

IN THE SUPREME COURT OF BANGLADESH

APPELLATE DIVISION

PRESENT:

Mr. Justice MD. Ashfaqul Islam
Mr. Justice S.M. Emdadul Hoque
Mr. Justice A. K. M. Asaduzzaman

CIVIL PETITION FOR LEAVE TO APPEAL NO.346 of 2024.

(From the judgment and order dated 01.08.2023 passed by the High Court Division in Writ Petition No.216 of 2018)

Bangladesh Rural : ...Petitioner
Electrification Board
(BREB), represented by the
Chairman.

-Versus-

Mohammed Mahobobor Rahman : ...Respondents
and others

For the Petitioner : Mr. Shaikh Mohammad
Zakir Hossain, Senior
Advocate instructed by
Mr. Md. Nurul Islam
Chowdhury, Advocate-
on-Record.

For the Respondent No.1 : Mr. Ruhul Quddus,
Senior Advocate with
Mr. Saiful Alam,
Advocate instructed
by Mr. Md. Zahirul
Islam, Advocate-on-
Record.

For the Respondent Nos.2-3 : Not represented.

Date of hearing and order : The 09th November,
2025.

O R D E R.

ATTESTED

NS
Superintendent
Appellate Division
Supreme Court of Bangladesh
2

S.M. Emdadul Hoque, J:

This Civil Petition for Leave to Appeal is directed against the judgment and order dated 01.08.2023 passed by the High Court Division in Writ Petition No.216 of 2018.

The writ petitioner-respondent No.1 filed the aforesaid Writ Petition in the High Court Division, challenging the impugned final show cause notice for his compulsory retirement from service, contained in Memo No.27.12.0000.012.31. 016.16.856 dated 27.12.2017, issued under the signature of the writ respondent No.3-proforma respondent No.3.

The case, made out in the Writ Petition, in brief, is as follows:

On 20.07.1999, the writ petitioner-respondent No.1 entered the service of **Meherpur Palli Bidyut Samity** as a "**Plant Account Assistant**". Thereafter, on 22.01.2013, he was

ATTESTED

NS

Superintendent
Appellate Division
Supreme Court of Bangladesh

appointed as an "Accountant (Revenue)", and he joined his new posting at **Mymensingh Palli Bidyut Samity-1** on 31.01.2013. On 04.04.2017, a show cause notice was issued under the signature of the writ respondent No.3-proforma respondent No.3, containing certain allegations against the writ petitioner-respondent No.1. In response, on 13.04.2017, the writ petitioner-respondent No.1 submitted his written explanation denying all the allegations brought against him. Thereafter, on 21.05.2017, the authority commenced formal departmental proceedings by framing charges under Rule 38(1)(ka)(Ga)(Gha) of the Palli Bidyut Samity Service Code, 1992, and constituted a committee to submit an investigation report on the matter. On 21.09.2017, the writ petitioner-respondent No.1 submitted his reply once again denying all the charges. Following the investigation, the committee submitted its report on 18.10.2017,

ATTESTED

M

Superintendent
Appellate Division
Supreme Court of Bangladesh

wherein the allegations against the writ petitioner-respondent No.1 were found to be proved. Subsequently, the writ respondent No.2-petitioner, vide Memo No.27.12.0000.012.31.016.16.856 dated 27.12.2017, issued the final show cause notice in contemplation of the compulsory retirement of the writ petitioner-respondent No.1 and directed him to submit his reply within 10 (ten) working days from the date of receipt of the said notice.

Having found no other alternative or efficacious remedy, the writ petitioner-respondent No.1 moved before the High Court Division under Article 102 of the Constitution of People's Republic of Bangladesh and filed Writ Petition No.216 of 2018 and obtained a *Rule*.

The writ respondent No.2-petitioner appeared in the *Rule* and contested the same by filing an

ATTESTED

MS

Superintendent
Appellate Division
Supreme Court of Bangladesh

2

Affidavit-in-Opposition. The case of the writ respondent No.2-petitioner, as stated in the Affidavit-in-Opposition, may be summarized as under:

Since several allegations had been brought against the writ petitioner-respondent No.1, formal departmental proceedings were accordingly initiated against him. A committee was constituted to submit an investigation report in accordance with law, and upon completion of the investigation, the allegations brought against the writ petitioner-respondent No.1 were found to have been proved. Consequently, a final show cause notice was served upon him. As the writ petitioner-respondent No.1 did not at any stage raise any objection regarding procedural irregularity, it cannot be contended that there was any violation of any mandatory provision of the PBS Service Rules.

ATTESTED

MS

Superintendent
Appellate Division
Supreme Court of Bangladesh
2

After hearing the parties and having regard to the attending facts, circumstances, and relevant laws, the High Court Division, vide judgment and order dated 01.08.2023, made the Rule absolute with observations and directions.

Having been aggrieved by and dissatisfied with the judgment and order dated 01.08.2023 passed by the High Court Division in Writ Petition No.216 of 2018, the writ respondent No.2-petitioner filed the instant Civil Petition for Leave to Appeal in this Division.

Mr. Shaikh Mohammad Zakir Hossain, the learned Senior Advocate appearing on behalf of the writ respondent No.2-petitioner, made his submissions relying mainly on ground Nos.I, II, III and VI, along with an additional ground, which are as follows:

I. Because the High Court Division failed to consider that the writ

ATTESTED

NS

Superintendent
Appellate Division
Supreme Court of Bangladesh
2

petition is premature and merely challenging the show cause notice without availing the remedy under Rule 41 (2) (4) of the Pally Biddyut Employee Service Code, 1992 (as amended in 2012) and Rule 45 of Pally Biddyut Employee Service Code, 1992 (as amended in 2012) and it is the constant view of our Apex Court that in such circumstances relief is not available under Article 102 of the Constitution and as such the impugned judgment and order dated 01.08.2023 passed in Writ Petition No.216 of 2018 is unsustainable in the eye of law and hence the same is required to be set aside.

II. Because the judgment of the High Court Division is misconceived due to non-applying of judicial mind for making the rule absolute and directing the writ-respondents to reinstate him in the service by stopping one of his increments wherein the writ petitioner-

ATTESTED

M

Superintendent
Appellate Division
Supreme Court of Bangladesh

2

respondent No.1 is still in service and he merely challenged a final show cause notice which was served upon him to respond properly against the allegations found by the investigation committee. Hence the impugned judgment and order is liable to be set aside.

III. Because the High Court Division failed to distinguish between the application of Rural Electrification Board Employee Service Code, 1990 and Pally Biddyut Samity Employee Service Code, 1992 (amended in 2012). Rule ২ (ঘ) of REB Employee Service Code, 1990 states that কর্মকর্তা বলিতে বোর্ড এর কোনো কর্মকর্তাকে বুঝাইবে; and ২ (ঙ) of REB Employee Service Code, 1990 provides that 'কর্মচারী বলিতে বোর্ড এর স্থায়ী বা অস্থায়ী যে কোন কর্মচারীকে বুঝাইবে, এবং যে কোনো কর্মকর্তাও ইহার অন্তর্ভুক্ত হইবেন. On the other hand PBS Service Rules, 1992 defines its employees and officers as follows: ২(ঘ) কর্মকর্তা বলিতে পল্লী বিদ্যুৎ

ATTESTED

MS

Superintendent
Appellate Division
Supreme Court of Bangladesh

সমিতি এর যে কোন কর্মকর্তাকে বুঝাইবে। ২(ঙ)
 কর্মচারী বলিতে পল্লী বিদ্যুৎ সমিতি এর যে কোন
 কর্মচারীকে বুঝাইবে এবং যে কোনো কর্মকর্তাও ইহার
 অন্তর্ভুক্ত হইবেন। The writ petitioner-
 respondent No.1 appointed in the
 service of the Meherpur Palli
 Biddyut Samity as "Plant Account
 Assistant". Thereafter, on
 22.01.2013, he was appointed as an
 Accountant (Revenue) and on
 31.01.2013 he joined in his job at
 Mymensingh Palli Biddyut Samity-1.
 In 2017 several allegations were
 brought against the writ petitioner-
 respondent No.1 and pursuant to PBS
 Rules, 1992 at all material times
 the writ petitioner-respondent No.1
 was the employee of Pally Biddut
 Samity and as such, the departmental
 proceedings were conducted under the
 PBS Service Rules, 1992 duly. But
 the High Court Division delivered
 the Judgment stating that the
 departmental proceedings against the

ATTESTED

M

Superintendent
 Appellate Division
 Supreme Court of Bangladesh

writ petitioner-respondent No.1 was not initiated under REB Employee Service Rules, 1990 and as such committed manifest error in law and therefore, the impugned judgment and order is liable to be set aside.

IV. Because the BREB by exercising its power under Article 26 of the REB Ordinance, 1977 and Section 6(Tha) of the REB Act, 2013- formulated the service rules namely Palli Bidyut Samity Employee Service Code, 1992 (as amended in 2012) and evidently at all material times the writ petitioner-respondent No.1 was an employee of the Palli Bidyut Samity (PBS) and furthermore, the position becomes clearer as per Rule 45 of the PBS Employee Service Code, 1992, the writ petitioner-respondent No.1 holding the post of Accountant (Revenue) to a PBS, and yet the High Court Division failed to grasp such mechanics and arrived at the wrong conclusion of holding the writ

ATTESTED

NS

Superintendent
Appellate Division
Supreme Court of Bangladesh

2

petitioner-respondent No.1 as an employee of BREB Board and as such the impugned judgment and order dated 01.08.2023 passed by the High Court Division is liable to be set aside, for the ends of justice.

V. Because the Bangladesh Rural Electrification Board (BREB) was established in 1977 following the Rural Electrification Board Ordinance, 1977 which was subsequently repealed vide the Rural Electrification Board Act, 2013 and in both the Ordinance, 1977 as well as the Act, 2013, it has been categorically stipulated that the BREB is the regulatory body only and the PBS will function in accordance with the Rules to be framed by the BREB and accordingly the BREB formed two distinct sets of service regulations one is for the employee of the BREB itself (being REB Employee Service Code of 1990) and the other for the employee of the

ATTESTED

MS

Superintendent
Appellate Division
Supreme Court of Bangladesh

2

various PBS (being PBS Employee Service Code, 1992) and in the instant case, the writ petitioner-respondent No.1 was appointed for the PBS and as such his service is regulated by the PBS Service Code, 1992 and the High Court Division misdirected itself to arrive at the wrong conclusion of holding the departmental process undertaken under the PBS Service Code, 1992 to be without jurisdiction vide the impugned judgment and order and hence the same is liable to be set aside.

On the other hand, Mr. Ruhul Quddus, the learned Senior Advocate, along with Mr. Saiful Alam, the learned Advocate appearing on behalf of the writ petitioner-respondent No.1, made submissions in support of the impugned judgment and order dated 01.08.2023 passed by the High Court Division in Writ Petition No.216 of 2018.


ATTESTED

Superintendent
Appellate Division
Supreme Court of Bangladesh


We have heard the submissions advanced by the learned Counsel for both sides and perused the impugned judgment and order dated 01.08.2023 passed by the High Court Division in Writ Petition No.216 of 2018, together with the connected papers brought on record. In our view, the grounds raised by the learned Senior Advocate appearing on behalf of the leave-petitioner have merit for consideration.

Accordingly, the leave is granted on ground Nos.I, II, III and VI, along with the additional ground as mentioned above.

The security of taka 1,000/- (one thousand) is to be deposited within 1 (one) month.

The preparation of the paper book is dispensed with as prayed for.

The order of stay granted earlier by the learned Judge-in-Chamber shall continue till disposal of the Appeal.

ATTESTED

NS

Superintendent
Appellate Division
Supreme Court of Bangladesh

Let the Civil Petition for Leave to Appeal
No.845 of 2025 be tagged with the Appeal which
will arise out of the Civil Petition for Leave
to Appeal No.346 of 2024.

Sdt Md. Ashfaqul Islam, J.
Sdt S. M. Emdadul Hossain, J.
Sdt A. K. M. Asaduzzaman, J.

CERTIFIED TO BE A TRUE COPY

Muhammad
15.07.26

Superintendent
Appellate Division
Supreme Court of Bangladesh
Dini

15-07-2026