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IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)

Writ Petition No.155 of 2018.

IN THE MATTER OF:

An application under Article 102 of the
Constitution of the People's Republic of
Bangladesh.

-And-

IN THE MATTER OF :

Md. Ibrahim

..... petitioner

-Versus-

Government of Bangladesh, represented by
the Secretary, Ministry of Labour and
Employment, Bangladesh Secretariat, Ramna,
Dhaka and others.

..... respondents

Mr. B.M. Elias with,
Mr. Shahriar Kabir, and
Mr. Syed Md. Tazrul Hossain, Advocates

.....For the Petitioner

Mr. Shaikh Mohammad Zakir Hossain,
Advocate

.....For the Respondent No.2

Heard on: 05.02.2023, 13.02.2023 and 29.03.2023

Judgment on : 03.04.2023

Present:

Ms. Justice Naima Haider

&

Mr. Justice Md. Khairul Alam

Naima Haider, J

On an application under Article 102 of the Constitution of the
People's Republic of Bangladesh, a Rule Nisi was issued calling upon
the respondents to show cause as to why the impugned illegal and
unlawful final show cause notice for compulsory retirement of the

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petitioner from his employment issued vide memo no.27.12. 0000. 012. 31. 028.17.831 dated 10.12.2017 under the signature of respondent no.3 should not be declared to have been issued without any lawful authority and is of no legal effect and/or pass such other or further order or order passed as to this court may seem fit and proper.

The brief facts necessary for the disposal of the Rule, are that:

The petitioner was appointed as an Apprentice Lineman by Chandpur Palli Bidyut Samity vide letter dated 26.12.2004. Thereafter, on 20.04.2006 he was promoted to Lineman, Grade-2 and vide a letter dated 04.10.2015 he was confirmed as Lineman, Grade-1. The petitioner has been discharging his duties with complete dedication and honesty and to the full satisfaction of the authority and there has never been any allegation raised against the petitioner by the Polli Biddut Samity or anybody else.

Under service order dated 20.09.2016 the petitioner together with an apprentice lineman went to address issues under Feder No.6 of Gulisha area. Upon reaching the service point, petitioner tried to contact complain departmental of Chandpur PBS-2. But he failed to establish contact as phone of the complaint department was switched of. Then the petitioner called the complaint department of Faridgonj Zonal office under Chandpur PBS-2 and found one Md. Saiful Islam, Lineman Grade-1. He stated the matter to said Saiful Islam and asked him to

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contact the officers and to arrange for shut down of Feder No.6 so that he could work in the main line.

The said Saiful Islam without informing his senior officers instead of Feder No.6, shut down feder No.4 and informed the petitioner to quickly finish his work. As soon the petitioner touched the line, he got electrocuted by the high voltage electricity line and received severe burn injuries to his body and got fainted. The petitioner was immediately taken to the local Hospital who referred him to Dhaka Medical Collee Hospital for treatment. In an attempt to save his life, right hand and right leg of the petitioner was amputated in Dhaka Medical College Hospital and finally the petitioner survives and recovered. The authority of Chandpur PBS-2 conducted an inquiry over the incidence found no fault on the part of the petitioner and concluded the incidence as an accident.

All on a sudden, the petitioner was issued with a show-cause notice dated 25.04.2017 under the signature of respondent no.3 and he replied the same and denied all the allegations. The authority issued formal charges against him and formed a committee to submit investigation report over the matter and the petitioner gave a reply to the charges brought against him by denying the charges. On 26.10.2017, the investigation committee submitted report and found the allegations against him were proved.

The respondent no.2 vide its letter dated 10.12.2017 issued final show cause notice before compulsory retirement of the petitioner from

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his service under the signature of respondent no.2 vide memo dated 10.12.2017 and the petitioner was directed to show cause within 10 working days from the receipt of the said notice. On 21.12.2017 he received the said notice. Following his recovery from the incidence and considering his amputated limbs, the petitioner has been posted in complain department of Chandpur PBS-2 where he has been discharging his duties without any problem. Even though the petitioner suffered such a life threatening accident at his workplace, he has not been given any financial assistance by the respondent no.2 for his medical treatment. He even after getting his right hand and right leg amputated, with great courage and determination taught himself to write efficiently with his left hand and has been serving at the complaint department of his current Samity.

Finding no other alternative efficacious remedy, the petitioner has moved this Court and obtained the instant Rule Nisi.

Respondent no.2 entered appearance by filing affidavit in opposition.

The case of respondent no.2, in short is that on 25.04.2017 the respondent no.3 issued a show cause notice upon the petitioner having found discrepancies in Management & Managing Audit report -2016 of Chandpur Palli Bidyut Samity-2. The petitioner was given an opportunity to provide explanation against allegations brought against him and he replied the same but the authority concern found the

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explanation unsatisfactory and improper. On 20.07.2017 the respondents started departmental proceedings against him framing formal charges in accordance with Rule 40 of the Palli Biddyut Samity Employee Service Code, 1992 (as amended-2012). The respondents formed an Inquiry Committee in accordance with Rule 40(3) of the PBS Employee Service Code, 1992 to investigate the allegations brought against him. The Inquiry committee found the petitioner guilty and submitted report of the said committee, final show-cause notice was served upon him. The petitioner did not challenge any procedural irregularities and thereby it cannot be said that there was violation of any mandatory provision of the said Service Code.

Mr. B.M. Elias, learned Advocate with the learned Advocate Mr. Syed Md. Tazrul Hossain, appearing on behalf of the petitioner submits that the circumstances under which the petitioner fell victim of such a serious accident and suffered so much, the authority should have considered the humanitarian aspect of the whole situation. He next submits that from the impugned notice it is clear that the authority is trying to get rid of the petitioner just because he has suffered an accident and lost his limbs. He lastly submits that the authority already had conducted an investigation over the incidence and found that the petitioner was not a fault but the authority subsequently re-opened the matter with a malafide intention to get rid of the petitioner, as such the impugned letter has been issued without any lawful authority.

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Per contra, Mr. Shaikh Mohammad Zakir Hossain, learned advocate appearing on behalf of the respondent no.2 submits that an Inquiry Committee was formed in accordance with law and the investigation committee conducted their investigation with due procedure. He next submits that the petitioner was given ample opportunity to defend himself but he failed to furnish proper explanation of the allegations brought against him which are extremely gross in nature. He lastly submits that the instant writ petition is pre-matured one as the departmental proceedings against the petitioner has not yet been concluded and the respondents have not made any decisions against him, rather served final show cause notice under Rule 41(2)(4) of the aforesaid Service Code,1992 giving him further opportunity to defend himself, as such the Rule is liable to be discharged.

We have perused the writ petition; supplementary affidavit filed by the petitioner, affidavit- in- opposition filed by the respondent no.2, its annexure, and others materials on record.

It appears from the record that the petitioner was appointed as an Apprentice Lineman by Chandpur Palli Bidyut Samity vide letter dated 26.12.2004. Thereafter, on 20.04.2006 he was promoted to Lineman, Grade-2 and vide a letter dated 04.10.2015 he was confirmed as Lineman, Grade-1. The petitioner has been discharging his duties with complete dedication and honesty and to the full satisfaction of the

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[Signature]

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authority and there has never been any allegation raised against the petitioner by the Polli Biddut Samity or anybody else.

In the case in hand, we find that the very nature of the job of some of the employees, such as lineman is highly risky and significant number of the employees of the respondent no.2 suffered life threatening accidents. To provide support to the employees who suffer on the job accident and get crippled to some extent. The respondent no.2 has a policy to retain them in service and give them suitable duties so that they can carry on with the employment. Since the petitioner recovered from the accident, with his right hand and right leg amputated, he has learned to write efficiently with his left hand and he has been discharging his duties in the dispute department in Chandpur PBS without any issue whatsoever.

The respondent No.2 filed Civil Petition for Leave to Appeal No.873 of 2018 against the ad-interim order of this writ petition but the Hon'ble Appellate Division of the Supreme Court did not interfere with the ad-interim order granted Hon'ble High Court Division in the instant matter.

We note that the petitioner has accepted the loss of his limbs and has relearned necessary skills to carry on with his day to day life and his life as an employee of the respondent no.2. We are of the view that the punishment so imposed is too harsh. Respondent no.2 had scope to take a lenient view instead of issuing the impugned order of compulsory


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বাংলাদেশ
কোর্ট ফি



দুই
টাকা

retirement from service. In a case “Retarded Children's Vs D [1978]
IRLR, 128, page-130 held that :

“It is good sense and reasonable that in the ordinary way for a first offence you should not dismiss a man on the instant without any hearing or giving him a further chance”.

It further transpires from record that the respondent No.2 was hostile to the petitioner and was mindset to punish him as expeditiously as possible.

Considering all these facts and circumstances, we find merit in this Rule

Accordingly, the Rule is made absolute.

The impugned final show cause notice for compulsory retirement of the petitioner from his employment issued vides memo no.27.12.0000. 012. 31. 028.17.831 dated 10.12.2017 under the signature of respondent no.3 is declared to have been issued without any lawful authority and is of no legal effect.

There is, however, no order as to cost.

Communicate the judgment and order at once.

Naima Haider

Md. Khairul Alam, J:

I agree

Md. Khairul Alam

Typed by: Halim: 13.03.2025

Read by: 13.03.25

Exam by: 13.03.25

Readied by: 13.03.25

অতিরিক্ত অবকাশ প্রতিপাদি

13.03.25

সহকারী রেজিস্ট্রার

বাংলাদেশ সুপ্রীম কোর্ট, হাইকোর্ট বিভাগ

(১৮৭২ ইং সনের ১নং আইনের

৭৬ ধারামতে ক্ষমতা প্রাপ্ত)

13.03.25

Nasima Khatun
Superintendent

13.03.25
Ruhul Amin
Administrative Officer

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