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

Present:  
Mr. Justice Zafar Ahmed  
And  
Mr. Justice Md. Akhtaruzzaman

WRIT PETITION NO. 18215 OF 2017  
with  
WRIT PETITION NO. 9164 OF 2021

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. Abul Kaam Azad  
...petitioner in both writ petitions

-VS-

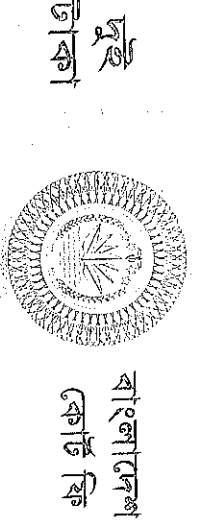
Government of Bangladesh and others  
....Respondents in both writ petitions

Mr. ABM Siddiqur Rahman Khan,  
Advocate  
.....For the Petitioner of both writ petitions

Mr. Shaikh Mohammad Zakir Hossain,  
Advocate  
.....For the Respondent No. 2 of both writ  
petitions

Heard On: 06.04.2022  
Judgment On: 03.08.2022.

*[Handwritten signature]*



**Zafar Ahmed, J.**

In both the writ petitions, the parties are same and facts are similar. For the sake of clarity and brevity, they are heard together and disposed of by this common judgment.

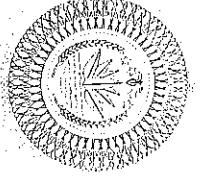
In Writ Petition (WP) No. 18215 of 2017, the petitioner challenged the order dated 19.11.2017 (Annexure-H) passed by the respondent Bangladesh Rural Electrification Board (in short, the 'BREB') rejecting the review application of the petitioner and thereby, affirming the order dated 09.10.2017 (Annexure-G) issued by the BREB awarding punishment of reduction of the salary of the petitioner to the lowest grade of the post of Deputy General Manager following the departmental proceedings. This Court, on 14.12.2017, issued a Rule Nisi.

In WP No. 9164 of 2021, the petitioner challenged the Memo dated 08.04.2021 (Annexure-E) issued by the Director (Finance) of the BREB refusing to settle/release the retirement benefits of the petitioner due to pendency of the WP No. 18215 of 2017. The petitioner further prayed for a direction upon the respondents to pay all the retirement benefits to him with interest from the date of his retirement *i.e.* from 31.01.2021. This Court, on 21.11.2021, issued a Rule Nisi and passed an interim order staying operation of the Memo dated 08.04.2021 (Annexure-E).

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Thereafter, on 30.11.2021 this Court passed the following order  
in WP No. 9164 of 2021:

*"Today is fixed for passing order.*

*It appears that inadvertently at the time of issuance of Rule and passing interim order dated 21.11.2021 the prayer C of the instant application was not mentioned. Accordingly, the respondents are directed to pay 80% of the retirement benefits at once to the petitioner pursuant to the provisions of Clause 2.12 of বেসামরিক সরকারী কর্মচারীদের পেনশন মঞ্জুরী ও পরিশোধ সংক্রান্ত প্রচলিত বিধি/পদ্ধতি সহজীকরণ, ২০০২ within 30(thirty) days from the date of receipt of the instant order."*

Brief facts, which are relevant for disposal of both the writ petitions, are as follows:

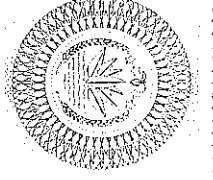
The petitioner joined in the service of the Bangladesh Rural Electrification Board (BREB) on 28.04.1988 as Assistant General Manager. Eventually, he was promoted to the post of Deputy General Manager (DGM). Thereafter, he was given the current charge of General Manager (GM) on 28.05.2014.

On 27.04.2017 the BREB initiated a departmental proceeding against the petitioner, under Rule 38(1)(ka)(gha) of the পল্লীবিদ্যুৎ সমিতি

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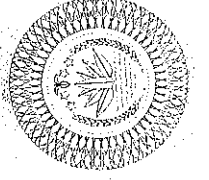
কর্মচারী চাকুরী বিধি, ১৯৯২ (in short, the “Service Rules, 1992”). The petitioner was found guilty of the charge and was awarded the penalty of the reduction of salary to the lowest grade of the post of Deputy General Manager, vide order dated 09.10.2017. The petitioner filed a review application which was rejected by the BREB, vide order dated 19.11.2017. Challenging the said order, the petitioner filed WP No. 18215 of 2017 and obtained one of the instant Rules which is now under adjudication.

In the meantime, the petitioner went on retirement on 31.01.2021 on attaining the retirement age of 60 years. Accordingly, he was released from the post of Deputy General Manager of Chattogram Palli Bidyut Samity-2. However, due to pendency of the WP No. 18215 of 2017, the Director (Finance) of the BREB, vide Memo dated 08.04.2021 refused to settle/release the retirement benefits of the petitioner. Challenging the said Memo dated 08.04.2021, the petitioner filed WP No. 9164 of 2021, obtained a Rule Nisi and order of stay which is now under adjudication. Subsequently, this Court, vide order 30.11.2021 directed the respondents to pay 80% of the retirement benefits to the petitioner at once. The said order has already been quoted above.

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The Chairman of the BREB (respondent No. 2) entered appearance in both the Rules. He also filed affidavit-in-opposition in WP No. 18215 of 2017.

When the Rules were taken up for hearing, the learned Advocate of the petitioner filed an application for disposal of the Rules directing the respondents to settle the petitioner's salary and retirement benefits in light of the Memo dated 20.09.2021 (Annexure-L to the application) issued by the BREB as well as Rule 52 of the Bangladesh Service Rules (BSR). The learned Advocate submits that in view of the Memo dated 20.09.2021, the petitioner decided not to contest the penalty awarded to him in the departmental proceeding which is the subject matter of WP No. 18215 of 2017. The application is opposed by the respondent No. 2 by the filing an affidavit-in-reply contending that the Memo dated 20.09.2021 and Rule 52 of the BSR have no manner of application to the case of the petitioner.

The relevant portion of the Memo dated 20.09.2021 issued by the BREB is quoted below:

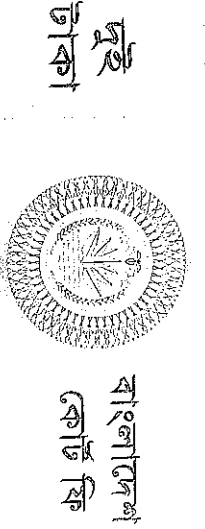
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তারিখঃ ০৫ আশ্বিন, ১৪২৮ বঙ্গাব্দ  
২০ সেপ্টেম্বর, ২০২১ খ্রিস্টাব্দ

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(ক) বাপবিবোর্ডের বিভিন্ন পদের ১৯ (উনিশ) জন দপ্তরাপ্ত কর্মকর্তা/কর্মচারীর উপর আরোপিত “বেতনস্কেল সর্বনিম্নস্তরে অবনমিতকরণ দণ্ড” পরবর্তী বেতন ও অন্যান্য

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সুবিধাদি নির্ধারণের বিষয়ে বোর্ড কর্তৃক অবহিত হয়ে এতদবিষয়ে বাংলাদেশ সার্ভিস রুলস (BSR) অনুযায়ী ব্যবস্থা গ্রহণের সিদ্ধান্ত প্রদান করা হলো।

(খ) বাপবিবোর্ডের আওতাধীন পল্লী বিদ্যুৎ সমিতির কর্মকর্তা/কর্মচারীগণের একই ধরনের দলের ক্ষেত্রে অনুরূপ সিদ্ধান্ত অনুসৃত হবে। সদস্য (সমিতি ব্যবস্থাপনা) এ বিষয়ে প্রয়োজনীয় কার্যব্যবস্থা গ্রহণ করবেন।

১৩/০৯/২০২১ খ্রিঃ তারিখে অনুষ্ঠিত বাংলাদেশ পল্লী বিদ্যুতায়ন বোর্ডের ৬৫১ (ছয়শত এক) তম বোর্ড সভায় গৃহীত সিদ্ধান্ত নং-১৮৪০৫ এর ভিত্তিতে এই দপ্তরাদেশ জারী করা হলো।

The above-quoted Memo does not mention any specific Rule of the BSR, However, it is admitted that Rule 52(1) of the BSR is the applicable Rule.

Rule 52(1) of the BSR is quoted below:

**Rule 52.** (1) When a Government servant is ordered to be reduced to a lower stage in a time-scale, the authority passing the order shall include in the order-

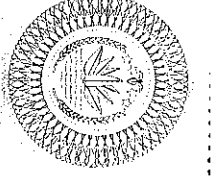
(i) a statement of the period for which the reduction is to remain in force, and

(ii) a statement whether on the expiry of the period the Government servant's previous service in the stage of the time-scale from which he was reduced, and the period during which the orders of reduction were in force, shall count for increment in whole or in part or not at all. If the former statement be not made, or be not clear, the period of reduction shall expire on the termination of the period at the close of which the officer would have drawn his next increment had the order of reduction not been passed; and if the latter statement be not made, or be not clear, the Government

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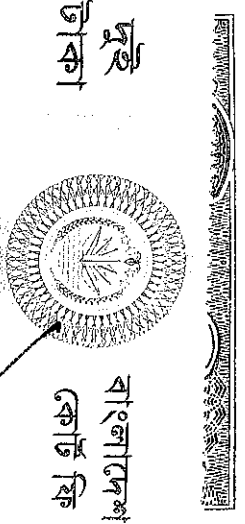
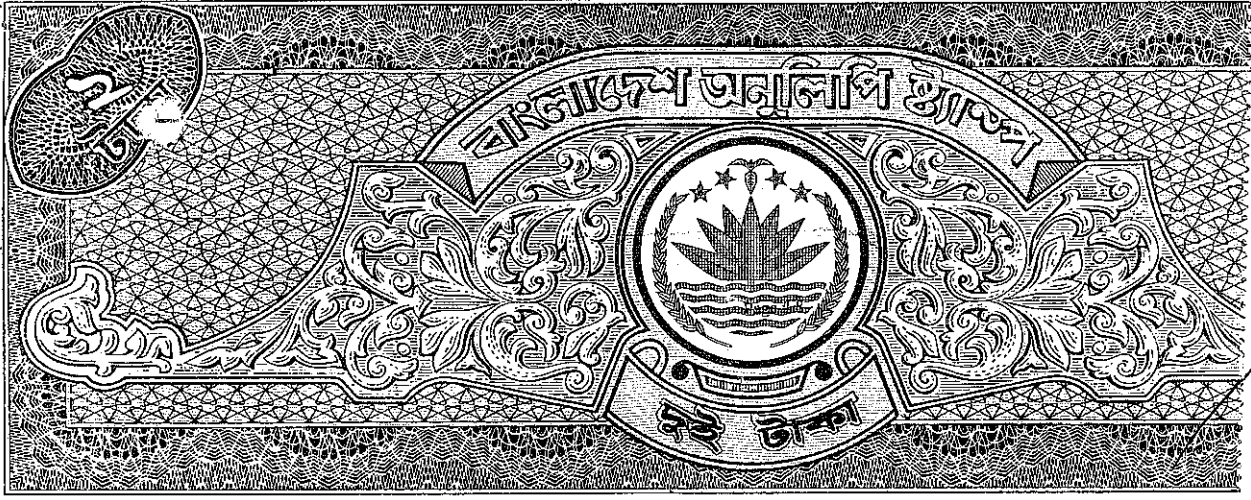


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servant shall be entitled, on the expiry of the period of reduction, to count towards increment his previous service in the state of the time-scale from which he was reduced, and the period during which the orders of reduction were in force. (emphasis supplied)

The petitioner was awarded punishment of reduction of salary to the lowest grade of the post of Deputy General Manager (নিম্নতর বেতনক্রমে অর্থাৎ ডেপুটি জেনারেল ম্যানেজার পদের বেতনক্রমের সর্বনিম্নধাপে অবতনতকরন) without mentioning any time frame.

Now, the question is whether the Memo dated 20.09.2021 applies to the case of the petitioner. It appears from the said Memo that the Board of the BREB on 13.09.2021 decided to apply the relevant Rule of the BSR to the cases of its 19 employees against whom the penalty of “reduction of salary to the lowest grade” (বেতনক্রমের সর্বনিম্নস্তরে অবনমিতকরন) was imposed. In so doing, the Board applied Rule 52(1) of the BSR retrospectively. In other words, Rule 52(1) has been given retrospective effect to 19 employees of the BREB, but the petitioner was left out perhaps due to pendency of WP No. 18215 of 2017. Had there been no writ petition filed by the petitioner challenging the penalty, the case of the petitioner, so far as it relates to retirement benefits, would have stood on the same footing as that of 19 employees of the BREB. Now, the petitioner has decided not to challenge the penalty imposed upon him. Therefore, the only



point left to be decided is the issue relating to retirement benefits of the petitioner. Considering the case of the petitioner, we are of the view that the petitioner is entitled to the benefit which was given to 19 employees of the BREB, vide the office order dated 20.09.2021 and that Rule 52(1) of the BSR shall govern the issue relating to retirement benefits of the petitioner. Accordingly, the application for disposal of the Rules is allowed.

The penalty imposed upon the petitioner, which is the subject matter of WP No. 18215 of 2017, does not call for any interference. The respondents are directed to settle the petitioner's salary, pension benefits and other relevant financial benefits, which is subject matter of WP No. 9164 of 2021, in accordance with Rule 52(1) and other relevant Rules of the BSR which have been made applicable retrospectively to the employees of the BREB, vide Memo dated 20.09.2021.

With the above observations and directions the Rules are disposed of.

Zafar Ahmed.

Md. Akhtaruzzaman, J.

I agree.

Md. Akhtaruzzaman

Typed by: Monir: 21.09.2022.  
 Read by: *[Signature]* 21.09.22  
 Exam. by: *[Signature]* 21.09.22  
 Readied by:

প্রত্যয়িত অধিকার প্রতিষ্ঠা  
 21.9.22  
 সরকারী রেজিস্ট্রার  
 বাংলাদেশ সুলীমা বেগম, অসিষ্টেণ্ট সিক্র  
 ১৮-৭৩-৩৩, ঢাকা-১১৯২ জি.ও.সি.ও.  
 ৩৬ সাধারণতে সংরক্ষিত প্রাক

*[Signature]*  
 21.9.22  
 মোহাম্মদ মাহফুজুল হক জুঁগা  
 প্রোগ্রামার কৰ্মকর্তা  
 Md. Abdul Momen  
 Superintendent

“দেশপ্রেমের সর্বমুখ নিব, দুর্নীতকে বিদায় দিন”