

IN THE SUPREME COURT OF BANGLADESH
APPELLATE DIVISION

PRESENT:

Mr. Justice M. Enayetur Rahim

Mr. Justice Md. Abu Zafor Siddique

Mr. Justice Md. Shahinur Islam

CIVIL PETITION FOR LEAVE TO APPEAL NO.517 OF 2023

(From the order dated the 6th day of November, 2022 passed by the High Court Division in Administrative Appellate Tribunal No.261 of 2018 and in Administrative Tribunal Case No.89 of 2017)

The Agrani Bank Ltd., : . . . Petitioner
represented by the Deputy
General Manager (DGM)

-Versus-

Md. Akter Hossain and others : . . . Respondents

For the Petitioner : Mr. Mohibullah Tanvir, Advocate
instructed by Mr. Md. Nurul Islam
Chowdhury, Advocate-on-Record

For Respondent No.1 : Mr. Jahangir Kabir, Advocate
instructed by Ms. Shahanara Begum,
Advocate-on-Record

Respondent Nos.2-5 : Not represented

Date of Hearing and Judgment : The 29th day of July, 2024

J U D G M E N T

M. Enayetur Rahim, J: This civil petition for leave to appeal is directed against the judgment and order dated 06th November, 2022 passed by the Administrative Appellate Tribunal, Dhaka in Administrative Appellate Tribunal Appeal No.261 of 2018, in disallowing the appeal against the present appellant-petitioner and thereby affirming the judgment and order dated 24.09.2018 passed by the

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Administrative Tribunal No.1, Dhaka in Administrative Tribunal Case No.89 of 2017 in directing the post of the petitioner-respondent No.1 to be made permanent since 28.10.1999 along with all back financial benefits as admissible in law.

The present respondent No.1 (hereinafter referred to as respondent) on 28.10.1999 appointed as temporary গুদাম চৌকিদার (Godown Keeper) by the present petitioner Agrani Bank Ltd. After such appointment the respondent was directed to serve as Godown Keeper beyond his scheduled work. He was also directed to do official job. On 15.09.2011, 19.07.2012 and 14.05.2015 he applied for making his post permanent to the authority concerned which his controlling authority recommended to the higher authorities, but it was in vain.

The name of the respondent unfortunately was not enlisted in the list of the permanent employees. But in the year of 2011-2012 many employees were made permanent except the respondent. He is a Freedom Fighter and has been in the service for long 16 years. The job is being done by the respondent is the duty of the permanent employee. So his post must be made permanent in accordance the provision of law. As the respondent is deprived of in not making

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his post permanent, so at last he approached before the Administrative Tribunal seeking relief.

On the other hand, the present petitioner filed a written statement dyeing the material allegations brought by the respondent.

In the written statement it is stated that the respondent appointed on 28.09.1999 in the temporary post of Godown Keeper by Deputy General Manager, Agrani Bank, Zonal Office, Dinajpur. He was not competent to be made permanent to the Godown Keeper. The case is time barred and is not filed in the proper court. Hence the case is liable to be dismissed.

The Tribunal after hearing the respective parties allowed the case against the present petitioner and others with a direction to make the post of the respondent permanent since 28.10.1999 with all back financial benefit at admissible in law. On appeal the Administrative Tribunal affirmed the judgment and order passed by the Administrative Tribunal.

Being aggrieved by the same the Bank has filed this civil petition for leave to appeal.

Heard the learned Advocates for the respective parties, perused the judgment passed by the

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Administrative Tribunal as well as the Administrative Appellate Tribunal.

Having regard to the fact that the present respondent was appointed on temporary basis and this Division in several cases, in particular the cases reported in 71 DLR(AD), page-395, and 72 DLR(AD), page-188, held that there is no scope to absorb an employee in a regular post who was appointed absolutely on temporary basis where there is relevant laws and regulations for such appointment.

In view of the settled proposition of law settled by this Division, we have no hesitation to hold that the Tribunal as well as the Administrative Appellate Tribunal committed serious error in passing the impugned judgment and order, which is liable to be set aside.

Since we have heard the learned Advocates for the respective parties, we are inclined to dispose of the leave petition without granting any leave to avoid further delay of disposal of the case.

Accordingly, the judgment and order passed by the Administrative Appellate Tribunal affirming the judgment of the Tribunal is hereby set aside.

However, the leave petitioner is directed to give an opportunity to the present respondent for

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regular appointment relaxsing his age limit considering the fact that he has been serving as temporary employee since 1999, if he is otherwise qualified when such regular appointment will be made.

With the above observation this leave petition is disposed of.

স্বা/সি. ইনায়েতুর রহিম J.
 sdy Md. Abu Zafor Siddique J.
 sdy Md. Shahinur Islam J.

CERTIFIED TO BE A TRUE COPY
 N. Sultana
 04.12.24
 Superintendent
 Appellate Division
 Supreme Court of Bangladesh
 Joni
 04-12-2024

B O Imam Sarwar
 Total words: 813

02/22/2024

Case No. CP NO: 517/2023
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 A.O.R