafide by the respondents for collateral purpose in order to please the MP of Joypurhat.

5. Being aggrieved at and dissatisfied with the order of suspension (Annexure-'A') the petitioner moved this Court and obtained this Rule.

6. Respondent Nos. 1 & 2 made their appearance by filing an affidavit-in-opposition denying all the material allegations made in the writ petition. The case of the respondents, in brief, is that the Parliamentary Standing Committee of the university formed a sub-committee consisting of 4 members to inquire into allegations of corruption allegedly committed by some officers and employees of the National University. It is stated that the Principal of Kamdia Nurul Huq Degree College, Gaibandha complained that the petitioner inspected the College for its affiliation but he refrained from submitting inspection report and started bargaining with the College authority for illegal gratification. At one stage; the College authority was compelled to pay Taka 1,00,000 to the petitioner as bribe for getting favourable report from him. The Principals of Packrat Degree College , Birganj, Akktarganj Degree College, Haragacha Degree College, Rangpur and Godagari Degree College, Rajshahi brought similar allegations of corruption against the petitioner in black and white before the Parliamentary Sub-committee under the National University. The proceeding of meeting and report of the sub-committee have been marked as Annexures-2 & 3.

The University authority decided to start disciplinary proceeding against the petitioner and he was placed under suspension on 10-6-2004 under Regulation 10(1) of the National University Employees (Discipline and Appeal) Statute. The Vice-Chancellor of the National University has got power to place the petitioner under suspension and the petitioner was also asked to show cause on 21-3-2005 as to why disciplinary action will not be taken against him for professional misconduct. Instead of replying to the show cause notice the petitioner hastily obtained the Rule, which is premature and not maintainable. The impugned order of suspension is neither malafide nor it has made the petitioner aggrieved, as such, the Rule should be discharged.

7. Mr Abdur Rab Chaudhury and Mr Salauddin Dolan, the learned Advocates appear on behalf of the petitioner while Mr Khair Ezaz Maswood, the learned Advocate appears on behalf of the respondent Nos. 1 & 2 to oppose the Rule.

8. Mr Abdur Rub Chaudhury, the learned Senior Advocate appearing on behalf of the petitioner, took us through the impugned order and annexed documents/papers available on record and submits that impugned order of suspension (Annexure-'A') dated 10-6-2004 and the show cause notice (Annexure-'B') dated 21-3-2005 were issued by the Registrar-in-charge of the National University who is not the competent authority, as such, the impugned orders so passed by him are without jurisdiction. The learned Advocate referred a decision in the case of Registrar, Supreme Court of Bangladesh vs Md Sofiuddin and another reported in 6 BLC (AD) 141 and submits that the Registrar-in-charge of the National University is empowered to perform the routine works in the absence of the Registrar, as such, he had no jurisdiction to issue the order of suspension and show cause notice in question.

9. The learned Advocate relying upon the decision of the case of Anwarul Hnq Khan vs Government of Bangladesh reported in 31 DLR 21 submits that the respondents put the petitioner under suspension on 10-6-2004 but no proceeding has been drawn up as yet and the time for concluding the proceeding is 180 days under Regulation No. 10 which has elapsed long before filing this writ petition as such, the impugned orders are malafide, without proper application of mind and thus not sustainable in law. The learned Advocate referred two other decisions in the case of Bangladesh Krishi Bank vs Abdul Mannan reported in CA 99 of 1997 and AIR 1966 MP 193 and submits that the respondents having no jurisdiction issued the impugned orders of suspension and show cause notice as such, those should be declared to have been passed without lawful authority.

10. Mr Khair Ezaz Maswood, the learned Advocate appearing on behalf of the respondents, submits that some Principals of different Colleges under National University made complaints in black and white before the Parliamentary Standing Committee against the petitioner regarding corruption and on the basis of enquiry report, the University authority put the petitioner under suspension by the impugned order as such, this Rule has no substance. The learned Advocate incidentally submits that the petitioner while performing as an Assistant Inspector of Colleges used to take bribe from the Principals of different Colleges offering expectations to submit favourable reports for affiliations of their colleges.

He next submits that on the basis of complaints made by those Principals, the authority decided to take disciplinary action and accordingly, the petitioner was put under suspension and he was asked to show cause by the impugned orders in good faith as such, this writ petition is premature and not maintainable. The learned Advocate incidentally submits that the University authority issued show cause notice dated 21-3-2005 (Annexure-B) in favour of the petitioner which shows that the departmental proceeding has already been started and, as such, it cannot be said that no proceeding has yet been drawn up against him.

11. We have perused the impugned orders and other annexed papers submitted by both the parties. The impugned order of suspension (Annexure-'A') and show cause notice (Annexure-'B') go to show that by the order of the Vice-Chancellor of the University the Registrar-in-charge issued those orders against the petitioner. But the learned Advocate for the respondents could not produce any provisions of law to show that the vice-chancellor is empowered to direct the registrar-in-charge to issue the order of suspension and show-cause notice to any officer serving under the University.

12. The power and functions of the Syndicate of the University has been described under Clause No. 24 of the Jatiya Bishyabiddyloya Ain 1992 wherein it has been prominently mentioned that Syndicate is the principal executive body having power of management over all financial and administrative functions as well as power of appointing teachers and employees and to fix up terms and conditions of their services under Jatiya Bishyabiddaloya. Clause 15 of the said Ain regulated the post of the Registrar as its residential officer having power to preserve the properties of the University and to make all correspondence on behalf of the University at the dictation of its authority. Here we find that the impugned order of suspension (Annexure-A) and the show cause notice (Annexure-B) were issued neither by the Register nor those were passed by the Order of the Syndicate of the University.

13. It is evident that the impugned orders have been passed by the Registrar-in-charge by the order of the Vice-Chancellor of the university who had manifestly no authority to issue those penal orders in pursuance of the provisions of law cited above. In view of the matter and in the light of the decision referred to above reported in 6 BLC (AD) 141 we are constrained to hold that the Registrar-in-charge had no jurisdiction to issue the impugned orders against the petitioner.

14. Regulation No. 10 of the National University Employees (Discipline and Appeal) Statute has been incorporated in para 5 of the writ petition. The gist of the Regulation No. 10 is that when the authority will form an opinion that a major punishment is likely to be inflicted against the delinquent employee, in that event, the authority will reasonably allow him to go on leave instead of placing him under suspension and the proceeding against the delinquent must be completed within 180 days. In the instant case, we find that the petitioner was put under suspension on 10-6-2004 (Annexure-'A') without giving him chance to go on leave as provided under Regulation No. 10 and a show cause notice was issued on 21-3-2005 (Annexure-'B') but no proceeding has yet been drawn up. It appears that the petitioner was suspended about 10 months before issuing show cause notice to him. Needless to say that the authority deserves the right of suspending the petitioner subject to a condition that suspension must be related to a proceeding which has already been drawn or is about to be drawn soon after placing the employee under suspension.

Regulation 10 pre-supposes that the authority confidently formed an opinion that the delinquent was likely to be inflicted with a major punishment. If the situation was so emergent why the authority slept over about 10 months without drawing up proceeding against the petitioner. It is evident that the authority neither started proceeding nor framed any charge within 10 months from the date of suspending the petitioner. This careless attitude of the respondents as shown to the petitioner tends us to hold that the respondents enjoyed pleasure in keeping the fate of the petitioner hanging in the balance but law does not permit them to do so.

His Lordship Mr Justice Shahabuddin Ahmed has rightly held in the case of Anwarul Hnq Khan vs Government of Bangladesh reported in 31 DLR 122 that if the order of suspension is not followed by a proceeding even within 3 months, the order so made is to be treated as without proper application of mind and not sustainable in law. In the instant case the authority put the petitioner under suspension about 22 months ago but failed to start a proceeding till today with a motive intended to prolong mental sufferings of the petitioner. Such conduct of the respondents is tantamount to non-application of mind and colourable exercise of power which is clear violation of the principle of natural justice.

15. It appears that no charge was framed against the petitioner nor any enquiry officer was appointed by the authority within the period of about 10 months from the date of putting him under suspension as such, issuance of show cause notice (Annexure-B) at such, belated stage renders it to be a concerted device of harassment instead of starting a proceeding. Under the circumstances, the question of completing proceeding within 180 days does not arise since the authority has not yet started proceeding against the petitioner.

16. In view of the matter, we are constrained to hold that the impugned order of suspension (Annexure-'A') and show cause notice (Annexure-'B') were passed in violation of the Service Regulations of the National University and accordingly, not sustainable in law.

In the result, the Rule is made absolute but without any order as to costs. The impugned order of suspension dated 6-10-2004 (Annexure-'A') and the show cause notice dated 21-3-2005 (Annexure 'B') passed by the respondents are declared to have been made without any lawful authority. It is further declared that the petitioner is still in service and he is entitled to get monthly pay and other attending benefits. The respondents are directed to allow the petitioner to join in the service and to implement this order as per rules within 30 days from the date of receipt of the copy of this judgment and report compliance.

Ed.

Source : The Dhaka Law Reports (January 2008)



Appellate division (Civil)  
Civil Appeal No. 236 of 2002

Syed JR Mudassir Husain C J  
Md Ruhul Amin J  
MM Ruhul Amin J  
Md Tafazzul Islam J

Mokbul Hossain (Md) ..... Appellant  
vs  
Government of Bangladesh and others ..... Respondents

August 9th, 2006

Judgment

MM Ruhul Amin J : This appeal by leave is directed against the judgment and order dated 14-12-2000 passed by the Administrative Appellate Tribunal in AAT Appeal No. 51 of 1998 dismissing the appeal.

2. The case of the appellant, in short, is that he joined as Technical Inspector of Food on 28-7-1981. While serving as such he was placed under suspension on 7-11-1981. In a Martial Law Case he was convicted and sentenced to suffer rigorous imprisonment for two years and to pay a fine of Taka 75,000 by judgment and order dated 20-8-1982. On his prayer, unexpired portion of the sentence of rigorous imprisonment was remitted on 26-4-1984. Thereafter, he was reinstated in service by the authority and the period of his absence was treated as extraordinary leave without pay. The appellant accordingly, submitted joining report on that very day. By an order dated 12-4-1995 of the Regional Controller of Food, Rajshahi he was transferred to Sirajganj. He joined accordingly at Sirajganj and submitted a representation to the Government on 20-4-1995 for arrear salary and allowance, which was refused to him earlier. In the meantime, his current salary bills were submitted to the respondent No. 4, the District Accounts Officer, Sirajganj, who returned the bills without payment.

3. The appellant then filed a case before the Administrative Tribunal, Bogra for getting financial benefits for the period of his absence from duty from 7-11-1981 to 31-3-1995 and also for a declaration that the Ministry of Finance had no jurisdiction to deny his pay and allowances since the date of his reinstatement in service on 1-4-1995.

4. The learned member of the Administrative Tribunal, Bogra refused to grant the appellant's arrear salary and allowances for the period of his absence on the ground that he was not honourably acquitted. But the Tribunal directed the respondents to pay the appellant his current salary with allowances beginning from the date he had been reinstated by the authority.

5. Being aggrieved the appellant filed AAT Appeal No. 51 of 1998 before the Administrative Appellate Tribunal, Dhaka and the appeal as a whole was dismissed and thereupon AT Case No. 66 of 1997 was dismissed.

6. Leave was granted to consider the submission that the Administrative Appellate Tribunal erred in law in setting aside the judgment of the Administrative Tribunal against which the aggrieved party had not preferred any appeal and, as such, there was miscarriage of justice and the submission that the Administrative Appellate Tribunal erred in holding the view that the appellant sought different reliefs from two different sets of respondents but actually, the appellant's claim is against the Government only and, according to the finance rules, bill must be submitted to the concerned accounts officer and the bills were submitted to the concerned accounts office and hence there is no multi-fariousness as found by the Administrative Appellate Tribunal and the further



submission, that the Administrative Appellate Tribunal erred in dismissing the case for alleged violation of the proviso to section 4(2) of the Administrative Tribunal Act, inasmuch as a departmental appeal was filed with regard to arrear salary and no useful purpose will be served if the appeal for current salary would have been filed.

7. We have heard Dr M Zahir, the learned Counsel for the appellant, and perused the judgment of the High Court Division and other connected papers.

It is not disputed that the appellant entered Government Service as Technical Inspector of Food on 28-7-1981 and while serving as such at Naogaon he was placed under suspension on 17-11-1981 and he was convicted in a Martial Law case by a Martial Law Court, Rajshahi by judgment and order dated 20-8-1982 and sentenced to suffer rigorous imprisonment for 2(two) years and to pay a fine of Taka 75,000. Subsequently, on his prayer, unexpired portion of the sentence was remitted on 26-4-1984. Thereafter, by an order dated 9-3-1985 he was reinstated in service and accordingly, he submitted his joining report. He was then transferred to Sirajganj and he joined there. After joining at Sirajganj, he made representation to the authority for arrear salary and allowances but the prayer was rejected on 14-7-1988. In the meantime, his current salary bills submitted to the District Accounts Officer, Sirajganj were also returned without payment.

8. The Administrative Tribunal allowed the appeal in part allowing his salary for the period he actually served after reinstatement in service by the proper authority but dismissed his prayer for arrear salary. The Administrative Appellate Tribunal dismissed the appeal as a whole on the ground that Ministry of Finance having not been made a party in the proceeding, the appellant was not entitled to get his salary and allowances for the period he actually served. It appears that the District Accounts Officer, Sirajganj who refused to pay his salary for the period he actually served after reinstatement in service was made a party. There is also nothing on record to show that the Ministry of Finance ever directed the District Accounts Officer not to pay the salary and allowances of the appellant for the current month. Therefore, in our view, the Ministry of Finance is not a necessary party in the background of the facts and circumstances of the instant case and the District Accounts Officer, Sirajganj who is already a party is a necessary party. Hence, in our view, the Administrative Appellate Tribunal was not justified in dismissing the appeal regarding the claim of the appellant for the pay and allowances for the period he served after reinstatement in service.

9. The Administrative Appellate Tribunal dismissed the appeal of the appellant regarding his prayer for arrear salary on the ground that although in the case of *Monoranjan Mukherjee vs Election Commission and others* reported in 1990 BLD 17 = 41 DLR 484 it was decided that after lifting of Martial Law, conviction by the Martial Law Court no longer casts a shadow under the ordinary law but the appellant was not honourably acquitted and accordingly, rejected his prayer for arrear salary also.

10. In the 1990 BLD 17 case, it was observed: "Martial Law is not a part of the constitutional scheme of this country. It is an extra-constitutional dispensation. It is a temporary measure, a short-term arrangement. It meets only an interim need. When it leaves, it usually legalises all past actions for purposes of immunity, with the tacit acknowledgment that its interference with the constitutional process is an aberration and needs to be condoned. But while leaving, the Martial Law does not leave a trail of disqualification. It is good as long as it lasts, but with its departure it no longer casts a shadow upon the ordinary laws of the country."

11. In our view, the conviction and sentence of a public servant which operates as a disqualification against him refers to conviction and sentence by ordinary courts and not by Martial Law Courts. Therefore, the conviction and sentence by the Military Court of the appellant, which was subsequently remitted, cannot be a bar for getting his arrear salary, especially after withdrawal of the Martial Law itself.

12. Therefore, in the facts and circumstances of the case and in view of the discussion made above, we are of the opinion that the Administrative Appellate Tribunal did not consider the matter in its proper perspective and accordingly, arrived at a wrong decision.

The appeal is allowed without any order as to cost.

Ed.

Source : The Dhaka Law Reports (December, 2007)



Appellate division (Civil)  
Civil Appeal No. 123 of 2001

Md Ruhul Amin C J  
Md Fazlul Karim J  
MM Ruhul Amin J

Capt Mir Mazharul Huq ..... Appellant  
vs  
Bangladesh Biman Corporation and others ..... Respondents  
September 3rd, 2007

Judgment

Md Ruhul Amin CJ : The instant appeal, by leave, is directed against the judgment and order dated February 22, 1998 of a Division Bench of the High Court Division in Writ Petition No. 202 of 1990 discharging the Rule.

2. The writ petition was filed impugning legality of the order dated 3-12-1989 retiring the appellant from the service of the Bangladesh Biman Corporation on completion of more than 25 (twenty-five) years of service upon resorting to Regulation 11 A(2) of the Bangladesh Biman Corporation Employees (Service) Regulations, 1979 (the Regulations).

3. Facts stating which the writ petition was filed, in short, that the appellant was one of the senior most pilots of the Bangladesh Biman (the Biman) and while problem developed in his eyesight, and that in spite of treatment as problem in the eyesight of the appellant was continuing there was recommendation on November 30, 1989 for grounding him and he brought the said fact on December, 30, 1989 to the notice of the Biman Authority and on that very day without assigning any reason he was compulsorily retired upon resorting to Regulation 11A(2) of Regulations on having completed more than 25 years of service.

4. The writ petitioner challenged legality of the said order of retirement as well as legality of the provision of Regulation 11A(2) of the Regulations by filing the aforementioned Writ Petition.

5. It was contended, on behalf of the writ petitioner, appellant herein, before the High Court Division that there was no material before the Bangladesh Biman Corporation to be satisfied that it was expedient to retire the appellant from the service.

6. As against that it was contended from the side of the Bangladesh Biman Corporation that it was expedient to retire the appellant from service as he admittedly developed problem in his eyesight and that though the physician recommended for grounding him but as there was no post equivalent to his status and pay where he could have been profitably employed, as such, the order of retirement was passed.

7. The High Court Division on consideration of the facts brought on record by the parties held "In our view, the respondent has rightly found it expedient to get the petitioner retired from service and in the interest of Biman Corporation they did so" and thereupon held, there was no illegality in exercising the power.

8. On the aforesaid observation and finding the High Court Division discharged the Rule.

9. Leave was granted for consideration of the submission that Bangladesh Biman Corporation had no power under the law to retire the appellant compulsorily from service on completion of 25 (twenty-five) years of service, as the appellant being a public servant within the meaning of the definition of "public servant" as given in the Public Servant (Retirement) Act, 1974 (Act No. XII of 1974), and section 3 of the said Act having provided that the provisions of the said Act and the Rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other laws or rules in force, the appellant could only be retired before the age of superannuation by the Government in exercise of its power under section 9(2) of the said Act. It was also submitted that the power to retire having been conferred on the Government only, the Bangladesh Biman Corporation had no authority under the law to retire the appellant from service under Regulation 11A(2) of the Bangladesh Biman Corporation Employees (Service) Regulations, 1979 and, in that view of the matter, the High



the age of superannuation by the Government in exercise of its power under section 9(2) of the said Act. It was also submitted that the power to retire having been conferred on the Government only, the Bangladesh Biman Corporation had no authority under the law to retire the appellant from service under Regulation 11A(2) of the Bangladesh Biman Corporation Employees (Service) Regulations, 1979 and, in that view of the matter, the High Court Division was wrong in discharging the Rule. It was also the contention of the appellant that the provisions of Regulation 11A(2) of the said Regulations being contrary to the provisions of the said Act No. XII of 1974, the said Regulations and its provision is ultra vires of the provision of Act No. XII of 1974.

10. The competency of the Bangladesh Biman to retire its employee on completion of 25 years of service upon resorting to the provision of Regulation 11A(2) of the Bangladesh Biman Corporation Employees (Service) Regulations, 1979 came up for consideration in the case of Bangladesh Biman Corporation vs Lt Col (Retd) Md Zainul Abedin and others reported in 2000 BLD (AD) 230 = 5 BLC (AD) 169.

11. Regulation 11A(2) reads as follows: "The Corporation may, if it considers expedient so to do, retire from service an employee at any time after he has completed twenty five years service without assigning any reason".

12. In this connection provisions of section 9(2) of Act XII of 1974 is reproduced below:

"Section 9(2) The Government may, if it considers necessary in the public interest so to do, retire from service a public servant at any time after he has completed twenty-five years of service without assigning any reason"

Provision of section 2(d) of Act XII of 1974 is as follows:

'Public Servant includes any person who is, for the time being, in the service of the Republic or of any Corporation, nationalised enterprise or local authority or who, on the basis of having at any time been in the service of Pakistan, purports to claim any right to employment in the service of the Republic, but does not include any person who

(i) is a member of any defence service,

(ii) is a teacher or employee of any University,

(iii) is employed in or under a Commission, Committee or board set up for a temporary period for specified purposes,

(iv) is a contingent or workcharged employee or a worker as defined in the State-owned Manufacturing Industries Workers (Terms and Conditions of Service) Ordinance, 1973 (XXIII of 1973)

(v) holds any office which is filled by election or nomination under any law, or

(vi) holds any office the tenure of which is determined by or under any law"

13. On consideration of the said provisions of law and the Regulations as quoted hereinbefore it was observed in the aforementioned reported case "In the instant case the writ petitioners, who were employees of the Biman, therefore, fall well within the meaning of a 'public servant' as defined in section 2(d) of the Act and it is only the Government who had the power to retire them in exercise of the power under section 9(2) of the Act".

14. It may be mentioned that in the aforementioned reported case the orders of retirement in respect of the respondents were passed by the Government in the Ministry of Civil Aviation and Tourism and because of that order of retirement was found valid.

15. The question whether a Corporation or a Statutory body having provision in their service rules/ Regulations similar to the provision of section 9(2) of Act XII of 1974 for retiring an employee of such Corporation or Statutory body on completion of twenty-five years of service is valid or not came up for consideration before this Court in the case of Bangladesh Jute Research Institute and another vs Md Ayub Ali and another in Civil Petition for Leave in Appeal No. 676 of 1996 (disposed of on December 11, 1996).

16. The facts of the aforementioned case were that the appellant retired the respondents on completion of 25



tute Service Regulations, 1990 and under section 9(2) of the Act XII of 1974.

17. It was submitted on behalf of the petitioners of the aforementioned Civil Petition for Leave to Appeal that section 3 of Act XII of 1974 is only an enabling provision and if there are service regulations adapting provisions of Act XII of 1974 then the competent authority of a Statutory body or Corporation can pass an order of retirement in the same way as the Government exercises the said power under section 9(2) of the Act.

18. The aforesaid submission was not accepted by the Court upon observing "The submission has no legs to stand. First, Act XII of 1974 does not authorise or delegate the powers of the Government under section 9(2) of the said Act to any other authority. Secondly, Regulation 53 of the Service Regulations, 1990 has not adapted the provisions of Act XII of 1974 but has provided that the provisions of Act XII of 1974 shall apply in cases of retirement and re-employment. Thirdly, if Regulation 53 had provided that the competent authority of a statutory body may exercise the same powers as are exercised by the Government under section 9(2) of the said Act then also the Regulation would have been void, being contrary to the overriding provisions of section 3 of the said Act".

Section 3 of Act XII of 1974 runs as follows:

"Section 3 The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any rule, regulation, bylaw, instrument or contract or in any terms and conditions of service of a public servant"

19. It may be mentioned that Regulation 53 of the Service Rules of the Institute provided that the provision of Act XII of 1974 shall apply to the employees of the Institute in respect of retirement and re-employment. In the aforementioned case (Civil Petition for Leave to Appeal No. 676 of 1996) the High Court Division set aside the order of retirement of the respondents since the same was not legal as the power to retire an employee on completion of 25 years service in the light of the provision of section 9(2) of Act XII of 1974 was not delegated to the Institute. It may be mentioned in the aforesaid case order of retirement was passed on obtaining no objection from the Government.

20. In the instant case, undisputably the order of retirement in respect of the appellant was passed by the Bangladesh Biman Corporation itself upon resorting to the provision of Regulation 11A(2) of the Regulations and, in that view of the matter, the order of retirement so passed in respect of the appellant is not sustainable in the light of the decisions of this Division in the aforementioned cases.

21. The learned Counsel for the appellant submits that because of the health condition of the appellant as per Agreement dated July 13, 1986 between the Bangladesh Biman Corporation and the Bangladesh Airline Pilots Association, the Biman was required to act as per Clause 12-1-1 of Article 12 of the said Agreement since there was no equivalent post to offer to the appellant in case of grounding him and that ought not to have resorted to the provision of Regulation 11A(2) of the Regulations.

22. In our view, the submission so made merits consideration.

23. In the background of the discussions, the order of retirement that was made in respect of the appellant as per provision of Regulation 11A(2) of the Regulations is declared to have been made without lawful authority and is of no legal effect and the Bangladesh Biman Corporation is directed to deal with case of the appellant in the light of Article 12, Clause 12-1-1 of the Agreement between the Bangladesh Biman Corporation and the Bangladesh Airline Pilots Association dated July 13, 1986.

24. The appeal is allowed with the aforesaid direction to the respondents.

There is no order as to costs.

Ed.

Source : The Dhaka Law Reports (February, 2008)



high court division  
(Special Original Jurisdiction)  
Writ Petition Nos. 2148-2161 & 2245 of 2000

Tariq-ul-Hakim J  
Afzal Hossain Ahmed J

Kazimuddin (Md) and others ..... Petitioner vs  
Bangladesh ..... Respondents

July 19th, 2006

Judgment

Tariq-ul-Hakim J: Rules Nisi were issued calling upon the respondents to show cause as to why the impugned orders dated 9-3-2000 and 21-3-2000 as contained in Annexures D and E in Writ Petition Nos. 2148 of 2000, 2149 of 2000, 2153 of 2000 and 2155 of 2000 and the order dated 9-3-2000 (Annexure D) in Writ Petition Nos. 2150 of 2000, 2151 of 2000, 2152 of 2000, 2154 of 2000, 2156 of 2000, 2157 of 2000, 2158 of 2000, 2159 of 2000, 2160 of 2000, 2161 of 2000 and 2245 of 2000, issued by the respondent No. 3 and 4 should not be declared to have been passed and issued without lawful authority and is of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.

2. The petitioners in all these fifteen Writ Petitions claim to be contingent staff of the Government who were regularised in permanent post of the Government but subsequently relieved of their posts on the plea that the regularisation was not in accordance with law. All the Rules concern common question of law and facts and, as such, are being disposed of by this single judgment.

3. In Writ Petition No. 2148 of 2000 the petitioner was appointed vide Memo No. HPTI/Admin/ 2/86-48(Ka) dated 2-1-1986 to the post of Sweeper and posted at the High Power Transmitting Station 1, Bangladesh Betar, Savar, Dhaka and he joined in the said post on the same date in the National Pay scale of Taka 500-EB-20-860 and other allowances.

4. In Writ Petition No. 2149 of 2000 the petitioner was appointed vide Memo No. HPT-1/Admin/2/86-87 1021 (Jha) dated 29-11-1986 to the post of Bagan Mali and posted at the High Power Transmitting Station1 Bangladesh Betar, Savar, Dhaka and he joined in the said post on the same date in the National Pay Scale of Taka 500-EB-20-860 and other allowances.

5. In Writ Petition No. 2150 of 2000 the petitioner was appointed vide Memo No. HPT-1/Admin/2/86-87-970(Ka) dated 23-11-1986 to the post of Choukidar and posted at the High Power Transmitting Station-1, Bangladesh Betar, Savar, Dhaka and he joined the said post on the same date in the National Pay Scale of Taka 500-EB-20-860 and other allowances.

6. In Writ Petition No. 2151 of 2000 the petitioner was appointed vide Memo No. HPT-1/Admin/2/86-1174 (Jha) dated 9-10-1986 to the post of Farash and posted at the High Power Transmitting Station 1, Bangladesh Betar, Shahbag, Dhaka and he joined in the said post on the same date in the National Pay Scale of Taka 500-EB-20-860 and other allowances.

7. In Writ Petition No. 2152 of 2000 the petitioner was appointed vide Memo No. HPT-1/Admin/2/89/86-87-1023(Thha) dated 30-11-1986 to the post of Farash and posted at the High Power Transmitting Station-1 Bangladesh Betar, Savar, Dhaka and he joined in the said post on the same date in the National Pay Scale of Taka 500-EB-20-860 and other allowances.

8. In Writ Petition No. 2153 of 2000 the petitioner was appointed vide Memo No. HPT-1 /Admin/2/86-994 dated



31-12-1985 to the post of Sweeper and posted at Bangladesh Betar, Savar, Dhaka and he joined in the said post on the same date in the National Pay Scale of Taka 500-EB-20-860 and other allowances.

9. In Writ Petition No. 2154 of 2000 the petitioner was appointed vide Memo No. MP/Prosha/4/87-863(Ka) dated 14-12-1987 to the post of Choukider and posted at Bangladesh Betar, Shere Bangia Nagar, Dhaka and he joined in the said post on the same date in the National Pay Scale of Taka 500-EB-20-860 and other allowances.

10. In Writ Petition No. 2155 of 2000 the petitioner was appointed vide Memo No. HPT1/Admin/2/86-87-1029(Newa) dated 6-12-1986 to the post of Farash and posted at High Power Transmitting Station, Bangladesh Betar, Savar, Dhaka and he joined in the said post on the same date in the National Pay Scale of Taka 500-EB-20-860 and other allowances.

11. In Writ Petition No. 2156 of 2000 the petitioner was appointed vide Memo No.HPT-1 /Admin/2/86-87-1021 (Gha) dated 29-11-1985 to the post of Choukider and posted at the High Power Trans mining Station-1, Bangladesh Betar, Savar, Dhaka and he joined in the said post on the same date in the National Pay Scale of Taka 500-EB-20-860 and other allowances.

12. In Writ Petition No. 2157 of 2000 the petitioner was appointed vide Memo No. RBP((9)/86-87-2506 dated 8-10-1986 to the post of Choukider and posted at the High Power Transmitting Station- 1, Bangladesh Betar, Savar, Chittagong and he joined in the said post on the same date in the National Pay Scale of Taka 500-EB-20-860 and other allowances .

13. In Writ Petition No. 2158 of 2000 the petitioner was appointed vide Memo No.HPT-1 /Admir /2/86-87-1021 (Uma) dated 29-11-1986 to the post of Choukider and posted at the High Power Transmitting Station-1, Bangladesh Betar, Savar, Dhaka and he joined in the said post on the same date in the national Pay Scale of Taka 500-EB-20-860 and other allowances.

14. In Writ Petition No. 2159 of 2000 the petitioner was appointed vide Memo No. HPT-1 /Admin 2/86-87-949(Uma) dated 20-11-1986 to the post of Choukider and posted at the High Power Transmitting Station-1, Bangladesh Betar, Savar, Dhaka and he joined in the said post on the same date in the National Pay Scale of Taka 500-EB-20-860 and other allowances.

15. In Writ Petition No. 2160 of 2000 the petitioner was appointed vide Memo No. 2(2)/Proshasan -1 (Radio)/86-760 dated 8-9-1986 to the post of Choukider and posted at the High Power Transmitting Station-1, Bangladesh Betar, Head Office, Dhaka and he joined in the said post on the same date in the National Pay Scale of Taka 500-EB-20-860 and other allowances.

16. In Writ Petition No. 2161 of 2000 the petitioner was appointed vide Memo No. 2(2)/Proshasan-1 (Radio/86-824 dated 11-9-1986 to the post of Farash and posted at the High Power Transmitting Station-1, Bangladesh Betar, Head Office, Dhaka and he joined in the said post on the same date in the National Pay Scale of Taka 500-EB-20-860 and other allowances.

17. In Writ Petition No. 2245 of 2000 the petitioner was appointed vide Memo No. DGRPDCE-(P)/Con/81-1044 dated 21-9-1977 to the post of Choukider (at present Mali) and posted at the High Power Transmitting Station-1, Bangladesh Betar, Dhanmondi, Dhaka and he joined in the said post on the same date in the National Pay Scale of Taka 500-EB-20-860 and other allowances.

18. The petitioners were treated as contingent staff and after completion of 3 years service the Government by a decision of the Ministry of Information under Memo No. Tama/ssha-6/17-4/88 (part-1)/554 dated 28-2-1989 regularised the service of the petitioners along with 555 contingent staff. The petitioners in Writ Petition Nos. 2148 of 2000, 2151 of 2000, 2152 of 2000, 2153 of 2000 and 2154 were regularised by Office Order No. 9(8)/Proshasan1/Radio/ 89/3859 dated 10-4-1989 and the petitioners in the remaining Writ Petitions were regular-

25-4-1989. The order of regularisation of service was issued upon the creation and sanction of 613 Class IV posts by placing them in permanent set-up effective from 1-3-89 in the new national scale of pay Taka 500-860 vide No. tama/sha-6/10-4/88 (Part-1/554 Date 28-2-89) of the Ministry of Information, Subsequently upon petitioners' regularisation in service and placement in permanent set-up they were accorded all facilities of regular Government servants including increments in salary as per National Pay Scale sanctioned by the Government from time to time i.e. time scale, house building loan facilities, festival allowances, recreation leave, medical leave, earned leave. Class IV uniforms' washing allowances and other facilities admissible to all the Government servants. The petitioners were also allotted official living quarters and other facilities commensurate with their salary and position. It is alleged that after continuous 15 years' service from the date of appointment, all on a sudden the petitioners were served by the impugned Memo No. 1(10) Sangsthapan-2/Betar/2000-844 dated 9-3-2000 by the respondent No. 3 to the effect that they are no longer in service. It is further alleged that the impugned order was served upon them without even affording them an opportunity of self-defence in violation of the rules of natural justice and fundamental right guaranteed by the Constitution. The petitioners through their learned Advocate served a Demand of Justice notice on 3-4-2000 upon the respondent Nos. 1-3 with a request to cancel/rescind the aforesaid impugned order but received no response.

19. Being aggrieved, the petitioners have come to this Court and obtained the present Rule along with an ad-interim order staying the operation of the impugned order.

The respondent No. 1, the Government of Bangladesh, is contesting the Rules by filing Affidavits in Opposition denying all the material allegations. In its Affidavit in Opposition it has been stated that there were 613 contingent paid class IV staffs working in Bangladesh Betar. With a view to regularising their services 613 posts were created vide substituted GO No. TAMA/Sha-6/17-4/88 (part 1/554 dated 28-2-89) as mentioned in Annexure-C. These posts were to be filled up by persons working as contingent Class IV employees in continuous service for 10 or more years as per GO No. SGA/RI/IS-33/69/71(35) dated 28-3-1969 (Annexure-2) and also appointed before 23-1-86 as per GO No. 7002/18/Civ-I (part) (Annexure-I) and Memo No. SAMA/Bidhi-3/Conti-7/89-17(50) dated 20-2-90 (Annexure-3) Bangladesh Betar issued appointment letters to the petitioners violating the above government orders. These irregularities came to the notice of the govt. in 1997. Upon review of the entire affairs the government took certain decisions and conveyed the same to Bangladesh Betar vide letter No. AMA/ABLBALNEC. 5) Tatta-7/88 (Part) 404 dated 15-12-97 as mentioned in Annexure-4. According to these decisions Bangladesh Betar processed the entire matter of contingent staff and got all the persons regularised who fulfilled the conditions for regularisation except those who were engaged/appointed after 23-1-1986. Thereafter efforts were made for regularisation of those who were appointed after 23-1-86 including the present petitioner but the Government conveyed its inability vide letter dated 27-2-2000 as mentioned in Annexure-5.

20. It has been further stated that the Government imposed ban on appointment of contingent staff with effect from 23-1-1986 vide CMLA Secretariat letter No. 7002/18-Civ-I (Part) as Annexure-1 and, as such, the appointment of the petitioners was illegal from the very beginning. For regularisation of contingent staff 10 years of service is required as per GO No. SGA/RI/IS-33/69/71(350) dated 28-3-69 (Annexure-2), but in the case of the petitioners both the above orders were violated. The petitioners appointment as well as regularisation were not in accordance with the rules. The dismissal from service was done lawfully and it was justified and maintainable as per provisions of the rules.

21. Mr Md Golam Mohiuddin along with Mr Md Asaduzzaman, the learned Advocates appearing on behalf of the petitioners, submit that the petitioners were informed by the impugned Memos dated 9-3-2000 by the respondent No. 3 that they were no longer in service which amounts to their removal from service. The learned

Advocates further submit that the petitioners were neither given any show cause notice by the respondents nor they were given any opportunity to be heard prior to their removal from service which is a gross violation of the principles of natural justice. Mr Asad-uz-zaman, the learned Advocate, further submits that the petitioners were regularised as the Government servant by the Government and they were drawing salary and enjoying all facilities as Government servant for several years and suddenly, for no fault of their own, they were removed from service which is not only inhuman but totally arbitrary and in violation of fundamental right of the petitioners and, as such, prays that the impugned orders may be set aside. In this connection he relies upon an unreported decision of this court in Writ Petition No. 2912 of 2000 which concerns similar facts as the present case.

22. As against this, Mr Karuna Moy Chakma, the learned Deputy Attorney-General appearing on behalf of the respondent No. 1. submits that the petitioners were no doubt, regularised as Government servants but the said regularization was done illegally and, as such, it was subsequently cancelled. He further submits that the instant Rule concern terms and conditions of the service of the Government and that since the petitioners were in the service of the Republic it needs to be adjudicated by the Administrative Tribunal under Article 117 of the Constitution of the People's Republic of Bangladesh and therefore, these Rules are not maintainable. The learned Deputy Attorney-General further submits that under section 4 of the Administrative Tribunals Act, 1980, Government servant includes a person who has been dismissed or removed from the service of the Republic and the petitioners having been so removed should agitate their grievance before the Administrative Tribunal and in this connection, he relies upon the decision reported in 52 DLR (AD) 111 and 11 MLR (AD) 5 = 10 BLC (AD) 193 and, as such, he submits that the impugned order calls for no interference by this Court.

23. Heard the learned Advocates, perused the Writ Petition, Supplementary Affidavit, Affidavits-in-Opposition, Affidavits-in-reply, impugned Memos and the Annexures.

24. In the instant case it appears that the petitioners were originally appointed as contingent staff at Bangladesh Betar High Power Transmitting Station at Savar under the Ministry of Information of the Government of Bangladesh. It has been settled in the case of Mijibur Rahman vs Bangladesh reported in 44 DLR (AD) 111 that persons in the service of the Republic must agitate their dispute relating to their terms and conditions of service in the Administrative Tribunal pursuant to Article 117 of the Constitution unless they want to challenge the vires of any law. The Appellate Division has reaffirmed this view in their subsequent decision in the case of Delowar Hosain and another vs Bangladesh reported in 52 DLR (AD) 120 and more recently, in the case of Khalihr Rahman ASP, SB, Dhaka vs Kamrnl Ahsan and others reported in 11 MLR (AD) 5 = 10 BLC (AD) 193. In the instant case, the petitioners were employed as contingent staff of the Government under the Ministry of Information.

It has been held in the case of Kartar Singh vs State of Patiala and East Panjab States of Union and another reported in AIR 1955 Pepsu 25 that

"contingency staff are employed not in regular employment but employment merely incidental to an office for any other period during which they have actually worked as no bill for any other period can be certified for payment. Such employees cannot claim to remain in employment when the work for which they are employed ceases to exist or they do not actually do the work or job. The contingency paid staff is thus not a part of any regular service or engaged against a regular civil post, but the employment of such staff is conditional upon the funds being available for the contingency for which the casual employment is created or the duration of the work for such casual employment".

It has also been held in the aforesaid decision that "according to Pepsu Civil Services (Classification, Control and Appeal) Rules, 1952 Part II, contingency staffs is no part of any regularly constituted service in the State. That being so, it cannot be said that employees on the contingency staffs are employed in any civil service."

25. Thus, it appears that the petitioners when they joined their services were working as contingent staff and

were not Government servants. Subsequently, however by Memos dated 10-4-1989 and 25-4-1989 the Government regularised their services with effect from 1-3-1989 as Government servants. Accordingly, they were receiving salaries, allowances and all other facilities commensurate with their status as Government servants. The petitioners continued to enjoy such facilities and status for long 11 years until issuance of the impugned Memo dated 9-3-2000 purporting to removing them from their services on the plea that the matter of regularisation of service of the petitioners have not been favourably considered by the Government. The respondent No. 1 in its Affidavit-in-Opposition has stated that the petitioners were regularised in their service in violation of law and settled rules and, as such, they were removed from service by the impugned Memo. Three criterias have been stated to convert the service of the contingent staffs into regular employment (Annexure-1).

These areas follows:

“Services and General Administration Department

Regulation Branch

Section I.

No.SGA/RI/IS-33/69/71(350), dated Dacca, the 28th March, 1969 Subject-Conversion of temporary posts into permanent ones and contingent and work charged staff into regular establishment.

In supersession all previous orders on the subject noted above Government have been pleased to decide in consultation with the Finance Department as follows ;

(1) All temporary class III and class IV posts of permanent nature which have been in existence for five years or more may be converted into permanent ones in consultation with the Finance Department.

(2) All posts in class III and Class IV which are paid from contingency and continuing for ten years or more maybe brought into regular establishment in consultation with the Finance Department.

(3) Fifty percent of the non gazettee posts in the work charged establishment existing for ten years or more may be brought into regular establishment in consultation with Finance Department. All departments and Directorates are requested to take up the question of converting the temporary posts into permanent ones and bringing the posts paid from contingency and 50 of the posts in the work charged establishment into regular establishment on the principle enunciated in items 1, 2 and 3 respectively in consultation with the finance department.”

26. It is not the case of the respondent No. 1 that the petitioners misrepresented anything or gave any wrong information to the respondents compelling them to regularize them into permanent post. On the other hand, the respondents of their own motion granted the petitioners the status of Government servants and converted their posts into regular establishment. Having worked in the said posts for long as 11 years the petitioners acquired vested right which cannot be taken away arbitrarily.

27. It appears that the service of the petitioners were regularized on 1-3-1989 and that the Ministry of Finance also approved proposal for creation of 113 MLSS posts (Choukider, Forash, Mali) in order to regularise 113 contingent posts under the National Broadcasting Authority. The petitioners as contingent staffs were in temporary employment of the Government and were not entitled to any notice or show cause before termination of their service. Their employment was contingent upon the requirement of employer and when, the employer was not in need of their services, he had the right of terminating their services with immediate effect. However, when the petitioners were made permanent servant of the Republic by convening their status as regular they were entitled to a minimum show cause notice before issuance of the impugned Memo removing them from their posts. The absence of such prior show cause notice is also a violation of the rules of natural justice.

28. It has been settled in the case of University of Dhaka vs Zakir Ahmed reported in 16 DLR (SC) 722 that the

rule of audi alteram partem, that is the principle of natural justice, requires that before a person is punished, an opportunity to show cause against the person and the proposed punishment should be afforded to him. Any order passed in violation of the principle of natural justice is void. Further more the Appellate Division in the case of the Government of Bangladesh vs Md Selim Reza reported in 2003 BLD (AD) 193 = 8 BLC (AD) 126 held it is an elementary principle of natural justice that no person should be condemned without hearing. The order of appointment conferred a vested right in the service to hold the post which cannot be taken away without affording him an opportunity of hearing. Any order passed in violation of the principle of natural justice is rendered void.

29. Again, in the case of the Government of Bangladesh vs Shahjahan and others reported in 2 MLR (AD) 351, the Appellate Division declined to interfere when an officer was granted time scale and was enjoying the said scale for a long time although reducing the scale of such officer to a lower scale on the ground of nonentitlement would have been in accordance with the rules.

30. Similarly, in the case of Md Abdur Razzak vs Bangladesh reported in 11 DLR 57 this Bench of this court has held that once a person has been granted scale wise pay and he has been enjoying the same, subsequently reducing the pay of such person to the lower amount on the ground of non entitlement is clearly unfair and unjustified.

31. The learned Deputy Attorney-General has submitted that these Rules are not maintainable since the petitioners' dispute relates to the period that were in the service of the Republic for which section 4 of the Administrative Tribunal Act, 1980 is attracted. We have given our anxious consideration. The respondents by the impugned orders have said that their appointments/ absorption to the permanent post of the Government services were considered and rejected and, as such, they are no longer in their services. This amounts to saying that the petitioners were not only removed from their services but also after having served as permanent servants of the Republic for 10 years their services have not been regularised and that they are not entitled to any benefits for the said tenure of service after their removal. In other words, their services in the Republic have not been regularised.

In such a situation if they went to the Administrative Tribunal to agitate their grievances, their case will not be maintainable for being barred by limitation and they will have no other option but to come to this court under Article 102 of the Constitution of the People's Republic of Bangladesh. They have done precisely that and, as such, these Writ Petitions are maintainable. The respondents having said that the petitioners are not Government servants and that whatever time they served as Government servants was illegal and contrary to the provisions of law barring them from retirement and other service benefits it does not lie in their mouth to say that they should take their disputes for adjudication to the Administrative Tribunal since it relates to their terms and conditions of service and that they were in the service of the Republic. Such argument advanced on behalf of the respondent No. 1 is clearly misconceived.

32. Accordingly, all these Rules are made absolute. The impugned orders dated 9-3-2000 and 21-03-2000 as contained in Annexures-D and E in Writ Petitioner Nos. 2148 of 2000, 2149 of 2000, 2153 of 2000 and 2155 of 2000 and the order dated 9-3-2000 (Annexure-D) in Writ Petition Nos. 2150 of 2000, 2151 of 2000, 2152 of 2000, 2154 of 2000, 2156 of 2000, 2157 of 2000, 2158 of 2000, 2159 of 2000, 2160 of 2000, 2161 of 2000 and 2245 of 2000, issued by respondent Nos. 3 and 4 are hereby declared to have been passed and issued without lawful authority and is of no legal effect.

There will be no order as to costs.

Ed.

Source : The Dhaka Law Reports (January 2008)



high court division

(Special Original Jurisdiction)

Writ Petition Nos. 7785 of 2005 with Writ Petition Nos. 8121-8124 of 2005

SM Hossain J

Farid Ahmed J

BRAC Printers ..... Petitioner

vs

Chairman, First Labour Court and another ..... Respondents

August 28th, 2007

Judgment

Syed Mahmud Hossain J: Writ Petition Nos. 7785, 8121, 8122, 8123 and 8124 of 2005 were heard analogously and being disposed of by this common judgment as they do involve common questions of law and facts.

2. In all the above Writ Petitions, Rule Nisi was issued in identical terms as follows: Let a Rule Nisi calling upon the respondents to show cause as to why the judgment and order date 16-10-2005 passed by respondent No. 1 (Annexure-C) should not be declared to have been passed without lawful authority.

3. On the date of issuance of the Rule Nisi, the operation of the impugned judgment was stayed in all the above Writ Petitions.

4. The facts leading to the issuance of the above Rules, in brief, are: The petitioner is a non-government, non-profitteering and voluntary organisation, namely, BRAC, which has an office at Tongi, Gazipur.

5. In Writ Petition No. 7785 of 2005, respondent No. 2 filed Complaint Case No. 43 of 2000 in the First Labour Court in Dhaka under section 25(1)(b) of the Employment of Labour (Standing Orders) Act, 1965 (in shorts the Act) impleading the petitioner as the second party. The case of respondent No. 2, in short, is that he had been serving in the petitioner's establishment since 28-5-1978. His last designation was 'senior machineman' and his gross wages was Taka 5,767.50 per month. Respondent No. 2 was elected assistant general secretary in the election of Collective Bargaining Agent (CBA) for two consecutive terms such as 1996-1997 and 1998. He acted as the bargaining agent with the management to achieve the demands of the workers at that time.

6. In Writ Petition No. 8121 of 2005, respondent No. 2 filed Complaint Case No. 44 of 2000 in the First Labour Court in Dhaka under section 25(1)(b) of the Act impleading the petitioner as a second party. The case of respondent No. 2, in short, is that he had been serving in the petitioner's establishment since October, 1989. His designation was mounter and his last gross wages was Taka 10,865.50 per month. He was 'election commissioner' for conducting the election of the Union for 1997-1999 and 1999-2000. This respondent used to accomplish the task of the trade union in a befitting manner. His long experience made him almost an indispensable adviser to the CBA for all trade union activities.

7. In Writ Petition No. 8122 of 2005, respondent No. 2 filed Complaint Case No. 45 of 2000 in the First Labour Court in Dhaka under section 25(1)(b) of the Act impleading the petitioner as a second party. The case of respondent No. 2, in short, is that his last designation was 'assistant machine-man cutting-2' and his last gross wages was Taka 2,944 per month. This respondent was elected office secretary in 1996-1997 and 1998-1999. He also contested the last election but was defeated.

8. In Writ Petition No. 8123 of 2005, respondent No. 2 filed Complaint Case No. 47 of 2000 in the First Labour Court in Dhaka under section 25(1)(b) of the Act, impleading the petitioner as the second party. The case of respondent No. 2, in short, is that he had been serving in the petitioner's establishment since 1-8-1998. His last



designation was 'cameraman' and his last gross wages was Taka 8,964.40 per month. This respondent was elected the president of the union in 1995-1997 and 1998-1999. He also contested the last election but was defeated.

9. In Writ Petition No. 8124 of 2005, respondent No. 2 filed Complaint Case No. 48 of 2000 in the First Labour Court in Dhaka under section 25(1)(b) of the Act impleading the petitioner as the second party. The case of respondent No. 2, in short, is that he had been serving in the petitioner's establishment since 1-4-1986. His last designation was senior computer operator and his last gross wages was Taka 10,548 per month. This respondent contested the last election held in 1999-2000 for the office of the vice-president but was defeated.

10. Apart from the above, the other common case of these respondents-workers is that their long experience made them indispensable advisers for all trade union activities and that their successful guidance made the union raise an industrial dispute on 10-1-2000 to the employer and under their able guidance, a 5-point charter of demands was settled by signing an agreement on 24-6-2000. As a result, the workers achieved desired salary rise with arrears and the respondents-workers and a few other workers took very active and indomitable part to see that the petitioner-employer could not avoid signing the legitimate agreement incorporating a clause for payment of arrears with lot of persuasions. For the above reasons, the petitioner-employer looked quite annoyed with the workers including these respondents-workers for their lawful acts during the industrial dispute.

11. The petitioner employer had been conspiring to victimise the workers for 'their legitimate trade union activities and the management was looking for chance of getting rid of the workers involved in the activities of union including these workers-respondents. Ultimately, the petitioner terminated the services of these four workers involved in trade union activities on 13-7-2000. Each of the respondents sent a petition narrating grievance to the petitioner by registered post with A/D, but those petitions were rejected by the petitioner. The Sramik Union of BRAC Printers raised an industrial dispute under section 26 of the Industrial Relations Ordinance, 1969 (in short, the Ordinance), submitting their charter of demands on 9-7-2000 to withdraw the termination letters. When the charter of demands entered into a conciliation stage, the respondents-workers filed the instant five Complaint Cases in the First Labour Court, Dhaka praying for their reinstatement in services with full arrear wages and other benefits.

12. The petitioner, who was second party in all the complaint cases, entered appearance and contested those complaint cases by filing written statement denying all the material allegations made in the complaint petitions. The case of the petitioner, in short, is that the complaint cases were not maintainable in their present form and that those are liable to be dismissed. The services of these respondents were simply terminated with all admissible monetary benefits and no blame or stigma was attributed against them for such termination. By the letters of termination, they were asked to collect their legal dues from the petitioner. The order of termination is legal, valid and binding on the respondents rendering their complaint case barred under the proviso to section 25 of the Act. The cases of these respondents were also not maintainable under section 25(1)(b) of the Act because admittedly, their grievances for the alleged termination have already been raised and taken cognisance of as industrial dispute under the provisions of the Ordinance and, as such, the cases of these respondents were liable to be dismissed on that ground alone.

13. The complaint cases were heard by the First Labour Court, Dhaka and by its judgment dated 16-10-2005, the Court allowed the cases on contest and set aside the orders of termination dated 13-7-2000 and 16-7-2000 and ordered reinstatement of the respondents-workers within 30 days from the date of the judgment with full arrear wages holding, inter alia, that the services of the respondents were terminated for trade union activities.

14. Challenging the judgment delivered in the above five cases, the petitioner obtained 5 Rules from this Court.

15. Mr AKM Badruddoza, learned Advocate appearing for the petitioner in all the Writ Petitions, submits that there was no evidence on record to hold that the petitioner terminated the services of the respondents for their trade union activities. He further submits that in view of the admitted fact that at the relevant time, the respondents-workers were not at all officers of the trade union and that therefore, there was no scope for the respondents-workers to incur displeasure of the petitioner and, as such, the complaint cases were not maintainable under section 25(1)(b) of the Act. He also submits that the findings of the Labour Court that the termination of the respondents from service was for their trade union activities is misconceived and erroneous. He lastly submits that admittedly, the grievances for the alleged termination had already been raised and were taken cognisance of as industrial dispute on 19-7-2000 under the provisions of the Ordinance and, as such, the complaint cases were liable to be dismissed on that ground alone.

16. Mr Choudhury Sanawar Ali, learned Advocate for respondent No. 2 in all the Writ Petitions, submits that the Labour Court came to a finding that the services of the respondents were terminated for trade union activities and that this finding being a finding of fact should not be interfered with by this Court in the writ jurisdiction. He further submits that the one-point charter of demand dated 19-7-2000 was not proceeded with and that subsequently, the respondents on their own accord filed the complaint petitions before the Labour Court and that their individual grievances could not be addressed by the union. He lastly submits that though the respondents were not officers of the union at the relevant time, they were entitled to protection under the proviso to section 25(b) of the Act where the word 'worker' was used instead of 'officer'.

17. We have considered all the Writ Petitions and their Annexures. Since the question of termination from service is involved it would be proper to quote section 19 of the Act as under:

"Section 19. Termination of employment: For terminating the employment of a permanent worker by the employer, otherwise than in the manner provided elsewhere in this Act, one hundred twenty days' notice in the case of monthly rated workers and sixty days' notice in the case of other workers, in writing, shall be given by the employer."

18. Having considered the facts, circumstances and evidence on record, the Labour Court found that the services of the respondents-workers were terminated for their trade union activities. It is contended that at the relevant time of termination, the respondents-workers were not officers of the union according to the proviso to section 25 of the Act. In this connection, it is pertinent to quote the proviso to section 25 of the Act :

"Section 25. Provided that no complaint shall lie against an order of termination of employment of a worker under section 19, unless the services of the worker concerned is alleged to have been terminated for his trade union activities or unless the worker concerned has been deprived of the benefits specified in that section.

19. It is important to note here that this proviso was amended by Ordinance No. 16 of 1985. Before amendment, the proviso was as under:

"Section 25(1)(b) Provided that no complaint shall lie against an order of termination of employment of a worker under section 19, unless the worker concerned is an officer of a registered trade union and his employment is alleged to have been terminated for his trade union activities or unless the worker concerned, whether an officer of a registered trade union or not, has been deprived of the benefits specified in that section.

20. If the proviso before and after amendment is considered in juxtaposition, it appears that the word 'officer' was substituted by the word 'worker' by the subsequent amendment. Therefore, it cannot be said that at the relevant time of the order of termination the respondents-workers must be the 'officers' of the union. The substitution of the word "officer" by the word "worker" is very significant. Had it been the object of the law makers to give protection to an officer of the trade union alone, such a substitution by way of amendment would not have

been brought by Ordinance No. 16 of 1985. Therefore, the finding of fact arrived at by the Labour Court that the services of the respondents-workers were terminated for their alleged trade union activities should not be disturbed because it is not a case of no evidence. This Court exercising the power under the writ jurisdiction is not a Court of appeal to reconsider the entire evidence on record to see whether the alleged termination of the services of the workers-respondents was, in fact, for their trade union activities or not. In the case of Managing Director, Bangladesh Machine Tools Factory Ltd vs Chairman, 2nd Labour Court and another, 44 DLR (AD) 272, it is held that the findings of fact made by the Labour Court could not be upset in the writ jurisdiction.

21. It is also contended that before filing of the complaint petitions, the grievance of the respondents-workers was taken care of by the union which raised a one-point charter of demand on 19-7-2000 and as such, the complaint petitions are not maintainable.

22. Annexure-A (3) to the Writ petition revealed that one-point charter of demand raised by the union was not entertained by the employer-petitioner and, as a result, no memorandum of settlement could be recorded as provided by section 26 of the Ordinance. As the parties failed to reach a settlement by negotiation under section 26 of the Ordinance, the matter was referred to the conciliator as provided by section 27A of the Ordinance. Annexure-A(3) to the writ petition also revealed that the Assistant Director (Labour) and Conciliator issued notice upon the parties. Section 28 of the Ordinance provided that if the conciliator fails to settle the dispute within ten days from the date of receipt of the request made under section 27-A of the Ordinance, the collective bargaining agent or the employer may serve notice on the other party to the dispute on twenty-one days' notice of strike or lock-out, as the case may be. Here the dispute was raised by collective bargaining agent which, however, did not proceed with the process of conciliation.

23. Now, it is to be seen whether for raising an industrial dispute, the individual right of a worker is liable to be extinguished.

24. The learned Advocate for the petitioner cites the case of Bangladesh Tea Estate Ltd vs Bangladesh Tea Estate Staff Association 28 DLR (AD) 190 where it is held that when a labour dispute has been raised and taken cognisance of by the Labour Court this is to be adhered to.

25. In the instant case, no conciliation could be reached and the process of conciliation ended before reaching finality. Therefore, it cannot be said that process of conciliations is still on. As soon as the prospect of conciliation appeared to be bleak the respondents-workers served notices expressing grievances which having not been addressed by the employer-petitioner, 5 complaint cases were filed before the 1st Labour Court, Dhaka. The question raised in 28 DLR (AD) 190 is, whether termination of a worker from service could be an industrial dispute and the Appellate Division finds that termination of service may lead to a dispute between the employer and the worker and may in certain circumstances, be a labour dispute. In the case referred to above, the Appellate Division, however, has taken note that the dispute has already been taken cognisance of by the Labour Court. In the instant case, we have already found that the conciliation process died an unnatural death at the end of the conciliator as provided by section 27A of the Ordinance because of lack of initiatives of both the employer and the union. The petitioner, therefore, contends that the respondents-workers could not take recourse to two forums at the same time. In the instant case, we find that as soon as the conciliation failed, the complaint cases were filed. Therefore, it cannot be said that the complaint cases were not maintainable because of raising an one-point charter of demand. In addition, in above case, no question was raised before the Appellate Division as to what would happen if the union did not pursue the conciliation and consequently, the Appellate Division did not have the occasion to address that question.

26. Admittedly, the office-bearers of the union, who raised the one-point charter of demand defeated the



workers-respondents in election which preceded the termination of services of the workers-respondents. Therefore, the principle expressed in 28 DLR (AD) 190 has no manner of application on the facts and in the circumstances of the instant case.

27. Relying upon the case of *Aminul vs James Finlay and Company Ltd* 26 DLR (SC) 33, the learned Advocate for the petitioner submits that when a termination simpliciter of a worker's service under section 19 is effective, he cannot move the Labour Court under section 25.

28. In a later judgment in the case of *Bangladesh Tea Estate Ltd vs Bangladesh Tea Estate Staff Association* 28 DLR (AD) 190, the Appellate Division held as follows:

"There is, however, an exception to this proposition contained in section 19 itself when read with section 25. It says that if the purported termination is in reality victimisation of an officer of a registered Trade Union for his union activities, the Court can go behind the order to see the real purpose of termination and grant such relief as it thinks fit. The two propositions should be read together in order to arrive at the true import of section 19 of the Standing Orders Act. The present case, it appears, comes within the exception of clause 19 of the Standing Orders Act."

29. From the judgment of the Labour Court, it appears that the purported termination of the services of the respondents-workers is in reality victimisation of the workers for their trade union activities. Therefore, the principle expressed in the case reported in 28 DLR (AD) 190 applies to the case in hand. In the case of *Managing Director, Bangladesh Machine Tools Factory Ltd vs Chairman 2nd Labour Court* and another 44 DLR (AD) 272 similar view was also taken.

30. In the light of the findings made before, we do not find any substance in the above mentioned Rules. In the result, the Rules are discharged without any order as to costs. The order of stay passed at the time of issuance of the Rule is hereby recalled and vacated.

Ed.

Source : The Dhaka Law Reports (March 2008)



high court division  
(Special Original Jurisdiction)  
Writ Petition Nos. 4378, 4571 of 2004

Tariq-ul-Hakim J  
Farah Mahbub J

Paper Converting & Packaging Ltd. .... Petitioner  
vs  
Chairman, Second Labour Court & anr ..... Respondents

March 19th, 2008

Judgment

Farah Mahbub J: Since common question of law and facts are involved in both the writ petitions hence, those have been heard together and are being disposed of by this single judgment. In both the writ petitions the petitioner-company has challenged the legality and propriety of the judgment and order dated 15-4-04 passed in Complaint Case No. 14 of 1996 and dated 25-7-04 passed in Complaint Case No. 16 of 1996 by the respondent No. 1, the Chairman, Second Labour Court, Dhaka.

2. In Writ Petition No. 4571 of 2004 the facts, in brief, are that the respondent No. 2, Mohammed Dudu Miah had been working as an Assistant Operator in the factory of the petitioner-company at Simrail under Siddhirgonj Police Station, District-Narayanganj to the satisfaction of the concerned authority. That on 19-2-96 said respondent was suspended from service on the allegation of discourteous and indisciplined behaviour amounting to misconduct. Accordingly, he was served with a show cause notice. The reply given by the respondent on 27-2-96 having been found not satisfactory the petitioner-company constituted 3(three) members inquiry committee. The said respondent No. 2 was asked to appear before the inquiry committee on 8-4-96 vide letter dated 27-3-96. In compliance of the said direction respondent No. 2 appeared and during the course of inquiry the statement of the respondent No. 2 was recorded in his presence. On completion of inquiry the said committee submitted its report to the management of the petitioner-company finding the respondent No. 2 guilty of the charge brought against him.

On careful consideration of the relevant materials the petitioner-company agreed with the recommendations and findings of the inquiry committee and ultimately, vide letter dated 16-4-06 the respondent No. 2 was dismissed from service by the petitioner-company (Annexure-C). Accordingly, the respondent No. 2 preferred grievance petition under section 25 of the Employment of Labour (Standing Orders) Act, 1965 (in short, the Act) with a prayer to set aside the said order of dismissal.

Having received no reply from the petitioner-company the respondent No. 2 instituted Company Case No. 16 of 1996 in the court of respondent No. 1. the Chairman, 2nd Labour Court, Dhaka under section 25 (1) (b) of the Act, 1965. The petitioner company entered appearance upon filing written objection denying material allegations made in the complaint. The respondent No. 1 after hearing the contending parties and considering the evidence, both oral and documentary, allowed the complaint case vide judgment and order dated 25-7-04 and directed the petitioner-company to reinstate the respondent No. 2 in service within 30(thirty) days of the order along with back wages and allowance (Annexure-F). It is against this judgment and order the petitioner-company preferred the instant application under Article 102 of the Constitution and obtained the present Rule.

3. In Writ Petition No. 4378 of 2004 the respondent No. 2, Md Alamgir Hossain had been working as an Assistant



Operator in the factory of the petitioner-company at Simrail under Siddhirganj Police Station, District Narayanganj since 21-5-96. That on 19-2-96 the respondent No. 2 was put under suspension on the allegation of discourteous and indisciplined behaviour amounting to an offence of misconduct. Accordingly, he was served with a show cause notice by the petitioner-company. Respondent No. 2 gave reply on 27-2-96 and the same having been found not satisfactory the petitioner-company constituted an inquiry committee of 3(three) members. Vide letter dated 27-3-96 the respondent No. 2 was directed to appear before the said committee on 8-4-96. Upon receiving the said letter the respondent No. 2 appeared before the inquiry committee and inquiry was held in his presence where his statements were recorded in writing. That on completion of the inquiry the inquiry committee submitted its report before the management with the findings that the respondent No. 2 is guilty of the charge brought against him. The petitioner-company on consideration of the relevant documents including the reply of the respondent No. 2 and the statements recorded by the inquiry committee agreed with the findings and recommendations of the said committee. In consequence, the respondent No. 2 was dismissed from service by the petitioner-company vide order dated 16-4-96.

The respondent No. 2 accordingly, made his grievance petition under the relevant provision of law to the petitioner-company with the prayer to withdraw and rescind the said order of dismissal. Receiving no reply the respondent No. 2 was constrained to institute Complaint Case No. 14 of 1996 to the court of the respondent No. 1 under section 25 (l)(b) of the Act, 1965 with a prayer of reinstatement in service with back wages and allowances upon setting aside the order of dismissal passed against him (Annexure-C). The petitioner company entered appearance by filing written objection denying the material allegations made in the complaint petition of the respondent No. 2.

The concerned Labour Court upon hearing the respective contending parties and the material evidence, both oral and documentary ultimately, allowed the said complaint case vide judgment and order dated 15-4-04 declaring the order of dismissal as illegal and directed the petitioner-company to reinstate respondent No. 2 to his service along with back wages and allowances. Challenging the said judgment and order, the petitioner-company preferred the instant application under Article 102 of the Constitution and obtained the present Rule. 4. The respective respondents named Md Alamgir Hossain and Mohammed Dudu Miah entered appearance by filing separate sets of affidavit-in-opposition more or less on the similar facts alleging, inter alia, that the inquiry was not at all free and fair and the respondents-workers were not afforded with the opportunity of self-defence. It has also been contended that no witnesses on the side of the management were examined in presence of the respondents-workers in support of the allegations. It has further been alleged that no record was examined during the course of inquiry in their presence. It has also been alleged that the said committee only asked few questions to the said respondents, which were categorically denied by both the respondents-workers. It has also been contended that in the inquiry there was clear violation of the principle of natural justice and that charges were not established by an iota of evidence and the inquiry committee without any materials on record submitted perverse reports against the respondents-workers.

Considering the same, the petitioner-company ultimately dismissed the respective respondents from their service in contravention of section 18 of the Act, 1965. It has also been contended that the respondent No. 1, the Labour Court concerned, considering all the facts and circumstances of the case and upon discussing those loopholes existing in the evidence, arrived at a correct finding and thereby allowed both the complaint cases upon setting aside the impugned orders of dismissal issued against the respondents-workers.

5. Mr Syed Mafizur Rahman, the learned Advocate appearing for the petitioner-company in both the writ petitions, mainly contends that the respondent No. 1 acted illegally and without jurisdiction in allowing respective complaint cases, inasmuch as the petitioner-company dismissed the respective respondents-workers legally





however, is not a mere formality: it is a proceeding intended to give the employee a chance to meet the charges and to prove his innocence. The inquiry covers the hearing of the case i.e. recording evidence, admitting documents and generally completing the records upon which a finding would be based. It is only after all the materials have been placed on the record from both the sides that stage of recording a finding would arise, as was observed in *MN Dasema vs Slate of AP* reported in AIR 1973(SC), 2275.

It is true the domestic tribunal is not a Court to follow the procedures of a trial or enquiry according to the Civil Procedure Code. But in appropriate cases examination of witnesses in presence of the accused may be absolutely necessary when the allegations have been specifically denied by the respondents-workers and or any other materials to that effect. In the facts and circumstances of the case, the Labour Court found that the domestic enquiry was held not in accordance with the legal requirements of law. We are also in agreement with the said findings that the inquiry was held without complying with due process of law. Hence, the order of dismissal of the respondents-workers by the petitioner company on the basis of the report of the enquiry committee is not tenable in the eye of law.

11. In the case of *Bikash Ranjan Das* reported in 29 DLR (SC) 280 referred by the petitioner-company, the petitioner was dismissed by Public Jute Mills Ltd after holding a domestic inquiry where relevant papers of the office were placed before the committee to come to a conclusion. Further, the question in the said case was one of adequacy and absence of evidence. In the present case, the management of the petitioner company produced no evidence whatsoever to substantiate its claim. Hence, the decision of the said case cannot be applicable in the present case.

12. Under section 35(2) of the Ordinance, the Labour Court is constituted with the Chairman and 2(two) other members who are to advise the Chairman for adjudication and determination of the dispute where taking their written advice is not the mandate of the law. In the case of *Abdul Sattar, Fitter. LB No. 4784. G shift, Victory Jute Products Ltd. Chittagong vs Chairman, Labour Court*, reported in 1 MLR 199 = 48 DLR 525 the respective members of the Labour Court tendered written advice though was not required by law. This Court while making the Rule absolute observed that the learned Chairman though in the last part of the impugned judgment recorded that the members were consulted but there was nothing in the impugned judgment that the written advice of the members was given proper weight. The facts and circumstances of the said case being distinguishable, its findings have no manner of application in the present case.

13. Considering the facts and circumstances of the case, the observations and findings made hereinabove, we find no merit requiring interference in the impugned judgments and orders passed by the respondent No. 1.

14. In the result, both the Rules are discharged without any order as to costs. Send down the lower Courts record at once.

Ed.

Soures : The Dhaka Law Report (May 2008)



high court division  
(Special Original Jurisdiction)  
Writ Petition Nos. 8022 Mv 2006

ABM Khairul Haque J  
SM Ziaul Karim J

Solaiman Ali Hamed (Md) ..... Petitioner

vs  
Secretary and others ..... Respondents

September 10th, 2007

Judgment

SM Ziaul Karim J: This Rule Nisi was issued, calling upon the respondents to show cause as to why the Memo No. Shangstha/214/8/A-8/2004 dated 27-6-2006, issued by the respondent No. 3 (Annexure-H) shall not be declared to have been issued without lawful authority and is of no legal effect.

2. Short facts leading to this Rule are, that on 1-7-1989, the petitioner joined as Superintendent in Zadvapur Dakhil Islamia Madrasha, having MPO Index No. 379436. On 21-10-1999, he was suspended from the post for some corruption charges, without serving any prior notice to him. He remained on suspension for a long time, thereafter on 15-8-2005 he filed an application to the respondent No. 3 for withdrawing the suspension order and to allow him to work but with no effect. Again on 10-3-2006 similar application was filed before the respondent No. 2 to withdraw the suspension order by filing all the relevant documents, resolutions, vouchers. Even then the respondent No. 2 did not take any action. Subsequently, the respondent No. 3 issued a memo No. Shangstha/- 214/8/A-8 Bastobayan/2004 dated 27-6-2006, informing him that the Appeal and Arbitration Board has approved his suspension and dismissal order on 16-10-2004 in its Board meeting (Annexure-H).

3. Feeling aggrieved the petitioner preferred this writ petition and obtained the present Rule.

4. No one appears for the respondent Nos. 1-4.

5. The Rule is contested by the respondent No. 5 by filing an affidavit-in-opposition denying all material allegations made in the writ petition contending, inter alia that the petitioner was suspended on the allegation of irregularities and mismanagement of fund of the Madrasha. On 21-9-1999 the members of the Madrasha Managing Committee and Assistant Teachers/Employees submitted an application to the UNO Mitha Pukur and Chairman of the Madrasha Managing Committee, to take necessary steps against the petitioner.

On the basis of the said application on 23-7-2002 the petitioner was asked to show cause within seven days to reply against such allegations. Earlier the matter in issue was inquired by a Committee who submitted a report on 30-11-2000 recommending to dismiss the petitioner from the post of Superintendent (Annexure-9 to the supplementary affidavit-in-opposition). Thereafter, another inquiry was held by Additional Deputy Commissioner (Education and Development), Rangpur, who also submitted its report on 15-2-2004 (Annexure-10 to the supplementary affidavit-in-opposition).

6. Mr Mujibur Rahman, the learned Advocate appearing for the petitioner, supports the Rule and submits that no suspension order has been issued to the petitioner by the respondent No. 5 and no show cause notice with allegations has been issued to him. Moreover, the petitioner was not aware of any inquiry committee who did not ask the petitioner to appear before them and did not give any opportunity of self-defence. Therefore, the order of dismissal is malafide.

He adds that it appears from the impugned order (Annexure-H) that decision was taken on 16-10-2004 by the







high court division  
(Special Original Jurisdiction)  
Writ Petition Nos. 4599 of 2003

Mir Hashmat Ali J  
SM Emdadul Hoque J

Dr AKM Ali Ahsan Talukder ..... Petitioner

vs

Rajshahi University of Engineering and  
Technology, Rajshahi ..... Respondent

January 31st, 2008

Judgment

Mir Hashmat AliJ: This Rule was issued calling upon the respondents to show cause as to why the impugned decisions being No. 9 (Ka) and 15 taken by the Board of Governors, Bangladesh Institute of Technology, Rajshahi, (respondent No. 1) through its 38th meeting held on

5-11-2002 imposing conditions in respect of payment of arrear salary and allowances of the petitioner and cancellation of his appointment as Associate Professor (Development) with effect from the date of his appointment on

22- 6-2002 as contained in Memo No. 5 dated 1-7-2003 (Annexure-'F') issued by the respondent No. 3 should not be declared to have been taken without any lawful authority and is of no legal effect.

2. The short facts of the petitioner's case is that the petitioner joined in the Rajshahi Engineering College in 1972 as Lecturer and subsequently he was promoted in the post of Assistant Professor in 1977. Since then he served in the said post till 24-6-2002 honestly and sincerely.

3. During the continuance of his service in Bangladesh Institute of Technology, Rajshahi the authority invited application from the candidates for appointment in some posts in the development project. The petitioner submitted application through proper channel for the post of Associate Professor (development). After receipt of the said application from the petitioner, the selection committee after considering the experience, qualification and other fitness, selected him for the post of Associate Professor (Development) and the same was placed before the Board of Governors and the Board of Governors accepted the recommendation of the Selection Committee and decided to appoint the petitioner through 37th meeting dated 21-6-2002. Accordingly, the Director of Bangladesh Institute of Technology, Rajshahi issued letter of appointment in favour of the petitioner for the post of Associate Professor (Development) vide Memo No. 2831/8 dated 22-6-2002. On receipt of the said appointment letter, the petitioner prayed for retirement from the service (Revenue Budget) of Bangladesh Institute of Technology, Rajshahi from the post of Assistant Professor. Since the petitioner was a regular Teacher of Bangladesh Institute of Technology, Rajshahi the petitioner cannot join in the development project in the post of Associate Professor (Development) under the Development Project. Accordingly, the petitioner went on retirement from the post of Assistant Professor (a revenue post).

4. The petitioner accepted the appointment letter of the Bangladesh Institute of Technology, Rajshahi as Associate Professor under development budget, according to the appointment letter under Memo No. 2964 dated 30-6-2002. While the petitioner was serving in the post of Associate Professor under the development project the respondent No. 3 communicated the decision of the Board of Governors taken through its 38th meeting held on 5-11-2002 vide Memo No. 5 dated 1-7-2003. The petitioner came to know from the letter that by deci-



sion No. 9(ka) the Board of Governors imposed restriction upon the payment of the previous salary and other benefits to the petitioner while served as Assistant Teacher of Bangladesh Institute of Technology under Revenue Budget stating that the payment will be made after getting the fund and that by the decision No. 15 service of the petitioner under development budget was cancelled with retrospective effect from 22-6-2002 (from the date of issuance of the letter of appointment) vide Memo No. 5 dated 1-7-2003. The petitioner being aggrieved by the impugned notice under Memo No. 5 dated 1-7-2003 (Annexure-'F' to the writ petition) filed instant writ petition and obtained Rule.

5. Mr Md Oziullah, the learned Counsel appearing for the petitioner, submits that the petitioner served in Bangladesh Institute of Technology, Rajshahi since from 1972 and subsequently in 1977 he was promoted as Assistant Professor and he continued to serve in the said post till 22-6-2002 under revenue budget. But the authority did not pay the salary and other benefits to the petitioner in time, rather harassed the petitioner intentionally for years together. In the meantime advertisement was made for appointment of Associate Professor under the Development Budget for such harassment the petitioner applied for appointment as Associate Professor in the development budget in the same organisation and he obtained appointment letter vide Memo No. 2831/8 dated 22-6-2002 (Annexure-'D' to the writ petition) for a period of one year from the date of appointment in the post of Associate Professor. After receipt of the said appointment letter, the petitioner took retirement from the post of Assistant Professor of Bangladesh Institute of Technology, Rajshahi (under revenue budget) and joined in the service against appointment letter 2831/8 dated 22-6-2002 as Associate Professor; while continuing in service regularly, honestly and peacefully the petitioner received the impugned letter under Memo No. 5 dated 1-7-2003 and found that his appointment under Memo No. 2831/8 dated 22-6-2002 has been cancelled from the date of appointment and his previous salary will be paid from the revenue budget if available by Bangladesh Institute of Technology, Rajshahi. Subsequently, the said condition was modified vide Memo No. 32 dated 4-7-2003. He further submits that all these decisions made by the Director of Bangladesh Institute of Technology, Rajshahi was made malafide only to victimise the petitioner to prejudice and rewind his carrier who is one of the best teacher, of the Institute. He further submits that the conditions as laid down and decision taken by the Board of Governors was not initially taken during his appointment and no decision can be taken to prejudice and the detriment of the petitioner. The learned Advocate further submits that it was an obligation on the part of the respondents not to give him new appointment, when he was in service in the same institute and ought not to have accepted the prayer for retirement. The writ petitioner has been put to jeopardy by the act and omissions on the part of the respondent authority. He further submits that the petitioner served in the said organisation since from 1972 upto 1-7-2003 for more than about 30 years. He further submits that the petitioner worked in Bangladesh Institute of Technology, Rajshahi as Assistant Professor up to 22-6-2002 under revenue budget and, as such, he is entitled to get arrear salary and other retirement benefits in accordance with law and that the Bangladesh Institute of Technology, Rajshahi is under obligation to pay the entire benefits to the petitioner immediately. He further submits that the petitioner has also served in the project under development budget since from his appointment dated 24-6-2002 to at least up to 1-7-2003 and, as such, the petitioner is also entitled to get salary and other benefits in accordance with law without any subsequent terms and conditions from the authority (respondents). He further submits that the decision of the Board of Governors cancelling the appointment of the petitioner (with retrospective effect) from the date of his appointment is highly illegal. He further submits that the petitioner's service was under a development project and cannot be dealt with under Act 12 of 1974 and his service is governed under development project profile and under the circular No. mg (Dt l evt 1)-8/93-12 dated 18-1-1995 and, as such, the decision taken by the Board of Governors is illegal and liable to be struck down.



6. Mr MB Taz Mohammad, the learned Advocate for the respondent Nos. 2, 3 and 4 by submitting affidavit-in-opposition submits that University of Engineering and Technology entered into the shoes of Bangladesh Institute of Technology, Rajshahi and all power, jurisdiction assets and liabilities were taken over by the respondent, Rajshahi University of Engineering and Technology. He further submits that the dispute has been resolved as per decision of the Board of Governors of the institute and the decision of the said authority is final and conclusive. He further submits that the petitioner was appointed in 1972 and he was promoted as Assistant Professor in 1977 and he served in Bangladesh Institute of Technology, Rajshahi till 22-6-2002 and he took his own retirement from the post of Assistant Professor under revenue budget. Subsequently, he was appointed under a development project on 24-6-2002 as Associate Professor of the Institute as per recommendation of the Selection Committee and decision was taken by the Board of Governors held on 21-6-2002 in accordance with law. Since, he himself took retirement from the revenue budget and joined in the development budget he cannot be absorbed again in the revenue budget and he cannot be entitled to get double benefit at a time. He further submits that according to section 5 of Act 12 of 1974 a retired person can not be re-employed in service and, as such, the Board of Governors in its 38th meeting has taken right decision by cancelling the appointment of the petitioner in the development project and that there is no illegality in the decision taken by the Board of Governors in its 38th meeting on 5-11-2002 as communicated to the petitioner vide Memo No. 5 dated 1-7-2003 and that there is no violation of any Rules and Regulation of Bangladesh Institute of Technology, Rajshahi and, as such, the Rule is liable to be discharged with cost.

7. We have heard the learned Counsels of both the parties at length and perused the writ petition supplementary-affidavits filed by the petitioner and affidavit in opposition and the annexures thereof.

8. From the submissions of both the parties, it appears that admittedly the petitioner was appointed in 1972 as Lecturer of Bangladesh Institute of Technology, Rajshahi and in 1977 he was promoted as Assistant Professor and till his retirement on 22-6-2002, he served in the said Institute as Assistant Professor. It appears from Annexure-'A' that Bangladesh Institute of Technology, Rajshahi invited applications from the intending candidates for the post of Associate Professor vide Memo No. 271/25 dated 11-8-1998. Accordingly, the petitioner applied for the post of Associate Professor and he was appointed as Associate Professor under a development project by the decision of the Board of Governors in its 37th meeting dated 21-6-2002. The petitioner joined in the said post on 24-6-2002 and continued his service as Associate Professor under the development project till 1-7-2003.

9. During the continuance of his service a decision was taken by the Board of Governors in its 38th meeting dated 5-11-2002 and informed the matter to the petitioner vide Memo No. 5 dated 1-7-2003 (Annexure-'F' to the writ petition); the decision as communicated to the petitioner, runs thus:

০১কখতরঃবঃভঃ অঃগঃতঃ ইঃসঃসঃসঃ

সঃসঃসঃসঃসঃসঃ

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সঃসঃসঃসঃসঃসঃসঃসঃসঃ

সঃসঃসঃসঃসঃসঃসঃসঃসঃসঃসঃসঃ



მწი

(K) ატ`ბტი i`ვიK bs-2831/8 Zwi Lt 22-6-2002Bs|

(L) ატ`ბტი i`ვიK bs-2094/14 Zwi Lt 9-2-2003Bs|

(M) Avcbvi 27-5-2003 Bs Zwi Lt Li Avte`bcT|

Rbve,

GB gtg AemZ Kiv hte`0 th, Dj t j u L Z we l t q MZ 5-11-2002 Bs Zwi Lt A b y o Z te w A e M f y P G i 38 Z g m f v i A v t j p` we l q b e f 9 I 15 w m t e m f i q D c`i c b K i v n t j Z r t c o t t z w b t g w e g t g m x i s i (m x i s i bs 9 (K) I 15) M p x n q |

0m x i s i

b0 9(K) t we Av B u l i v R k i n x i h s t j K s j w e f w m i m n K v i x A a`v c K W t G, t K, G g, A v j x A n m b Z y j k` v i G i e t K q v t e Z b- f i Z w i c w i t k v a c o s t m m s i k o K u g u K Z R c a I c o z t e` b M a v Z n t j v G e s Z` b h v q x c o q v R b i q e` e` v M a y K i t z n t e | w k s` A` e i v i` c o b m t c t` q | Z v i c v l b w i c w i t k v a t h m | w z b 19-6-1993 B s t` t k 11-6-1999 B s c h s i e t K q v t e Z b f i Z w i c w e b | Z t e 10-10-1993 B s t` t k G W- t m i K w r i e t z P i K i x t z w b t q t m i K v i t y m t o c a p g u m w z b t h t e Z b- f i Z w i t c t q t o b Z v m g s q m a b K t i Z v i e t K q v t e Z b- f i Z w i c w i t k v a K i v t h t z c w i | w z b G B m q q K v t j A v i v t K u b A` M a y K t i` \_ v k t j Z v i m g s q K i t z n t e | 0

0m x i s i

bs 15 t Z v i A v t e` t b i t c o t t z 1(GK) g u m i t e Z b I f i Z w i K Z R c e R P i K i x t` t k A e m i t` q v n t j v | M Y K g P v i x (A e m i) A v B b 1974 G i 5(1) b s w e v a G e s Z r m s p u s i U n K i t(1) G i g o t h v q x A e m i M a y K v i x t K i b M Y K g P v i x t K i b f v t e B c R z t s j e v t K i b m s` v i, R v Z x q K i Y K Z c i z o t b i e v` v b x K Z e t` q i K t g e p t w b t q w R Z n t z c w i t e b b v | A e m i M a t y i c i c p t w b t q m m` u y t b t a | Z t e m s e a v t b e w t z t K u b c t` A e m i c o b M Y K g P v i x t K c p t w b t q m K i v h t e | D c t i v` 3 A v B b t g v z t e K W t G, t K, G g, A v j x A n m b Z y j k` v i m n t h m x A a`v c K (c k i) G i w b t q M c T` (v i K b s 2831/8 Z w i L t 22-6-2002 B s) G Z t h v e w z j K i v n t j v | Z v i A e m i c i e Z m g t q t m e v c o t b i R b` L U K v j x b w k t i i b` v q c w i k t g K t` q v n t e | Z t e k Z q n j t h, W t G, t K, G g, A v j x A n m b Z y j k` v i G Z` m` u n k z w e l t q A v v j z t K u b c l v i t g v i v g v` v t q i K i t z c w i t e b b v | 0

D c t i v` 3 m i v s i b s-9(K) G i m` u t K e v w P R` b K m` s y b Z m` m` K Z R A v c i e D i w c Z n t j M Z 21-5-2003 B s Z w i L t A b y o Z t e w A e M f y P m G i 42 Z g m f i q A v t j p` w e l q b s 1 w m t e m f i q D c`i c b K i v n q G e s Z` v b h v q x t e w P 9(K) m x i s i u v b g r j u L Z f v t e m g v b` m s t k v a b K i v n q t

0 P z z` g v b t b o z` v b h v q o k a n l i c i o m e t k l w e t e P b v q o k a d q G e s m e v i t k t l o z t e w z b G B g t g G u d t W r f u R g v w t e b t h, Z v i P i K i x e t K q v t e Z b I t c b k b m s p u s i e` v c i t i w e A v B u l i v R k i n x K Z e t` q i w e i` t x` A v i t K u b g u g j v` v t q i K i t e b b v | 0 e i K i w t h m K i t z n t e | 0

t e w w m f i q M p z D c t i v` 3 m x i s i m a n i t c o t t z c o q v R b i q K u h e g M a y t` \_ v k n o m e R i` i x w r i e t z G u d t W r f u R g v t` I q v i R b` A b t i v a K i v n t j v |

c w i P y j K

w e A v B u l i, i v R k i n x | 0

The said decision was subsequently amended, which was informed to the petitioner vide Memo No. 32 dated 4-7-2003, which thus was:

0 H k x t R` w z B A v g t` i c` c o k R

c w i P y j K i K u h e g q

e s j v t` k B Y u u D U A e t u K t b y j R x, i v R k i n x |

v i K b s-32 Z w i L-4-7-2003 B s

c o z,

W t G, t K, G g, A v j x A n m b Z y j k` v i,

m n t h m x A a`v c K (c k i)

h s t j K s j w e f w m,

w e A v B u l i, i v R k i n x |

w e l q t G u d t W r f u R g v c o v b c o s t m |

მწი

(K) ატ`ბტი i`ვიK bs-5 Zwi Lt 1-7-2003 Bs

(L) Avcbvi 2-7-2003 Bs Zwi Lt Li Avte`bcT|

Rbve,

D c t i v` 3 w e l q I m e t i t c o t t z A e m Z K i v h b t z t 0 t h, G u d t W r f u L i L m o v A` e v G i j c t K u b b g p v A T` b t i m s i m t z b i b | w e A v B u l i i v R k i n x t e w A e M f y P m G i 42 Z g m f v i A v t j p` w e l q b e f b s 1 w m t e D c`w c Z



38Zg mfvī m̄x̄s̄ī bs 9(K) Gi m̄st̄k̄uabx Ab̄h̄n̄q̄x Av̄cb̄v̄t̄K An̄f̄Ā An̄B̄b̄R̄v̄exi m̄n̄v̄Z̄v̄q Ḡv̄d̄t̄W̄v̄U ĀĪ `B̄t̄i R̄gv̄t̄` I q̄vī R̄b̄` Ab̄t̄i v̄a K̄iv h̄i B̄t̄Z̄t̄Q̄| D̄j̄t̄j̄v̄L̄Z th, D̄³ Ḡv̄d̄t̄W̄v̄U m̄j̄t̄v̄³ K̄ `v̄i K̄c̄t̄Ī D̄j̄t̄j̄v̄L̄Z t̄eW̄l̄l̄

c̄v̄i P̄j̄K

v̄e Av̄B̄t̄, i v̄R̄k̄m̄x̄|Ō

10. It further appears from Annexures-'G, G-1 and G-2' that some of the professors and staffs were granted lien and allowed to continue their service till completion of the project and, as such, we find that the authority took decision of their own choice which is not desirable. It appears from decision No. 15 that the service of the petitioner under project as Associate Professor has been cancelled since from his appointment considering section 5(1) of Act 12 of 1974 considering that it does not allow any retired person to be re-employed but it appears that the petitioner was not re-employed in the same post and in the same revenue budget. The submission of the learned Advocate for the respondents are misconceived. This is not the case of reinstatement of the petitioner in the same post under the same revenue budget. It appears that after retirement on 22-6-2002 the petitioner joined as Associate Professor under a development budget. According to Circular No. mg (Dt I evt 1)-8/93-12 dated 18-1-1998 issued by Ministry of Establishment that a retired person can be appointed/re-employed in a development project on contract which runs thus:

Ōv̄e l̄q̄t D̄b̄q̄b̄ c̄k̄t̄r̄ i ḡv̄v̄ K̄ȳj̄x̄ m̄ḡt̄q̄i R̄b̄` v̄b̄t̄q̄w̄R̄Z̄e` c̄` m̄ḡt̄n̄ v̄b̄t̄q̄v̄M̄i c̄x̄v̄Z̄ I k̄Z̄t̄j̄x̄|

D̄b̄q̄b̄ c̄k̄t̄r̄ m̄ḡn̄ (v̄e v̄b̄t̄q̄v̄M̄i I v̄U Ḡ c̄k̄t̄r̄) h̄\_v̄ m̄ḡt̄q̄ m̄j̄t̄v̄t̄e v̄v̄ `f̄e v̄q̄t̄b̄i `v̄t̄` c̄k̄t̄r̄ i v̄v̄ `f̄e v̄q̄b̄K̄ȳj̄x̄ m̄ḡt̄q̄ m̄k̄j̄` t̄e Z̄t̄b̄ (Consolidated Pay) P̄r̄i³ v̄f̄iĒK̄ v̄b̄t̄q̄v̄M̄i R̄b̄` m̄i K̄vī m̄=c̄ŌZ̄ v̄m̄x̄s̄ī M̄ĀY K̄vī q̄v̄ m̄`v̄cb̄ ḡs̄Ȳj̄t̄q̄i `v̄i K̄ b̄s̄ m̄ḡ (Dt I evt)-8/93-102, Z̄is-30-7-1994 L̄it̄ Gi ḡv̄āt̄ḡ b̄w̄z̄ḡȳv̄ R̄v̄ix̄ K̄vī q̄v̄Ōb̄| D̄³ b̄w̄z̄ḡȳv̄q̄ Av̄t̄j̄v̄t̄K̄ m̄i K̄vī P̄r̄i³ v̄f̄iĒK̄ v̄b̄t̄q̄w̄R̄Z̄e` c̄` m̄ḡt̄n̄ v̄b̄t̄q̄v̄M̄i c̄x̄v̄Z̄ I P̄k̄x̄i k̄Z̄t̄j̄x̄ v̄b̄ḡt̄c̄f̄i t̄e v̄b̄āf̄b̄ K̄vī t̄j̄b̄t̄

(1) K̄v̄v̄i v̄e t̄e P̄Z̄ n̄B̄t̄e b̄t̄

(K) (i) K̄ḡP̄Z̄ m̄i K̄vī / t̄e m̄i K̄vī K̄ḡR̄Z̄P̄ (v̄j̄ t̄q̄b̄ e R̄i q̄ i v̄L̄v̄m̄n̄)

(ii) Āe m̄i c̄B̄ m̄i K̄vī v̄e v̄e x̄ m̄s̄`v̄ I i v̄Ōq̄Ē c̄ŌZ̄Ōv̄b̄ / m̄k̄` j̄e v̄m̄b̄x̄i K̄ḡR̄Z̄P̄ K̄ḡP̄i v̄e x̄`

(iii) R̄b̄m̄v̄i t̄Ȳi ḡā` n̄B̄t̄Z̄ c̄k̄t̄r̄ i K̄v̄t̄R̄ e v̄`Ēe An̄f̄Ā Z̄m̄n̄ c̄b̄q̄v̄R̄b̄q̄ v̄k̄ŌM̄Z̄ t̄h̄M̄ Z̄m̄=ūb̄ōe` i v̄e m̄c̄ŌZ̄ c̄k̄t̄r̄ i Ab̄t̄ḡv̄i Z̄ v̄b̄t̄q̄v̄M̄i v̄e Ab̄m̄t̄i v̄b̄t̄q̄w̄R̄Z̄ n̄B̄t̄e b̄| t̄K̄v̄ m̄i K̄vī K̄ḡR̄Z̄P̄ ḠB̄i j̄c̄ v̄b̄t̄q̄v̄M̄i c̄B̄ n̄B̄t̄j̄ Z̄v̄v̄i D̄³ i j̄c̄ v̄b̄t̄q̄v̄M̄i c̄e c̄t̄` P̄k̄x̄i e`v̄c̄t̄i m̄i K̄vī P̄k̄x̄i v̄e v̄e Ab̄h̄n̄q̄x̄ v̄Z̄v̄b̄ v̄b̄q̄v̄s̄Z̄ n̄B̄t̄e b̄|

(L) `p̄W̄Z̄ A\_ ev t̄K̄v̄b̄ `i`Z̄i Āc̄i v̄t̄a t̄d̄S̄R̄` v̄ix̄ ḡv̄j̄v̄q̄ k̄v̄i`Ē c̄B̄ Ges̄ `p̄W̄Z̄ v̄K̄s̄e v̄ Am̄` i P̄i t̄Ȳi An̄f̄t̄h̄v̄M̄ P̄k̄x̄i t̄`t̄K̄ Āc̄m̄m̄i Z̄/e i L̄v̄`Ē K̄Z̄ A\_ ev e v̄ā Z̄iḡt̄K̄f̄i t̄e Āe m̄i c̄B̄ t̄K̄v̄b̄ e`v̄t̄K̄ v̄b̄t̄q̄v̄M̄i K̄iv h̄i B̄t̄e b̄v̄|

(2) P̄k̄x̄i m̄ḡq̄K̄j̄t̄ v̄b̄t̄q̄v̄M̄i t̄ D̄j̄t̄j̄v̄L̄Z̄ m̄ḡt̄q̄i R̄b̄` e j̄e r\_ w̄k̄t̄e | Z̄t̄e m̄t̄e v̄P̄ 65 e r̄m̄i m̄ḡq̄ c̄h̄S̄f̄ c̄k̄t̄r̄ K̄ḡP̄Z̄ w̄k̄t̄Z̄ c̄v̄i t̄e b̄|

(3) t̄e Z̄b̄t̄ v̄b̄t̄q̄w̄R̄Z̄e` e`v̄³ v̄c̄ v̄m̄ v̄c̄ v̄c̄ v̄U Ḡ v̄c̄ v̄c̄ t̄Z̄ D̄j̄t̄j̄v̄L̄Z̄ m̄k̄j̄` t̄e Z̄b̄ m̄s̄t̄h̄w̄R̄Z̄ k̄Z̄Ōh̄n̄q̄x̄ c̄i B̄t̄e b̄ (c̄v̄i k̄Ō-K)

(4) v̄b̄t̄q̄v̄M̄i K̄Z̄ŌŌt̄ m̄i K̄vī A\_ ev D̄b̄q̄b̄ c̄k̄t̄r̄ m̄ḡn̄ R̄b̄e j̄ v̄b̄t̄q̄v̄M̄i q̄j̄ḡZ̄v̄ Āc̄P̄ m̄s̄v̄i s̄ī m̄s̄`v̄cb̄ ḡs̄Ȳj̄t̄q̄i `v̄i K̄ b̄s̄ m̄ḡ (Dt I evt 1)-8/93-13, Z̄is-18-1-95 L̄it̄ Ab̄h̄n̄q̄x̄ t̄h̄ c̄t̄` i R̄b̄` t̄h̄ K̄Z̄ŌŌ c̄t̄h̄r̄` Z̄v̄v̄b̄ v̄b̄t̄q̄v̄M̄i K̄Z̄ŌŌ e v̄j̄ q̄v̄ M̄Ȳ` n̄B̄t̄e b̄|

(5) v̄b̄t̄q̄v̄M̄i D̄c̄v̄b̄t̄`Ō` 1(K) Ḡ D̄j̄t̄j̄v̄L̄Z̄ e`v̄³ e m̄f̄iĒK̄ c̄v̄i k̄Ō-K Gi k̄Z̄Ōh̄n̄q̄x̄ v̄b̄t̄q̄v̄M̄i c̄Ōv̄b̄ K̄iv h̄i B̄t̄e b̄|

(6) Ōv̄t̄ D̄c̄v̄b̄t̄`Ō` 1(K) Ḡ D̄j̄t̄j̄v̄L̄Z̄ e`v̄³ e m̄f̄iĒK̄ v̄b̄t̄q̄v̄M̄i k̄Z̄ŌŌ v̄t̄e K̄` i a ȳ v̄b̄ḡv̄ĒK̄ Ōv̄t̄ I m̄i K̄vī Ōv̄t̄ t̄f̄v̄M̄ K̄vī t̄Z̄ c̄v̄i t̄e b̄| Z̄t̄e Ām̄ȳ Z̄v̄i K̄vī t̄Ȳ e r̄m̄t̄i m̄t̄e v̄P̄ ḠK̄ḡm̄ t̄e Z̄b̄m̄n̄ Ōv̄t̄ ḡĀj̄ K̄iv h̄i B̄t̄Z̄ c̄t̄i |

(7) t̄h̄M̄Ōx̄e v̄ḡv̄ A\_ ev Ab̄`v̄b̄` K̄j̄ v̄ḡj̄K̄ `v̄t̄ḡi m̄j̄e a v̄i t̄

D̄c̄v̄b̄t̄`Ō` 1(K) t̄Z̄ D̄j̄t̄j̄v̄L̄Z̄ e`v̄³ e m̄f̄iĒK̄ P̄r̄i³ c̄t̄ Ab̄h̄n̄q̄x̄ m̄j̄e a v̄i t̄ (h̄v̄`v̄t̄K̄) c̄B̄ n̄B̄t̄e b̄|

(8) Āv̄e m̄K̄ m̄j̄e a v̄i t̄ m̄k̄j̄` t̄e Z̄b̄ (Consolidated Pay) M̄h̄ȲK̄v̄ix̄ e`v̄³ M̄Ȳ t̄K̄v̄b̄ e m̄v̄ f̄i v̄v̄ e v̄ Ab̄`v̄b̄` m̄j̄e a v̄ c̄i B̄t̄e b̄ v̄|

(9) D̄r̄m̄e f̄i v̄Z̄v̄ t̄ m̄k̄j̄` t̄e Z̄b̄ M̄ĀȲK̄v̄ix̄ e`v̄³ M̄Ȳ t̄K̄v̄b̄ D̄r̄m̄e f̄i v̄Z̄v̄ t̄ m̄k̄j̄` t̄e Z̄b̄ M̄ĀȲK̄v̄ix̄ e`v̄³ M̄Ȳ c̄i B̄t̄e b̄ v̄|

(10) h̄i Z̄v̄i q̄v̄ m̄j̄e a v̄ f̄i v̄Z̄v̄ v̄c̄ v̄m̄ v̄c̄ v̄c̄ v̄U Ḡ v̄c̄ v̄c̄ t̄Z̄ h̄i Z̄v̄i q̄v̄ f̄i v̄Z̄v̄ m̄s̄`v̄b̄ w̄k̄t̄j̄ Z̄v̄v̄ c̄i B̄t̄e b̄ A\_ ev c̄k̄t̄r̄ i Av̄i Z̄v̄q̄ h̄i Z̄v̄i q̄v̄ m̄j̄e a v̄ t̄` I q̄vī e`e`v̄ w̄k̄t̄j̄ Z̄v̄v̄ t̄f̄v̄M̄ K̄vī t̄Z̄ c̄v̄i t̄e b̄|

(11) v̄P̄k̄r̄m̄v̄ m̄j̄e a v̄i / f̄i v̄Z̄v̄ c̄i B̄t̄e b̄ v̄|

(12) m̄e v̄ŌW̄K̄ M̄Ōx̄i m̄j̄e a v̄i t̄ c̄k̄t̄r̄ c̄v̄i P̄j̄K̄ Gi R̄b̄` v̄c̄m̄i c̄/ v̄c̄i c̄ t̄Z̄ e`e`v̄ Ab̄h̄n̄q̄x̄ M̄Ōx̄ c̄t̄c̄` n̄B̄t̄e b̄|

(13) c̄` Z̄`W̄t̄ k̄s̄L̄j̄ v̄R̄b̄Z̄ K̄vī t̄Ȳi t̄K̄v̄b̄ v̄e f̄i M̄b̄q̄ ḡv̄j̄v̄ e v̄ Ab̄` Av̄B̄t̄i Av̄i Z̄v̄q̄ t̄K̄v̄t̄U v̄K̄v̄b̄ t̄K̄m̄ v̄e P̄i v̄a b̄/ ḡj̄ Z̄e x̄ b̄v\_ w̄k̄t̄j̄ e v̄ m̄i K̄vī / m̄s̄`v̄ c̄k̄t̄r̄ i v̄b̄U t̄K̄v̄b̄ A w\_ R̄` v̄q\_` w̄q̄Z̄j̄v\_ w̄k̄t̄j̄ v̄b̄t̄q̄v̄M̄i K̄Z̄ŌŌŌ i Ab̄t̄ḡv̄i v̄

মহাশয়ী GK গ্যামি তবুলক এবনবগতq GK গ্যামি তgU teZb-fvZiq mgcwi gy A\_ 9i Kuti i nbKU cÖvb Kniqv ibtqfMi kZ9hvx th tKub e'w³ PkÄxnBtZ c` Z'Wl KniZ cwi tēb |

(14) PkÄxnBtZ Ae'vniZt Dcibj'0` 1(K) Gi t'qit mi Kvi/ibtqMkvixKZēq GK gämi tbulk evnēbgtq GK gämi tgu teZb-fvZvi mg cwi gy A\_ cÖvb Kniqv ibtqRZ c` nBtZ Ae'vniZ w tZ cwi tēb Ges GB t'qit Ae'vniZ cÖB e'w³K Avi tKub q'wZc:Y t` I qv nBte by | 0

11. From the circular, it appears that even a retired person can be appointed in a development project and the service of the person who has been employed under a development project can be regularised under the said memorandum (circular) (Memo No. mg (Dt I evt 1)-8/93-12 dated 18-1-1995) and, as such, we find that the Board of Governors failed to consider such memorandum/ circular but took the view under Act 12 of 1972 considering that the service of the petitioner is in the same employment under revenue budget. But facts remain that the service of the petitioner was under a development budget and Act 12 of 1972 is not applicable for the persons serving under development budget and, as such, we find that Board of Governors took wrong and illegal decision, which cannot be supported under any law. For the sake of argument if it was so, it was an obligation on the part of the respondents not to give the new appointment to the petitioner when he was in service under the same authority and or ought not to have accepted prayer for retirement. They have put the petitioner in jeopardy. The appointment of the petitioner was under a contract at least for l(one year under a development budget and he continued his service more than his contract period. But the impugned order was issued after completion of his contract period though the decision was taken much earlier, as we find from the impugned order and decision taken by the Board of Governors and the conditions as laid down in those decisions and the subsequent decision in its 42nd meeting shows that the Board of Governors are annoyed with the petitioner and took malafide decision only to victimise the petitioner giving retrospective effect with intent not to give any financial benefit to the petitioner, though he served at least up to 1-7-2003 which is not warranted and, as such, the impugned order and decision communicated to the petitioner vide Memo No. 5 dated 1-7-2003 and the decision taken regarding submission of the affidavit in its 42nd meeting is not tenable in the eye of law and liable to be struck down.

12. In the result, the Rule is made absolute without any order as to the cost.

The impugned decision being No. 9 (Ka) and 15 taken by the Board of Governors, Bangladesh Institute of Technology, Rajshahi (respondent No. 1) through its 38th meeting held on 5-11-2002 imposing conditions in respect of payment of arrear salary and allowancs of the petitioner and cancelation of his appointment as Associate Professor (Development) with effect from the date of his appointment on 22-6-2002 as contained under Memo No. 5 dated 1-7-2003 (Annexure-'F') issued by respondent No. 3 is hereby declared to have been passed and made illegal, without lawful authority and is of no legal effect. The respondents are directed to pay all the financial benefits to the petitioner, as he is entitled to under the law; be paid within 3(three) months from the date of receipt of the order.

Ed.

Soures : The Dhaka Law Reports (August 2008)



have been allocated on the length of service of the officers of BADC and some points have been allocated on the Annual Confidential Report (ACR) of the Officers but no such provision has been laid down in the Service Rules of the writ petitioners and pursuant to the aforesaid Rules to re-organise the manpower of BADC the writ petitioners have been discharged from their service by office orders dated 24 July 2003 and the writ respondents purportedly exercised their power under Rule 55(2) of the BADC Employees Service Rules 1990.

6. The writ petitioners further stated in the writ petitions that there is a provision to give three months' prior notice or three months' pay in lieu thereof before dispensing with the service of the employees of BADC but in the instant cases neither three months' notice nor three months pay was paid before exercising the power under Rule 55(2) and, as such, the order of discharge of the writ petitioners became illegal.

7. It was further averred that under clause 5 of the Notification dated 17-11-1999 it was mentioned that the surplus employees would be entitled to get their salary but the writ respondent No. 2 by notification dated 13-10-2002 purported to have amended clauses-4 and 5 of the earlier notification dated 17-11-1999 inserting clause-'Ka', 'Kha', 'Ga' and 'Gha' and that clause 'Ka' provides  $\text{Aby}\ddot{\text{g}}\text{vw}\text{`Z mvsMVwbK KvVv}\ddot{\text{g}}\text{v Abyhvqx 6,800 R}\ddot{\text{b}}\text{i AwZwi}^3 \text{Rbej GKKvjxb cvlbv cwi}\ddot{\text{t}}\text{kv}\ddot{\text{t}}\text{ai gva}\ddot{\text{t}}\text{g n}\ll\text{vm cv}\ddot{\text{t}}\text{e|}\text{Ó}$  and that in order to give promotion of the Senior Sub-Assistant Engineers a gradation list with 556 officers was made and the respondents names were included therein.

8. It was further added that the rules framed in the decision of the Inter-Ministerial Meeting dated 26-10-2000 to reduce the manpower has got no legal basis and those being issued without amending the service rules are contrary to service regulation and the rules and, as such, the action of the writ respondents in discharging the writ petitioners under the Rules is without lawful authority.

9. The rules were opposed by filing separate affidavits-in-opposition on behalf of the BADC and its Secretary. In some cases supplementary affidavits were also filed on behalf of both the parties.

10. After hearing the parties a Division Bench of the High Court Division by the impugned judgment and order made the Rules absolute declaring the termination of the service of the writ petitioner-respondents as illegal.

11. Mr Khandker Mahbubuddin Ahmed submitted that the High Court Division committed an error of law in misconstruing the Regulation 55(2) of the BADC Employees Service Regulation 1990 and the said Regulation, as it appears having a non-obstante clause authorises to release the employees from service and the order of release from service has been passed in terms of the appointment letter of the writ petitioner-respondents by invoking the said provision of law to implement the Government policy in reducing the manpower of the BADC upto 6800 in its reorganisational setup on the guidelines known as "Padayan Rules" approved by the Government.

12. He further submitted that the High Court Division committed an error of law in arriving at a finding that the order of release from service of the writ petitioner-respondents is nothing but a constructive dismissal from service in view of the fact that the order of release has been passed within the four corners of the said Regulation, 1990 and it does not contain any stigma nor does it show that the employee has been released from service because of any act subversive of discipline or for any misconduct.

13. He also submitted that the High Court Division committed an error of law in failing to consider the fact that the order of release has been passed pursuant to the decisions of the Government published in the gazette notification dated 17-11-1999 and by the subsequent amendments of the said gazette notification vide notifi-

cations dated 14-10-2002 and 26-10-2002 providing for payment of all service benefits at a time, as contained in clause 2 of the order of release together with three months' notice pay which are tantamount to the service benefits of normal retirement allowable by the BADC Employees Service Regulations 1990.

14. He thereafter submitted that the re-organisational setup of BADC having 6800 manpower is the policy of the Government and the Government has the executive power to create or abolish such posts or schemes in the matter of its policy and the High Court Division committed an error of law in not considering the fact that the order of release has been passed pursuant to the policy of the Government involving the public interest.

15. He lastly submitted that the High Court Division misconstrued the provision of regulation 55(2) of BADC Karmachair Chakuri Probidhanmala, 1990 to mean that three months' notice pay would have to be made before issuance of the order of release from service, whereas the said provision merely made it a condition to make payment if no notice of release is given for any reason.

16. Mr Abdul Wadud Bhuiyan, learned Counsel appearing for the respondents, opposed the petitions stating, inter alia, that the notification dated 17-11-1999 was published in Bangladesh Gazette on November 22, 1999 as evidenced in Annexure-B to the writ petition. But the writ respondents claim to have amended the said notification (cÖÄvcb) by notification dated 13 October 2002 (Annexure-D to the writ petition). He then submitted that a notification which was published in the Bangladesh Gazette cannot be amended by subsequent notification without publication in the gazette and, as such, the subsequent notification dated 13 October 2002 is without any lawful authority and the actions taken on the basis of the said subsequent notification against the writ petitioner-respondents are, therefore, illegal.

17. He further submitted that the respondents claim to have taken action under Regulation 55(2) of the BADC Employees Service Regulation 1990 and without fulfilling the essential requisites of the Regulation including payment of three months' notice in advance or making payment of three months' salary in lieu thereof the impugned actions taken by the respondents are illegal and the High Court Division, therefore, correctly decided the rules and, as such, there is no cause for interference.

18. Leave was granted to consider the above mentioned submissions.

19. In Civil Appeal No. 136 of 2007 the facts, in short, are that the respondent Nos. 1-8 filed the above Writ Petition No. 1498 of 2003 challenging the Notification, bearing No.Krishi-5/Ma-34/99/714 dated 26-10-2002 issued by the Secretary, Ministry of Agriculture, the respondent No.9, and addressed by the respondent No. 10 under cover of Memo No. Krishi-5/Mo-34/99/715 dated 26-10-2002, Annexure-A to the writ petition, purporting to amend clauses 4 and 5 of the Notification No. Krishi-5/Mo-2/98 (Angsha-8)/272 dated 17-11-1999 published earlier with regard to reorganisation of BADC, the petitioner No. 1, and also challenging the Office Orders dated 30-10-2002 (Annexures-B to B-9 to the writ petition) terminating 1034 employees of BADC, on the averments that BADC was constituted by Bangladesh Agricultural Development Corporation Ordinance 1961; they joined their services on various dates during 1975 to 1977; in the year 1990 Bangladesh Agricultural Development Corporation Employees Service Regulation 1990 was framed; then Notification dated 17-11-1999, Annexure-E to the writ petition, was issued with regard to reorganisation of the manpower and function of BADC and in clause 5 of the said notification it has been stated "Abjgwi Z msMibK KiWtgv Abjvqx 6800 Rtb i AwZwi<sup>3</sup> Rbej ~fweK Aemi/t~"Qv Aemti i gva'ig nm cufe| t~"Qemi Kihjg cmi Pj bvi Rb" A\_@eFIM AibjwbK 160 (GKKZ Iw) tKud UikveGmmi Abktj i eivi w te| t~"Qemi Kihjg m=ubov n lqv chSf th mSL"K KgRZ@Kg@ix DDE Zif i l teZb c'ib Kiv nte|0, the respondent Nos. 2-8 have been discharged from their service by office orders dated 24 July 2003 on the

the respondent Nos. 2-8 have been discharged from their service by office orders dated 24 July 2003 on the purported exercise of the powers under Regulation 55(2) of Regulation 1990; though in the said Regulation 1990 there is a provision to give three months' prior notice or three months' pay in lieu thereof before discharging the service of the employees of BADC, in the cases of the respondent Nos. 2-8, neither three months' notice was given nor three months' pay was paid; in clause 5 of the notification dated 17-11-1999 it was mentioned that the surplus employees would be entitled to get their salaries but the writ respondent No. 9, by notification dated 13-10-2002, purported to amend clauses-4 and 5 of the above notification dated 17-11-1999 inserting clause-'Ka', 'Kha', 'Ga' and 'Gha' and that clause 'Ka provided that the rules framed in the decision of the Inter-Ministerial Meeting dated 26-10-2000 to reduce the manpower has got no legal basis since those were issued without amending Regulation 1990.

20. The rules were opposed by the appellants by filing separate affidavits-in-opposition. Supplementary affidavits were also filed by both the parties.

21. High Court Division, after hearing, made the Rules absolute and declared the termination of the service of the respondent Nos. 2-8 as illegal holding that the order for release from service of the respondent Nos. 2-8 is nothing but a constructive dismissal from service.

22. The learned Counsel appearing for the appellants submitted that the High Court Division committed an error of law in misconstruing the Regulation 55(2) of Regulation 1990 and failed to consider that the said Regulation, by non-obstante clause, authorised to release the employees from service and the order of release from service has been passed in terms of the condition incorporated in the appointment letters of the respondent Nos.2-8 to implement the Policy of the Government to reduce the manpower of BADC to 6800 in its reorganisational setup on the guidelines known as the Rules approved by the Government and that as per section 4 of Bangladesh Agricultural Development Corporation Ordinance, 1961 the Government is empowered to formulate any policy with regard to the affairs of BADC and the BADC is also legally obliged to implement the policy so formulated and direction given by the Government as contained in the Notifications dated 17-11-1999 and its subsequent amendments vide Notification dated 13-10-2002 and 26-10-2002; BADC came into existence in the year 1961 on the recommendation of Agricultural Commission for the purpose of attainment of self-sufficiency in food introducing modern agricultural inputs in agricultural sector and the role of the BADC gradually expanded to meet the demands, specially in the agricultural development programmes which was administered by as many as five wings of BADC and subsequently due to the change of global economic situation and expansion of open market economy and the limitation of resources, the Government in the year 1985, had to undertake privatisation programme for distribution of agricultural inputs and so the major functions of BADC, such as distribution of fertiliser and supplying irrigational equipment were withdrawn and were vested in the private sector and as a result huge number of manpower of BADC became excess having no work to perform and in resolving this matter the Ministry of Agriculture in the year 1992, offered a voluntary retirement programme and the said programme though continued but did not bring expected result in dispensing with the excess manpower of BADC and further no fund was also available to pay the monthly salaries of the excess employees of BADC; in such circumstances, on the basis of the recommendation of a high powered Agricultural Commission, the Cabinet Division approved the re-organisational structure of BADC reducing its manpower to

Commission, the Cabinet Division approved the re-organisational structure of BADC reducing its manpower to 6800 and the High Court Division fell in error in not taking into consideration the above facts. The learned Counsel further submitted that the High Court Division erroneously imported the concept of legitimate expectation and promissory estoppel failing to take into consideration policy decision of the Government and thereupon holding that the orders of release have been violating the principle of legitimate expectation and principle of promissory estoppel though the orders of release have been passed pursuant to the decisions of the Government published in the Gazette Notification dated 17-11-1999 and by the subsequent amendments of the said gazette notification vide notifications dated 14-10-2002 and 26-10-2002 providing for payment of all service benefits at a time, as contained in clause 2 of the order of release, together with three months' pay which tantamount to the service benefits of normal retirement allowable by Regulations 1990 and that the reorganisational setup of BADC having 6800 man-power is the policy decision of the Government and furthermore, service benefits which have been provided by the voluntary retirement programme and the order of release from service pursuant to the office order dated 15-10-2002 and 29-10-2002 are similar except some excess benefits over gratuity allowance are given in case of voluntary retirement and that Regulation 55(2) merely made it a condition to make payment of 3 months' pay if no notice to release is given for any reason. Further, the orders of release do not contain any stigma and the respondent Nos.2-8 have also not been released for any act subversive of the discipline or for any misconduct.

23. The learned Counsel appearing for the respondents submitted that the notification dated 17-11-1999 was published in Bangladesh Gazette on November 22, 1999 (Annexure-B to the writ petition) and the appellants claimed to have amended the said notification by notification dated 13th October 2002 (Annexure-D to the writ petition) but the above Annexure-B being published in the Bangladesh Gazette cannot be amended by subsequent notification by Annexure-D without publication of Annexure-D in the official gazette and, as such, the subsequent notification dated 13th October 2002, Annexure-D, is without any lawful authority and the actions taken on the basis of the said subsequent notification against the respondent Nos. 2-8 are illegal and further though the appellants claimed that they took action under Regulation 55(2) of Regulation 1990 but since the essential requisites of the above Regulation 1990 including payment of three months' notice in advance or making payment of three months salary in lieu of notice were not fulfilled, and so the impugned judgment and order does not call for any interference.

24. Leave was granted to consider the above mentioned submissions.

25. We have heard the learned Counsels and perused the materials, including the impugned judgment and order of the High Court Division and other papers on record.

26. Admittedly, the respondents are employees of BADC, a statutory corporation and the respondents being employees of State instrumentality are not governed by the general principle of master and servant and the management cannot have unrestricted and unqualified power of terminating the services of the employees. The High Court Division has rightly found that the status of the employees of the statutory corporation has been settled by this Court in the case of BSI Corporation vs Mahbub Hossain reported in 29 DLR (SC) 41.

27. It appears that the High Court Division has considered the scope and ambit of Regulation 55(2) of BADC Service Regulations, 1990 and held as under:

"The aforesaid provision allowing termination of service requires either issuance of a notice in advance for a

period of three months or payment of salary for three months to the concerned employee. But it appears that even this minimum requirement of the Regulation was not complied.

It appears from the papers on record that the service of the petitioners were terminated in a lump in 4(four) Office orders.”

and further held:

“This kind of termination enmasse is never envisaged in Regulation 55(2). The orders itself show non-application of mind.....in its individual merit, in case of each of the individual petitioners on merit before their service is terminated.”

28. We find that the Regulation 55(2) of the BADC Regulations, 1990 has been correctly interpreted calling for no interference by this Court.

29. In Appeal No. 136 of 2007, the High Court Division held that BADC violated Regulation No. 55(2) of Regulation 1990 and also held that notification dated 17-11-1999 was published in Bangladesh Gazette on November 22, 1999 and the said notification was amended by notification dated 13th October 2002 but the gazette notification dated 17-11-1999 was published in the Bangladesh gazette whereas a subsequent notification was not published in the official gazette and, therefore, the notification dated 13 October 2002 (Annexure-D to the writ petition) is without any lawful authority and the actions taken on the basis of the said subsequent notification against the respondent Nos.2-8 are illegal.

30. Mr Abdul Wadud Bhuiyan, the learned Counsel appearing for the respondents, has referred to section 21 of the General Clauses Act which runs as under:

“21. Power to make, to include power to add to, amend, vary or rescind, orders, rules or bye-laws\_Where, by any [Act of Parliament] or Regulation, a power to [issue notifications], orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any [notifications], orders, rules or bye-laws so [issued].”

31. Mr Bhuiyan submitted that subsequent notification must have been published in the official gazette in the same manner as was done in respect of notification dated 17-11-1999. At the time of hearing of the appeals from appellants’ side papers were brought on record that subsequent notifications i.e. notification dated October 13 and 26 of 2002, were published in the official gazettes.

32. He further submitted that the subsequent notification was not even approved and sanctioned by the Government as was done in the case of earlier notification dated 17-11-1999.

33. Mr Bhuiyan vehemently argued that Regulation 55(2) is not only illegal but is arbitrary and opposed to public policy. In support of his contention, he has referred to the case of Central Inland Water Transport Corporation Ltd vs Brojo Nath Ganguly reported in AIR 1986 (SC) 1571.

34. In that case on interpretation of relevant Service Rule, the Indian Supreme Court held that the Rule empowering the Government Corporation to terminate service of its permanent employees by giving notice or pay in lieu of notice period is opposed to public policy and violative of Article 14 and directive principles contained in Article 39(4) and 41 of the Indian Constitution and held the relevant service Rule as, “the Henry VIII clause.”

35. In the instant case, the vires of Regulation 55(2) though challenged the High Court Division declined to declare the regulation as ultra vires as the High Court Division thought it prudent to dispose of the case otherwise than by striking down the regulation. The approach of the High Court Division is appreciated because

when a case can be decided without striking down the law but giving the relief to the petitioners that course is always better than striking down the law.

36. In the instant case, the High Court Division held that even Regulation 55(2) was not followed while terminating the services of the respondents and, therefore, the action of termination was declared illegal without striking down the regulation.

37. Mr Fida M Kamal, learned Senior Counsel, upon adopting arguments of learned Counsel in Appeal Nos. 158-184 of 2006 has argued further on the nature of judicial review of this Court and referred to Halsbury's Laws of England Vol. 1(1): Administrative Law 116. The relevant portion runs as under:

"The grounds upon which administrative action is subject to control by judicial review have been conveniently classified as threefold. The first ground is 'illegality': the decision maker must understand correctly the law that regulates his decision making power and must give effect to it. The second is 'irrationality', namely Wednesbury unreasonableness. The third is 'procedural impropriety. What procedure will satisfy the public law requirement of procedural propriety depends upon the subject matter of the decision, the executive functions of the decision maker (if the decision is not that of an administrative tribunal) and the particular circumstances in which the decision came to be made. Even where facts are 'jurisdictional' the Court's investigation of them is of a supervisory character and not by way of appeal."

38. The learned Senior Counsel submits that the impugned order of termination is neither illegal nor irrational nor unreasonable and therefore, should not have been declared illegal by the High Court Division.

39. It is true that the appellant should have the authority to terminate the employment of "undesirable, inefficient, corrupt, indolent and disobedient employees but such authority must be exercised fairly, objectively and independently and the occasion for the exercise must be delimited with precision and clarity" as was held in the case of Delhi Transport Corporation vs DTC Mazdoor Congress reported in AIR 1991 (SC) 101.

40. In the instant case, the High Court Division found that the termination was done arbitrarily without any application of mind and was rightly declared illegal.

We do not find any merit in these appeals which are accordingly, dismissed.

Ed.

Source : The Dhaka Law Reports (September 2008)

HIGH COURT DIVISION

(Special Original Jurisdiction)

Writ Petition No. 4861 of 2007 with Writ Petition No. 2579 of 2008

Md Abdur Rashid J

Md Ashfaquul Islam J

ATM Jahangir Kabir and another .....Petitioners

vs

Bangladesh, represented by the Secretary, Ministry of Energy & Mineral Resources and others.....Respondents

August 11th, 2008

Judgment

Md Abdur Rashid J: The above Rules Nisi were issued against the Bangladesh Power Development Board calling upon them to show cause as to why the disciplinary actions taken against the petitioners should not be declared to have been taken without lawful authority and of no legal effect and/or pass such other order or orders as this Court may seem fit and proper.

2. In Writ Petition No. 4861 of 2007, the petitioner is stated to be an Assistant Engineer who was appointed on 21-6-2008 in the Bangladesh Power Development Board, in short, the Board, and on 25-6-80 he joined in the office of the then Construction Division of the Board, Mymensingh. Then, in 1986 he was promoted to Sub-Divisional Engineer and posted in the Mymensingh Electric Supply at Mymensingh.

3. While the petitioner was working as such he received a notice dated 29-5-93 (Annexure-A) asking him to show cause as to why disciplinary action would not be taken against him for negligence to duty and misconduct. On 6-7-93 the petitioner submitted his written explanation denying all the charges brought against him. He stated that the revised estimates were approved by proper authority, Superintendent Engineer of the Board.

4. The authority, however, did not accept the explanation and framed charges against the petitioner and by its letter dated 7-1-95 informed the petitioner that the authority found him guilty of negligence to duty and misconduct under section 138(a) and (c) of the Bangladesh Power Development Board (Employees) Service Rules, 1982, hereinafter referred to as the Rules, 1982. Mr AMM Feroz, chief Engineer, Civil Work, Dhaka was appointed Enquiry Officer for holding enquiry into the charges in respect of the works of the development of land and construction of fencing for 33/11KV Sub-station, development of land for Shumbaganj 33/KV switching Sub-station and renovation of Sub-station or Distribution Line of Electric Supply Mohonganj.

5. The Enquiry Officer directed the petitioner to show cause as to why the petitioner would not be removed from service and/or other penalty should not be imposed upon him on the aforesaid charges. Upon receipt of the charge sheet dated 7-1-95 the petitioner submitted his written explanation on 18-1-95 denying all the charges brought against him. He also stated that the project was implemented about seven years back and no excess measurement of work was taken by the petitioner. After elapse of seven years the works could not be found at the same stage. The enquiry was held in the absence of the petitioner.



HIGH COURT DIVISION

(Special Original Jurisdiction)

Writ Petition No. 4861 of 2007 with Writ Petition No. 2579 of 2008

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3. While the petitioner was working as such he received a notice dated 29-5-93 (Annexure-A) asking him to show cause as to why disciplinary action would not be taken against him for negligence to duty and misconduct. On 6-7-93 the petitioner submitted his written explanation denying all the charges brought against him. He stated that the revised estimates were approved by proper authority, Superintendent Engineer of the Board.

4. The authority, however, did not accept the explanation and framed charges against the petitioner and by its letter dated 7-1-95 informed the petitioner that the authority found him guilty of negligence to duty and misconduct under section 138(a) and (c) of the Bangladesh Power Development Board (Employees) Service Rules, 1982, hereinafter referred to as the Rules, 1982. Mr AMM Feroz, chief Engineer, Civil Work, Dhaka was appointed Enquiry Officer for holding enquiry into the charges in respect of the works of the development of land and construction of fencing for 33/11KV Sub-station, development of land for Shumbaganj 33/KV switching Sub-station and renovation of Sub-station or Distribution Line of Electric Supply Mohonganj.

5. The Enquiry Officer directed the petitioner to show cause as to why the petitioner would not be removed from service and/or other penalty should not be imposed upon him on the aforesaid charges. Upon receipt of the charge sheet dated 7-1-95 the petitioner submitted his written explanation on 18-1-95 denying all the charges brought against him. He also stated that the project was implemented about seven years back and no excess measurement of work was taken by the petitioner. After elapse of seven years the works could not be found at the same stage. The enquiry was held in the absence of the petitioner.



6. After perusing relevant record, the Enquiry Officer submitted his report dated 14-6-95 with a finding that charges against the petitioner ATM Jahangir Kabir were not established.
7. Long after the submission of the enquiry report, respondent Nos. 7 and 8 by their letter dated 24-2-97 informed the petitioner that the authority found him guilty of negligence in his duty and for misconduct under rule 138 (a) and (c) of the Service Rules, 1982 and under rule 139(l)(b) of the Rules, 1982 and imposed penalty upon the petitioner withholding next three yearly increments, each for a period of one year and for which no arrear would be allowed, which would be effective at once.
8. Being aggrieved by said letter dated 24-2-97, the petitioner presented an appeal to the Chairman of the Board on 24-1-2000. Having received no response, the petitioner again made an application dated 18-12-2006 requesting the authority to exonerate him from the penalty imposed. The authority, however, by another letter dated 24-4-2007 said respondent No. 7 informed the petitioner that his prayer dated 18-12-2006 was rejected. Hence, the writ petition.
9. None was found present to oppose the Rule or filed any affidavit-in-opposition in this writ petition.
10. In Writ Petition No. 2579 of 2008, the petitioner is stated to be a Sub-Assistant Engineer who was appointed on 26-7-84 and on 25-8-84 joined the Board in the Grid Maintenance Division at Dhaka. Then, he was promoted to Assistant Engineer in the year 1989 and posted to the Kabirpur Grid Substation, Grid Maintenance Division, Dhaka (North) vide memo dated 10-9-89. The petitioner was further promoted to Resident Engineer/Subordinate-Divisional Engineer and posted at the Hobiganj Electric Supply. In the course of service the petitioner was transferred to the Golapganj Electric Supply as Resident Engineer (Sub-Divisional Engineer) vide memo dated 27-3-2002 and later to the Moulvibazar Electric Supply. Then, the authority transferred him further by letter dated 30-6-2003 to the Bhairab Electric Supply, Kishoregonj as Resident Engineer (Sub-Divisional Engineer) and ultimately, transferred him to the Central Equipment Repairing Shop at Tongi, Gazipur vide letter dated 30-11-2004 as Resident Engineer (Sub-Divisional Engineer). While the petitioner was doing his job as such, he received a notice dated 3-7-2005, which asked him to show cause as to why disciplinary action would not be taken against him for negligence to duty and misconduct.
11. After receipt of the notice, the petitioner submitted his written explanation on 30-8-05, specifically denying the charges brought against him and stated that no average bill was made; and few meters were seized by the Court for those meters in accordance with guidelines of the Board and that average bills were done in accordance with the rules of the Board.
12. The authority however did not accept the explanation and framed charges against the petitioner vide order dated 25-9-2005 and asked the petitioner to further show cause as to why disciplinary action would not be taken against him for negligence to duty and misconduct under rule 138(a) and (c) of the Rules, 1982. Mr Md Khairul Kabir, an executive officer of the Board, was appointed enquiry officer. Upon receipt of the charge sheet dated 25-9-2005, the petitioner submitted his written explanation on 8-10-2005 denying all the charges with supporting papers. The petitioner appeared before the enquiry officer with all necessary papers. After examination of the evidence and materials, the enquiry officer submitted his report dated 17-2-2007 (Annexure-J) with a finding that the charges brought against the petitioner were not established.
13. After submission of the enquiry report, respondent No. 7, Deputy Director-3 by impugned letter dated



19-12-2007 informed the petitioner that the authority found him guilty of negligence to his duty and misconduct under rule 138(a), (c) and (e) of the Rules, 1982 withholding four yearly increments each for a period of one year and for which arrear would not be allowed and also to realise Taka 1,37,898.16 from the petitioner by forty-five installments at the rate of Taka 3,000 per installment and the remainder of Taka 2,828.16 by one or less installment.

14. Being aggrieved, the petitioner on 16-1-98 presented an appeal before the Chairman of the Board. Said respondent No. 7 by the impugned letter dated 26-2-2008 informed the petitioner that his prayer dated 16-1-2008 was rejected by the appropriate authority. Hence, the Writ Petition.

15. By filing a supplementary affidavit, it is further stated that after the submission of the inquiry report dated 15-2-2007 the authority did not issue second show cause notice to the petitioner asking him to show cause as to why the proposed penalty should not be imposed upon him.

16. Respondent No. 8, Assistant Director 3 on behalf of the Board appeared and filed an affidavit-in-opposition. In the affidavit, it is stated that the petitioner in collusion with thirteen 'Khudro Shilpa Grahok' planned to procure average

17. This is self-contradictory and not acceptable to the authority. For this reason, the authority examined the Nothi and the charges against the petitioner were found true. In this situation, the order imposing penalty upon the petitioner withholding four yearly increments etc. was perfectly justified.

18. Mr Md Abdul Haque, learned Advocate for the petitioners, submits that in view of clear findings by the enquiry officer that the charges brought against the petitioners were not established, the Board or the authority acted beyond its jurisdiction by imposing penalty upon the petitioners withholding yearly increments, etc.

19. He submitted that in the absence of any further enquiry save and accept aforesaid enquiry reports, the penalty imposed upon the petitioner was therefore, unauthorised, unwarranted and uncalled for.

20. In the latter writ petition, it was also submitted that penalty was imposed without any service of second show cause notice.

21. Mr Md Hafizur Rahman, learned Advocate for the respondent No. 8 in Writ Petition No. 2579 of 2008, however, submitted that after examining the enquiry report and charges the authority imposed the penalty against the petitioner which do not call for any interference by this court.

22. As the facts stated hereinabove were not disputed, we do not see any need to reiterate them. In both cases, enquiry officers were appointed by the authority to probe into the allegations of negligence to duty and misconduct, etc. against the petitioners. The petitioners submitted their written explanations to the charges brought against them. They denied the charges and in support produced relevant materials.

23. Upon examination of the evidence adduced and the record, both the enquiry officers came to a clear finding in both the cases that the charges brought against the petitioners were not established. Upon receipt of such enquiry reports, respondent No.7 communicated the impugned orders to the petitioners stating that the Board or the authority after examination of the enquiry reports and record found the petitioners guilty.

24. In the earlier writ petition, under rule 139 (1)(b) of the Rules, 1982 penalty was imposed withholding three yearly increments each for one year for which no arrear would be granted. While in the latter writ petition the petitioner was found guilty under rule 139(l)(b) and (e) of said Rules, 1982 and imposed penalty withholding four yearly increments each for one year of which arrear would not be granted and also asked the petitioner to



pay Taka 1,37,898.16 in forty-five installments and Taka 2898.16 by one installment.

25. Against such punishment both the petitioners presented appeals or review before the Chairman of the Board. By letters dated 24-4-2007 and 26-2-08 issued by said respondent No. 7 informed the petitioners that their prayers were rejected by the authority.

26. Chapter XVII of said Rules, 1982 deals with punishment and appeal of the employees of the Board. Rule 138 prescribes the grounds for penalty and rule 139 prescribes the penalties. Rule 140 provides that the power to impose penalty upon the employees under rule 139 shall vest in the authority competent to make appointment. Rule 143 deals with inquiry procedure for negligence, inefficiency, misconduct and corruption.

27. Clause (4) of rule 143 provides, inter alia, that after the submission of the enquiry report, the authority competent to impose the penalty shall consider the written statement submitted by the employee in his defence, the report of the enquiry officer and other circumstances, if any, to impose such penalty as it may deem proper in the circumstances of the case.

28. Proviso to such clause provides that the decision of the authority shall be communicated by an order in writing to the employee concerned. The proceeding under this Rule shall be completed within three months from the date of framing charge against an employee.

29. Rule 146 provides for appeal, etc.-(1) An employee shall have the right to appeal once only against an order imposing any penalty specified in rule 139, except censure to the authority next superior to the authority imposing the penalty, and where the penalty is imposed by an order of the Board there shall ordinarily lie no appeal but the Board may review its own order suo moto or on receipt of representation from the employee concerned. The Government may entertain an appeal against an order of the Board if it has reasons to believe that a violation of law or gross injustice has been done. Any order passed disposing such appeal or review appears to be made final.

30. It is found hereinabove that in both the cases, the enquiry officers found the charges of negligence to duty and misconduct brought against the petitioner were not established. In both impugned letters dated 24-2-97 and 19-12-2007 issued under the signature of respondent No. 7 were stated that after examination of the enquiry reports, the written statements submitted by the petitioners and other papers and records the Board found the petitioners guilty. In the earliest writ petition punishment was imposed under rule 139(l)(b) withholding three yearly increments. In the latter writ petition withholding four yearly increments and also asking the petitioner to pay Taka 1,37,898.16 under clause (4) of rule 143.

31. It appears that the reports of the enquiry officers are not binding upon the Board. But such plenary power could only be exercised despite the reports of enquiry on the basis of certain conclusion that the petitioner was guilty, after further notice to show cause, before imposition of such penalty. In the impugned orders, we find exercise of the powers imposing penalty without any basis whatsoever. Similarly, disposal of the appeals which is the last forum for decision on facts and law by one sentence cannot be appreciated. Such kind of disposal of appeals must be held to be not in accordance with law, lacking application of mind.

32. Statutory powers given for disciplinary action must be exercised in such a way so that not only the delinquent employee could understand why he was punished but also any prudent person may find the reasons justifying the action taken. This kind of disposal of disciplinary proceeding was always deprecated but without any result.



33. For the reasons aforesaid, there is no escape from the conclusion that imposition of penalty despite the conclusions of the enquiry officers, which are not based on any material, cannot be sustained in law.

34. In the result, both the Rules are made absolute without however any order as to cost.

Impugned letters dated 24-2-97 and 19-12-2007 respectively challenged in the Rules are hereby declared to have been issued without lawful authority and, as such, of no legal effect and accordingly, quashed. Communicate at once.

Ed.

Source : The Dhaka Law Reports (September, 2008)



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Impugned letters dated 24-2-97 and 19-12-2007 respectively challenged in the Rules are hereby declared to have been issued without lawful authority and, as such, of no legal effect and accordingly, quashed. Communicate at once.

Ed.

Source : The Dhaka Law Reports (September, 2008)



## COMMITTEE AND OFFICE-BEARERS

(As on 31st December, 2008)

### PRESIDENT

Mr. Kamran T. Rahman  
Chairman & Managing Director  
Pubali Jute Mills Limited

### VICE-PRESIDENT

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

### MEMBERS OF THE COMMITTEE

Mr. Akhter Matin Chaudhury  
Managing Director  
Nuvista Pharma Limited

Mr. M. Anis Ud Dowlah  
Chairman  
Advanced Chemical Industries Limited

Mrs. Simeen Hossain  
Executive Director & Chief Executive Officer  
Transcom Limited

Mr. Habibullah N. Karim  
Managing Director  
Technohaven Company Limited

Mr. Golam Mainuddin  
Chairman  
British American Tobacco Bangladesh Co. Ltd.

Mr. Feroz Rahim  
Managing Director  
Rahimafrooz Batteries Limited

Mr. Ashfaque ur Rahman  
Managing Director  
Novartis (Bangladesh) Limited.

Ms. Perveen Rasheed  
Managing Director  
Social Marketing Company

Mr. Sakif Ariff Tabani  
Managing Director  
Khadim Ceramics Limited

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  
Chairman  
Bangladesh Jute Mills Association

Mr. M. Salman Ispahani  
Chairman  
Bangladeshiyo Cha Sangsad

Mrs. Sonia Bashir Kabir  
Member  
Women Entrepreneurs' Association, Bangladesh

Mr. Abdul Hai Sarker  
Chairman  
Bangladesh Textile Mills Association.

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

### SECRETARY-GENERAL

## 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
	<b>Total</b>	<b>31.09</b>	<b>7.89</b>	<b>38.98</b>	<b>34.48</b>	<b>9.84</b>	<b>44.32</b>	<b>36.08</b>	<b>11.28</b>	<b>47.36</b>

**Note:** (♦Provisional) indicates population 15 years and above as per Labour Force Survey 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
	<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>						

(♦Provisional) indicates population 15 years and above as per Labour Force Survey 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
	<b>Total</b>	<b>31.09</b>	<b>7.89</b>	<b>38.98</b>	<b>34.48</b>	<b>9.84</b>	<b>44.32</b>	<b>36.08</b>	<b>11.28</b>	<b>47.34</b>

(♦Provisional) indicates population 15 years and above as per Labour Force Survey 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 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
	<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>						

(♦Provisional) indicates population 15 years and above as per Labour Force Survey 2005 – 06

## 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
	<b>Total</b>	<b>16.08</b>	<b>11.28</b>	<b>47.36</b>	<b>8.57</b>	<b>2.66</b>	<b>11.22</b>	<b>27.51</b>	<b>8.62</b>	<b>36.13</b>

(♦Provisional) indicates population 15 years and above as per Labour Force Survey 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
	<b>Total</b>	<b>100.0</b>								

(♦Provisional) indicates population 15 years and above as per Labour Force Survey 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	
	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employees
2000-01	71.13	68.31	71.78	71.86	68.79	75.29
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
2007-08	64.35	57.81	72.56	72.62	24.91	28.22

### 2008

January	64.31	57.78	72.76	72.62	24.97	27.81
February	64.31	57.78	72.56	72.62	24.87	27.75
March	64.41	57.78	72.57	72.63	24.55	27.37
April	64.45	57.50	72.59	72.65	22.98	27.56
May	64.52	57.96	72.63	72.63	22.85	26.42
June	64.53	57.97	72.65	72.71	22.70	26.07

(Continue.....)



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

Period	Cement		Fertilizer		Petroleum		Paints & Varnishes	
	Production Workers	All Employees						
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
2007-08	150.13	134.46	85.14	89.62	101.90	118.04	177.00	147.20

### 2008

January	149.79	134.20	86.57	89.90	101.36	118.85	176.47	146.98
February	150.41	134.62	86.19	89.62	101.36	118.85	176.47	146.98
March	150.82	135.07	84.73	88.99	101.36	118.85	177.54	148.14
April	151.09	135.44	73.93	85.97	101.36	118.85	178.61	148.83
May	151.78	136.05	79.76	86.18	101.36	118.85	173.14	149.29
June	152.19	136.50	78.20	85.41	101.36	118.85	179.14	149.53

Source: Monthly Statistical Bulletin, Bangladesh Bureau of Statistics.

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

Period	Jute		Cotton		Paper	
	Production Workers	All Employees	Production Workers	All Employees	Production Workers	All Employees
2000-01	93.88	97.76	142.79	142.63	86.72	79.24
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
2007-08	89.83	100.00	400.06	399.74	112.80	99.57

### 2008

January	86.46	96.23	399.56	399.23	108.41	97.34
February	83.52	92.96	402.27	401.94	117.85	107.56
March	89.19	99.27	402.50	402.17	145.91	103.87
April	90.36	100.58	403.09	402.76	149.43	129.29
May	90.07	100.25	405.05	404.72	144.40	124.60
June	113.68	126.54	406.69	406.35	166.25	144.76

(Continued.....)



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

Period	Cement		Fertilizer		Petroleum		Paints & Varnishes	
	Production Workers	All Employees						
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
2007-08	469.84	524.59	116.22	110.41	113.49	97.98	672.13	808.20

### 2008

January	442.23	493.61	131.15	126.29	105.37	89.86	687.62	825.59
February	441.00	492.73	116.44	11.98	111.06	94.71	688.95	827.18
March	486.15	542.84	140.46	133.73	110.75	94.45	674.58	808.46
April	489.92	546.53	106.85	99.35	127.94	109.11	672.51	807.07
May	525.51	586.27	128.21	118.65	93.21	79.49	658.44	790.09
June	531.46	592.54	141.04	129.14	144.23	123.01	655.82	785.69

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	2004 - 05	2005 - 06	2006 - 07	2007 - 08	2008		
						June	July	August
Mason (Skilled)	Chittagong	194.60	210.00	221.50	240.75	262.00	262.00	262.00
	Dhaka	204.25	210.83	228.00	250.92	262.00	263.00	265.00
	Khulna	160.00	175.00	188.00	206.42	245.00	250.00	250.00
	Narayanganj	200.00	209.16	225.00	247.08	250.00	250.00	250.00
	Rajshahi	154.67	170.00	184.50	204.92	240.00	242.00	242.00
	Rangpur	184.00	175.00	192.08	248.18	250.00	250.00	250.00
	Sylhet	150.00	185.00	200.00	-	-	-	-
Helper to Mason	Chittagong	104.50	106.00	118.00	136.67	160.00	160.00	162.00
	Dhaka	119.25	112.25	131.00	150.00	160.00	162.00	165.00
	Khulna	91.75	90.00	98.67	116.67	155.00	155.00	155.00
	Narayanganj	100.00	112.10	121.25	151.66	180.00	160.00	180.00
	Rajshahi	89.25	90.00	96.83	109.17	145.00	145.00	145.00
	Rangpur	93.75	85.00	98.18	104.55	130.00	140.00	150.00
	Sylhet	100.00	127.27	150.00	-	-	-	-

(Continued.....)



## AVERAGE DAILY WAGE RATES OF CONSTRUCTION LABOUR IN PRINCIPAL TOWNS

(Value in Taka)

Types of Labour	Town	2004 - 05	2005 - 06	2006 - 07	2007 - 08	2008		
						June	July	August
Carpenter (Skilled)	Chittagong	205.42	226.00	280.00	280.00	280.00	280.00	280.00
	Dhaka	200.00	200.00	250.00	287.00	300.00	300.00	300.00
	Khulna	150.00	150.00	150.00	117.50	210.00	210.00	210.00
	Narayanganj	200.00	200.00	250.00	265.83	290.00	300.00	300.00
	Rajshahi	120.00	128.00	143.33	165.83	180.00	180.00	200.00
	Rangpur	160.00	152.00	153.33	170.00	200.00	200.00	200.00
	Sylhet	180.00	185.45	200.00	-	-	-	-
Plumber (Sanitary fitter)	Chittagong	210.00	250.00	250.00	262.50	300.00	300.00	300.00
	Dhaka	230.00	200.00	258.33	250.00	250.00	350.00	400.00
	Khulna	151.25	151.00	154.58	195.25	200.00	200.00	230.00
	Narayanganj	200.00	200.00	250.00	275.00	300.00	370.00	275.00
	Rajshahi	200.00	200.00	200.00	175.00	200.00	200.00	200.00
	Rangpur	186.25	177.00	178.75	238.18	250.00	250.00	250.00
	Sylhet	180.00	185.45	200.00	-	-	-	-

(Continued.....)

## AVERAGE DAILY WAGE RATES OF CONSTRUCTION LABOUR IN PRINCIPAL TOWNS

(Value in Taka)

Types of Labour	Town	2004 - 05	2005 - 06	2006 - 07	2007 - 08	2008		
						June	July	August
Painter	Chittagong	207.50	209.00	217.50	255.83	285.00	285.00	285.00
	Dhaka	200.00	200.00	218.33	267.00	300.00	275.00	300.00
	Khulna	142.19	149.00	157.08	183.33	200.00	200.00	210.00
	Narayanganj	200.00	200.00	227.00	234.17	170.00	250.00	260.00
	Rajshahi	120.00	127.00	150.00	172.50	200.00	200.00	200.00
	Rangpur	181.25	176.00	160.91	195.00	220.00	230.00	250.00
	Sylhet	180.00	185.45	200.00	-	-	-	-
Electrician	Chittagong	225.00	250.00	250.00	300.00	300.00	300.00	300.00
	Dhaka	250.00	200.00	258.33	272.00	300.00	350.00	350.00
	Khulna	144.13	149.00	152.50	181.67	200.00	200.00	235.00
	Narayanganj	250.00	200.00	250.00	304.00	300.00	375.00	250.00
	Rajshahi	120.00	127.00	200.00	187.50	200.00	220.00	220.00
	Rangpur	187.92	181.00	182.28	213.18	230.00	230.00	250.00
	Sylhet	180.00	185.45	200.00	-	-	-	-
Brick Breaking 1" size khua per 100 cft	Chittagong	745.84	875.00	775.00	720.83	750.00	800.00	800.00
	Dhaka	800.00	983.33	800.00	1020.00	1200.00	-	-
	Khulna	600.00	622.00	617.25	579.17	600.00	650.00	650.00
	Narayanganj	833.00	953.33	800.00	1000.00	1000.00	-	-
	Rajshahi	500.00	490.00	733.33	820.83	850.00	850.00	850.00
	Rangpur	600.00	670.00	714.55	758.18	900.00	1000.00	1000.00
	Sylhet	800.00	120.00	800.00	-	-	-	-

(Continued.....)



Types of Labour	Town	2004 - 05	2005 - 06	2006 - 07	2007 - 08	2008		
						June	July	August
Situ Mosaic per sft. (fitting charge)	Dhaka	16.50	18.83	25.82	25.00	25.00	25.00	25.00
Glazed Tile per sft (fitting charge)	Dhaka	15.00	18.00	20.17	25.00	25.00	25.00	25.00
Floor Tile Per sft (fitting charge)	Dhaka	15.00	18.00	20.17	25.00	25.00	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	2003-04	2004-05	2005-06	2006-07	2007-08	2008		
							June	July	August
<b>Medium &amp; Large Scale Industry</b>									
(i) Cotton Textile	Skilled	129.67	129.67	129.67	129.67	164.89	219.25	219.75	223.00
	Unskilled	109.94	109.94	109.94	109.94	120.53	148.75	148.75	148.75
(ii) Jute Textile	Skilled	129.67	129.67	129.67	129.67	163.55	215.00	215.75	217.00
	Unskilled	109.94	109.94	109.94	109.94	-	138.00	138.00	140.00
(iii) Match	Skilled	129.67	129.67	129.67	129.67	158.98	200.00	201.25	203.75
	Unskilled	109.94	109.94	109.94	109.94	117.81	133.00	134.25	136.00
(iv) Engineering (fitter)	Skilled	211.74	245.17	262.38	280.06	304.96	321.25	323.00	325.00
	Unskilled	141.23	142.71	146.00	164.67	192.46	213.25	213.25	215.00
(v) Edible Oils	Skilled	121.25	123.56	126.50	163.34	145.69	125.00	216.25	218.75
	Unskilled	102.25	104.48	107.67	120.29	185.91	164.50	164.50	165.75
(vi) Small & Cottage Industry (weaver)	Skilled	127.56	139.44	152.61	169.54	185.02	199.50	200.25	201.25
	Unskilled	-	-	-	-	-	-	-	-
(vii) Construction	Skilled	171.56	177.63	191.49	205.50	225.75	255.50	253.00	255.50
	Unskilled	94.65	99.50	99.56	111.12	128.13	155.00	155.00	155.00

Source: Monthly Statistical Bulletin, Bangladesh Bureau of Statistics.



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

Period	General	Nominal Indices			
		Agriculture	Fishery	Manufacturing	Construction
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
2007-08	4227.00	3524.00	3669.00	5197.00	3549.00

### 2008

January	4129.00	3419.00	3570.00	5120.00	3415.00
February	4245.00	3570.00	3711.00	5204.00	3536.00
March	4366.00	3692.00	3802.00	5317.00	3692.00
April	4524.00	3793.00	3909.00	5539.00	3838.00
May	4655.00	3878.00	4004.00	5709.00	3974.00
June	4776.00	3984.00	4089.00	5849.00	4111.00

Source: Monthly Statistical 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
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
2008-09	206.43	221.64	186.67	173.10	184.46	194.75	189.25	222.12	181.44	188.84

### 2009

January	204.04	218.56	185.20	173.82	182.11	193.08	189.25	220.12	179.90	186.85
February	204.02	217.88	186.11	173.89	182.78	195.53	189.94	221.32	180.38	189.69
March	204.65	217.95	187.58	175.75	183.19	200.03	190.76	224.48	181.25	192.65
April	204.99	217.68	189.00	176.33	183.51	201.93	191.15	224.70	185.86	198.58
May	205.78	218.65	189.57	176.54	183.53	203.46	191.16	225.80	186.07	201.51
June	208.02	222.13	189.98	176.77	183.56	204.04	191.16	226.64	186.88	203.02

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
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
2008-09	208.46	218.38	191.59	169.68	199.33	189.12	194.47	219.63	184.66	184.85

**2009**

January	206.21	215.67	190.13	170.68	196.59	187.34	194.66	218.13	183.12	183.01
February	206.03	214.90	190.94	170.71	197.13	189.66	194.80	219.65	183.62	185.41
March	206.35	214.66	192.23	171.72	197.61	194.85	195.73	222.38	183.93	187.48
April	206.29	213.63	193.81	172.48	197.90	196.54	196.22	222.52	188.92	194.53
May	207.12	214.55	194.47	172.77	197.91	198.39	196.23	223.60	189.17	198.03
June	209.64	218.34	194.85	172.90	197.91	198.74	196.23	223.89	190.31	200.02

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
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
2008-09	201.49	229.60	174.69	181.42	148.24	208.46	176.54	228.18	173.59	198.58

### 2009

January	198.77	225.59	173.21	181.45	146.86	207.05	176.06	224.95	172.05	196.20
February	199.14	225.15	174.34	181.63	147.85	209.81	178.09	225.37	172.50	201.15
March	200.51	225.95	176.27	185.58	148.09	212.66	178.65	229.59	174.71	205.23
April	201.82	227.55	177.30	185.70	148.48	215.04	178.79	230.00	178.42	208.45
May	202.52	228.63	177.63	185.73	148.50	215.82	178.82	231.17	178.53	209.98
June	204.09	231.35	178.11	186.18	148.61	216.93	178.82	233.34	178.53	210.33

Source: Monthly Advance Release, Bangladesh Bureau of Statistics