

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

WRIT PETITION NO. 8493 OF 2019

IN THE MATTER OF:

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

-And-

IN THE MATTER OF:

Mariam MujahidaPetitioner

-V E R S U S-

The Government of the People's Republic of Bangladesh, represented by the Secretary, Secondary and Higher Education Division, Ministry of Education, Bangladesh Secretariat, Dhaka and others.

.....Respondents.

Mr. Md. Humayun Kabir, Advocate

.....For the Petitioner

Mr. ABM Abdullah Al Mahmud, DAG with

Mr. Ashique Rubaiat, A.A.G

..... For the respondents

Present :

Mr. Justice K.M. Kamrul Kader

And

Mr. Justice Mohammad Ali

Heard On: 28.09.2021, 04.08.2022, 10.11.2022,

17.11.2022

And

Judgment on: 09.03.2023

K. M. Kamrul Kader , J :

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, this Rule *Nisi* was issued on 01.08.2019, in following terms:-

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why inaction of the

respondents in absorbing and regularizing the service of the petitioner as the Principal of the Government Rajoir Degree College, Rajoir, Madaripur by creating her post with effect from the date of Nationalization of her college and to pay her salary and other benefits as per provisions of the relevant national pay Scale of the government should not be declared to have been passed without lawful authority and is of no legal effect and as to why a direction should not be given upon the respondents to absorb and to regularize the service of the petitioner as the Principal of the government Rajoir Degree College, Rajoir, Madaripur by creating her post with effect from the date of nationalization of her college and to pay her salary and other benefits as per provisions of the relevant National Pay scale of the Government and /or pass such other or further order or orders as to this court may seem fit and proper.

Facts relevant for disposal of the Rule are that, the petitioner has been discharging her duties as Principal of the Government Rajoir College, Rajoir, Madaripur. She has successfully completed her academic career and obtained B.A (Hon's) and M.A degree in English, securing 2nd Class from University of Rajshahi and thereby she applied for the post of Lecturer, Department of English, Charmugria College, Madaripur, in response to the advertisement published by the concerned authority and the selection committee selected the petitioner to the said post. Consequently, she joined in the said college on 08.01.1992 in response to the appointment letter dated 01.01.1992 issued by the Principal of the said college and since then she has been serving as Lecturer of the said college for more than 10(ten) years. Thereafter, the petitioner was enlisted in the

Monthly Pay Order (MPO) from June, 1992, her Index No. is 400740 and since then she has been receiving the MPO benefits against her service. In the meantime, she was promoted as the Assistant Professor (A/P) from the Lecturer. In course of service, she applied for the post of the Vice-Principal, Kazi Mintu College, Kotalipara, Gopalganj, in response to the advertisement published by the concerned authority and the selection committee duly selected her for the said post of Vice-Principal and she joined in the said college on 23.09.2002 in response to the appointment letter dated 19.09.2002 issued by the Principal of the said College. Since then she has been serving as Vice-Principal of the said College for more than 06(six) years and she has been receiving the MPO benefits against her post from September, 2002 through her Index No. 400740. Thereafter, the petitioner applied for the post of the Principal, Rajoir Degree College, Rajoir, Madaripur in response to the advertisement published by the concerned authority and the Selection Committee duly selected the petitioner for the said post and she joined in the said college on 10.11.2008 in response to the appointment letter dated 06.11.2008 issued by the President of the Governing body of the said College and since then she has been serving as Principal of the said college for more than 10(ten) years and she has been receiving the MPO benefits against her post from November, 2008. Erstwhile; the Government of Bangladesh initially took a decision to Nationalize the said Rajoir Degree College, Madaripur and in pursuance of the said decision an inspection was conducted by an inspection team consisting with 01(one) member from the office of the Directorate of the Secondary and Higher Education Dhaka and after holding physical inspection, a report was submitted by the inspection

team to the Respondent No.8, Directorate of Secondary and Higher Education, Sikkha Bhaban, on 16.09.2018 and proposed to create 53 (fifty three) posts including the post of the petitioner, wherein the inspection team in its inspection report opined about the petitioner that - “ সংশ্লিষ্ট পদের নিয়োগ প্রক্রিয়া যথাযথ ছিল এবং বি. সি. এস (সাঃ শিঃ) ক্যাডারের প্রভাষক পদের জন্য কাম্য শিক্ষাগত যোগ্যতা আছে।” as evident Annexure:-F to the writ petition, but the respondent are sitting idle and did not pay any heed to it.

Thereafter, on 06.01.2019, another inquiry was held by an inquiry committee consisting of 03(three) members wherein they opined that,- “প্রভাষক এবং উপাধ্যক্ষ পদে জনাব মরিয়ম মুজাহিদার নিয়োগ বিধি সম্মত হয়নি বিধায় তাঁর পদ সৃজন করা যায় না।” (Annexure- G to the writ petition) but the said opinion is *malafide*, arbitrarily and in violation of the existing Rules and Regulations. In the meantime, on 12.05.2019, the husband of the petitioner filed an application with D.O. letter issued by the local Member of Parliament (MP) before the Respondent No.8, Director General, Directorate of Secondary and Higher Education, Shikkha Bhaban, Dhaka requesting him to re-inquire into the allegations made against the petitioner and also requested to consider the legal points raised by the petitioner in the body of the application filed on 12.05.2019. Having considered the said application filed by the husband of the petitioner, the Deputy Director (College), Directorate of Secondary and Higher Education, Shikkha Bahvan, Dhaka issued a letter on 23.06.2019 for forming an inquiry committee consisting of 03(three) members and directing them to submit inquiry report afresh within 07 (seven) working days, but said Committee did not submit any report till to date. It is further stated as per provision of the existing Rules and Regulation, the

petitioner is entitled to be regularised or absorbed in her respective post and position i.e. the Principal of the said Rajoir Degree College (now Government Rajoir Degree College) Rajoir, Madaripur. Next, the petitioner filed 2 (two) applications on 08.08.2018 to the Respondent No.1, Secretary, Ministry of Education, Dhaka and the respondent No.8, Director General, Directorate of Secondary and Higher Education respectively and requesting them to create the post of the petitioner and also to appoint the petitioner on Ad-hoc basis and regularizing / absorbing her as the Principal of the Government Rajoir Degree College, Rajoir, Madaripur, but the respondents remained silent without considering the claim of the petitioner or giving any reply.

It is also stated that the Government of Bangladesh finally took a decision to Nationalize the college of the petitioner i.e. Rajoir Degree College, Rajoir, Madaripur with effect from 30th March, 2016 contained in Memo No. 37.00.0000.070.02.023.2015-637 dated 11.04.2016 (Annexure-K to the writ petition). Thereafter, the respondent No.7, Deputy Secretary, Ministry of Public Administration, the Government of the People's Republic of Bangladesh, Dhaka issued a letter to the Secretary, Ministry of Education giving consent to create the 29 (twenty nine) post of the Government Rajoir, Degree College, Rajoir, Madaripur excluding the post of the petitioner contained in Memo No. 05.00.0000.155.15.053. 18-34 dated 29.01.2019 (Annexure:- L to the writ petition).

Being aggrieved by and dissatisfied with the inaction of the respondents to absorb and regularize the petitioner in her respective post,

finding no other alternative equally efficacious remedy, she filed this writ petition before this Court and obtained the instant Rule.

Mr. Md. Humayun Kabir, the learned Advocate for the petitioner submits that the inaction of the respondents in absorbing and regularizing the service of the petitioner as the Principal of the Government Rajoir Degree College, Rajoir, Madaripur by creating her post with effect from the date of nationalization of her college and to pay her salary and other benefits as per provisions of the relevant National Pay Scale of the Government is illegal, malafide, capricious in nature and has been passed by exercising high executive fiat and without considering the provisions of the Service Rules. Mr. Kabir also submits that the refusal of the respondents to absorb and regularize the service of the petitioner as the Principal of her College by creating her post with effect from the date of nationalization and to pay her salary and other benefits as per provisions of the relevant National Pay Scale of the Government is illegal and violative to the principle of natural justice. He also submits that before declaration of the said College as Nationalized College, the petitioner was duly appointed by the concerned Authority and joined in her College and got her salary and remuneration from the Government (MPO) from 2008 and subsequent years. The said College was nationalized in the year of 2016 and the petitioner should automatically be absorbed and regularized in her respective post with relevant pay scale of the said college from 30.03.2016, but the respondents refused to create the post of the petitioner and to absorb or regularize the service of the petitioner as the Principal of the nationalized college on the ground that she had no requisite

experience at the time of appointment of her earlier post i.e. Vice-Principal, which is not sustainable in the eye of law and as such, the respondents should be directed to absorb or regularize the service of the petitioner as the Principal of her Nationalized Government College from the date of nationalization of the said College and to pay her salary and other benefits as per provisions of the relevant National Pay Scale of the Government without making any delay and he prays for making the Rule Absolute. To substantiate his submission the learned Advocate for the petitioner cited the decisions in the case of (i) *Md. Nure Alam vs. The Government of the People's Republic of Bangladesh & others*, unreported judgment in writ petition No.5283 of 2017, (ii) *Tasaddaq Ahmad -vs.- Secretary, Ministry of Education, the Government of the People's Republic of Bangladesh*, unreported judgment in writ petition No.10886 of 2013, (iii) *Mukty Roy -vs.- Government of the People's Republic of Bangladesh & others*, reported in 23 BLD (HCD)-170, (iv) *Abdur Rahim & 6 others -vs.- Government of Bangladesh & others*, reported in 1 MLR (HCD)-213, (v) *Hosne Ara Khanam -vs.- Government of the People's Republic of Bangladesh & others*, reported in 1 MLR (HCD)-220, (vi) *Md. Abdur Razzaque -vs.- Md. Mizanur Rahman & others*, reported in 2016 (1) LNJ (HCD)-31 and (vi) *Anowara Chowdhury and others -vs.- Bangladesh & others*, reported in 24 BLC (HCD)-213.

Mr. Md. Ashiq-Ul- Haque learned Assistant Attorney General opposing the Rule by filing an affidavit-in-opposition on behalf of Respondent No.8 and submits that the Government Rajoir Degree College, Rajoir, Madaripur was Nationalized on 30.03.2016. Thereafter, on 24.04.2019, 27 (twenty seven) posts were created and on 29.07.2019,

16 (sixteen) Lecturers were appointed as Ad-hoc basis according to the provision of “জাতীয়করণকৃত কলেজ শিক্ষক ও অ-শিক্ষক কর্মচারী আত্মীকরণ বিধিমালা,২০০০”. He also submits that the petitioner has no requisite qualifications for the post of Principal in any Nationalized college as per above mentioned Bidhimala of 2000 and as such, the post of the petitioner was not created in the said college. Hence, the Rule is liable to be discharged.

We have heard the learned Advocates appearing for both the sides, perused the writ petition, affidavit-in-opposition and other materials on record annexed herewith.

Learned Assistant Attorney General argued that the petitioner has no requisite qualification to be appointed in the Charmuguria College. He referred to the investigation report dated 12.12.2018 as evident Annexure- ‘G’ to the writ petition, wherein it is categorically stated that, “তিনি প্রভাষক পদে সদর উপজেলার চরমুগুরিয়া কলেজে ০৮/০১/১৯৯২ খ্রি. তারিখে যোগদান করেন, প্রভাষক পদে যোগদানের সময় তাঁর কাম্য শিক্ষাগত যোগ্যতা ছিলো না। পরবর্তীতে ২৪/০৬/১৯৯২ খ্রি. তারিখে তাঁর মাস্টার্স পরীক্ষার ফলাফল প্রকাশিত হয় এবং ঐদিনই প্রভাষক পদে তার চাকুরী নিয়মিতকরণ করা হয়। কিন্তু তাঁর নিয়োগ নিয়মিতকরণের জন্য বিধি মোতাবেক নিয়োগ বিজ্ঞপ্তি এবং নিয়োগ বোর্ড গঠন করা হয়নি। ফলে প্রভাষক পদে তাঁর নিয়োগ বিধিসম্মত নয়।”

Let us now consider whether she has requisite qualification to be appointed as Lecturer of the Charmuguria College. First of all, the petitioner joined in the Charmuguria College on 08.01.1992 as Lecturer of the Department of English. Admittedly, the petitioner appeared in the M.A. examination and before publication of her result, she was appointed as Lecturer of the said college and her result was published on 24.06.1992

and on the same date, her service was regularized/confirmed by the appointing authority of the said college and the office of the DG enlisted him in the MPO list instead of raising any objection as to his premature entry. As the respondents did not raise any objection as to the petitioner's entry without requisite qualification and hence, we are of the view that the respondents' objection as to the petitioner's entry without requisite qualification cannot be sustained at this stage and that it is hit by the principles of estoppels and acquiescence. We find support of this contention in the Judgment and order in Writ Petition No.10886 of 2013 of Tasadduq Ahmad –vs.- Secretary, Ministry of Education and others, wherein their Lordships held that,

“It was an admitted position that appearing in the M.A. examination and before publication of the result thereof, the petitioner was appointed as a Lecturer. However, immediately after publication of the result and on submission of the certificate to the appointing authority his appointment was regularized and that the office of the DG enlisted him in the MPO list instead of raising any objection as to his premature entry and thus he has been continuing his service for the next 19 (nineteen) years on receipt of the benefits of time scale from time to time as per the Rules. Therefore, the respondents' objection as to petitioner's entry without requisite qualification can not sustain at this stage and that it is hit by the principles of estoppel and acquiescence.”

Now the question is whether she has requisite qualification and experience to be appointed as Vice- Principal and Principal of a non-government College. Admittedly, the Vice- Principal and Principal of a non-government College were appointed as per provision of বেসরকারী ডিগ্রী কলেজ শিক্ষকদের চাকুরীর শর্ত বিধি, ১৯৯৪, which approved by the meeting of the Academic Council of the National University wherein qualification and experience for appointment of the Principal, Vice- Principal and Lecturer of a non-government College were described, which reads as follows:

৪। শিক্ষক পদে নিয়োগের যোগ্যতা ও অভিজ্ঞতাঃ

(ক) অধ্যক্ষঃ প্রথম শ্রেণীর স্নাতক সম্মান ডিগ্রীসহ দ্বিতীয় শ্রেণীর স্নাতকোত্তর ডিগ্রী অথবা দ্বিতীয় শ্রেণীর স্নাতক সম্মান ডিগ্রীসহ প্রথম শ্রেণীর স্নাতকোত্তর ডিগ্রী ও ডিগ্রী কলেজ পর্যায়ে ন্যূনপক্ষে দশ বৎসরের শিক্ষকতার অভিজ্ঞতা, অথবা

দ্বিতীয় শ্রেণীর স্নাতক সম্মান ডিগ্রীসহ দ্বিতীয় শ্রেণীর স্নাতকোত্তর ডিগ্রী অথবা প্রথম বিভাগে স্নাতক (পাস) ডিগ্রীসহ দ্বিতীয় শ্রেণীতে স্নাতকোত্তর ডিগ্রী অথবা দ্বিতীয় বিভাগে স্নাতক (পাস) ডিগ্রীসহ প্রথম শ্রেণীর স্নাতকোত্তর ডিগ্রী ও ডিগ্রী কলেজ পর্যায়ে ন্যূনপক্ষে বার বৎসরের শিক্ষকতার অভিজ্ঞতা, অথবা দ্বিতীয় বিভাগে স্নাতক পাস ডিগ্রীসহ দ্বিতীয় শ্রেণীর স্নাতকোত্তর ডিগ্রী ও ডিগ্রী কলেজ পর্যায়ে ন্যূনপক্ষে পনের বৎসরের অভিজ্ঞতা।

নোটঃ অধ্যক্ষ নিয়োগের জন্য বিশ্ববিদ্যালয়ের অনুমতি গ্রহণ করিয়া অভিজ্ঞতার সময়কালের শর্ত শিথিল করা যাইতে পারে যদি অধ্যক্ষ পদপ্রার্থী এম.ফিল/ডক্টরেট ডিগ্রীর অধিকারী হন।

(খ) উপাধ্যক্ষঃ উপাধ্যক্ষ শিক্ষাগত যোগ্যতা অধ্যক্ষের শিক্ষাগত যোগ্যতার অনুরূপ হইবে। তবে এই পদের অভিজ্ঞতার সময়কাল অধ্যক্ষের অভিজ্ঞতার সময়কাল হইতে দুই বৎসর কম হইতে পারে।

It transpires from the record that the petitioner has been discharging her duties as the Principal of the Government Rajoir College, Rajoir, Madaripur at the time of nationalization of the college. She has successfully completed her academic career and obtained B.A (Hon's) and M.A degree in English, securing 2nd Class from University of

Rajshahi. Thereafter, she applied for the post of Lecturer, Department of English, Charmuguria College, Madaripur, in response to the advertisement published by the concerned authority and the selection committee duly selected the petitioner to the said post. Consequently, she joined in the said college on 08.01.1992 in response to the appointment letter dated 01.01.1992 issued by the Principal of the said college and since then she has been serving as Lecturer of the said college for more than 10(ten) years. Thereafter, the petitioner was enlisted in the Monthly Pay Order (MPO) from June, 1992 being index No. 400740 and since then she has been receiving the MPO benefits against her respective post. In the meantime, she was promoted as the Assistant Professor (A/P) from the Lecturer. Thereafter, she applied for the post of the Vice-Principal, Kazi Mintu College, Kotalipara, Gopalganj, in response to the advertisement published by the concerned authority and the selection committee duly selected her to be appointed for the said post of Vice-Principal and she joined in the said college on 23.09.2002 and since then she has been serving as Vice-Principal of the said College for more than 06(six) years and she was enlisted in the Monthly Pay Order (MPO) from September, 2002 in her respective post, under her Index No. 400740.

On careful examination of the regulation 4(Kha) of the “বে-সরকারী ডিগ্রী কলেজ শিক্ষকদের চাকুরীর শর্তাবলী রেগুলেশন, ১৯৯৪”, it also transpires that the petitioner was eligible to be appointed as the Vice-Principal of a Degree College. Admittedly, she has B.A (Hon’s) and M.A in English securing 2nd Class from the University of Rajshahi and having more than 10 (ten) years experience.

We also noticed that the petitioner applied for the post of the Principal, Rajoir Degree Collge, Rajoir, Madaripur in response to the advertisement published by the concerned authority and the selection Committee duly selected the petitioner for the said post and she joined in the said college on 10.11.2008 in response to the appointment letter dated 06.11.2008 issued by the President of the Governing body of the said college and since then she has been serving as Principal of the said college for more than 10(ten) years and she has been receiving her Monthly Pay Order (MPO) from November, 2008 as principal of the said College under index No. 400740. In the meantime, the Government of Bangladesh initially took a decision to Nationalize the said Rajoir Degree College, Madaripur and in pursuance of the said decision an inspection was conducted by an inspection team consisting with 01(one) member of the office of the Directorate of the Secondary and Higher Education Dhaka after holding physical inspection, a report was submitted by the inspection team of the Government on 16.09.2018 wherein he opined that, “সংশ্লিষ্ট পদের নিয়োগ প্রক্রিয়া যথাযথ ছিল এবং বি. সি. এস (সাঃ শিঃ) ক্যাডারের প্রভাষক পদের জন্য কাম্য শিক্ষাগত যোগ্যতা আছে।” Thereafter, on 06.01.2019 another inquiry was held by an inquiry committee consisting of 03(three) members wherein they opined that,- “প্রভাষক এবং উপাধ্যক্ষ পদে জনাব মরিয়ম মুজাহিদার নিয়োগ বিধি সম্মত হয়নি বিধায় তাঁর পদসৃজন করা যায় না।” It appears from the বেসরকারী শিক্ষা প্রতিষ্ঠান (মহাবিদ্যালয়সমূহ) এর শিক্ষক ও কর্মচারীদের জন্য নিয়োগ, যোগ্যতা, অভিজ্ঞতা ও বেতন স্কেল, that the petitioner have required qualification for the post of Principal. The qualification of the teachers is reproduced here in verbatim:

বেসরকারী শিক্ষা প্রতিষ্ঠান (মহাবিদ্যালয়সমূহ) এর শিক্ষক কর্মচারীদের বেতন ভাতাদির সরকারী অংশ প্রদান

এবং জনবল কাঠামো সম্পর্কিত নীতিমালা-১৯৯৫

পরিশিষ্ট-ক

বেসরকারী শিক্ষা প্রতিষ্ঠান (মহাবিদ্যালয়সমূহ) এর শিক্ষক ও কর্মচারীদের জন্য নিয়োগ, যোগ্যতা, অভিজ্ঞতা ও বেতন স্কেল

ক্রমিক নং	পদের নাম	নিয়োগের জন্য শিক্ষাগত যোগ্যতা (ন্যূনতম)	অভিজ্ঞতা	বেতন স্কেল	মন্তব্য
১	২	৩	৪	৫	
স্নাতক মহাবিদ্যালয়					
১।	অধ্যক্ষ	সরাসরি/পদোন্নতি ২য় শ্রেণীর অনার্সসহ ২য় শ্রেণীর স্নাতকোত্তর ডিগ্রী এবং সকল পরীক্ষায় ২য় বিভাগ থাকিতে হইবে। অথবা ১ম শ্রেণীর স্নাতকোত্তর ডিগ্রীসহ সকল পরীক্ষায় ২য় শ্রেণী/বিভাগ থাকিতে হইবে।	উপাধ্যক্ষ/সহকারী অধ্যাপক/উচ্চ মাধ্যমিক মহাবিদ্যালয়ের অধ্যক্ষ পদে ৩ বৎসরের অভিজ্ঞতাসহ মোট ১৫ বৎসরের শিক্ষকতার অভিজ্ঞতা।	৭১০০-৮৭০০/-	
২।	উপাধ্যক্ষ	সরাসরি/পদোন্নতি ২য় শ্রেণীর অনার্সসহ ২য় শ্রেণীর স্নাতকোত্তর ডিগ্রী এবং সকল পরীক্ষায় ২য় বিভাগ/শ্রেণী থাকিতে হইবে। অথবা ১ম শ্রেণীর স্নাতকোত্তর ডিগ্রীসহ সকল পরীক্ষায় ২য় শ্রেণী/বিভাগ থাকিতে হইবে।	সহকারী অধ্যাপক পদে ৩ বৎসরের অভিজ্ঞতাসহ মোট ১২ বৎসরের শিক্ষকতার অভিজ্ঞতা।	৬৩০০-৮০৫০/-	
৩।	সহকারী অধ্যাপক	পদোন্নতি সংশ্লিষ্ট বিষয়ে ২য় শ্রেণীর অনার্সসহ ২য় শ্রেণীর স্নাতকোত্তর ডিগ্রী এবং সকল পরীক্ষায় ২য় শ্রেণী/বিভাগ থাকিতে হইবে। অথবা ১ম শ্রেণীর স্নাতকোত্তর ডিগ্রীসহ সকল পরীক্ষায় ২য় শ্রেণী/বিভাগ থাকিতে হইবে।	সংশ্লিষ্ট শিক্ষা প্রতিষ্ঠানে প্রভাষক পদে ৮ বৎসরের অভিজ্ঞতা	৪৮০০-৭২৫০/-	
৪।	প্রভাষক	সরাসরি/পদোন্নতি সংশ্লিষ্ট বিষয়ে ২য় শ্রেণীর অনার্সসহ ২য় শ্রেণীর স্নাতকোত্তর ডিগ্রী এবং সকল পরীক্ষায় ২য় শ্রেণী/বিভাগ থাকিতে হইবে অথবা ১ম শ্রেণীর স্নাতকোত্তর ডিগ্রীসহ সকল পরীক্ষায় ২য় শ্রেণী/বিভাগ থাকিতে হইবে।		২৮৫০-৫১৫৫/-	

ক্রমিক নং	পদের নাম	নিয়োগের জন্য শিক্ষাগত যোগ্যতা (ন্যূনতম)	অভিজ্ঞতা	বেতন স্কেল	মন্তব্য
১	২	৩	৪	৫	
উচ্চ মাধ্যমিক মহাবিদ্যালয়					
১।	অধ্যক্ষ	সরাসরি/পদোন্নতি ২য় শ্রেণীর অনার্সসহ ২য় শ্রেণীর স্নাতকোত্তর ডিগ্রী এবং সকল পরীক্ষায় ২য় বিভাগ থাকিতে হইবে। অথবা ১ম শ্রেণীর স্নাতকোত্তর ডিগ্রীসহ সকল পরীক্ষায় ২য় শ্রেণী/বিভাগ থাকিতে হইবে।	সহকারী অধ্যাপক পদে মহাবিদ্যালয়ে ৫ বৎসরের অভিজ্ঞতাসহ মোট ১২ বৎসরের শিক্ষকতার অভিজ্ঞতা।	৬৩০০-৮০৫০/-	
২।	সহকারী অধ্যাপক	সরাসরি/পদোন্নতি ২য় শ্রেণীর অনার্সসহ ২য় শ্রেণীর স্নাতকোত্তর ডিগ্রী এবং সকল পরীক্ষায় ২য় শ্রেণী/বিভাগ থাকিতে হইবে। অথবা ১ম শ্রেণীর স্নাতকোত্তর ডিগ্রীসহ সকল পরীক্ষায় ২য় শ্রেণী/বিভাগ থাকিতে হইবে।	সংশ্লিষ্ট শিক্ষা প্রতিষ্ঠানে প্রভাষক পদে ৮ বৎসরের অভিজ্ঞতা	৪৮০০-৭২৫০/-	
৩।	প্রভাষক	সরাসরি/পদোন্নতি সংশ্লিষ্ট বিষয়ে ২য় শ্রেণীর অনার্সসহ ২য় শ্রেণীর স্নাতকোত্তর ডিগ্রী এবং সকল পরীক্ষায় ২য় শ্রেণী/বিভাগ থাকিতে হইবে অথবা ১ম শ্রেণীর স্নাতকোত্তর ডিগ্রীসহ সকল পরীক্ষায় ২য় শ্রেণী/বিভাগ থাকিতে হইবে।		২৮৫০-৫১৫৫/-	

However, the respondents with the plea of Janobal Kathamo without considering the Regulations unlawfully made remarks relating to the appointment of the petitioner as Lecturer and Vice-Principal of a non-government college was not made in accordance with law. The Respondents placed their reliance in the Nitimalas or guide-line. However, the Nitimalas were not made under any statutory provision of law or authority. Therefore, the Regulations shall prevail over all Nitimalas.

Considering the facts and circumstances of the matter and the discussions as made hereinbefore, we are of the view that the Rule has got much merit to succeed and justice would be better served if we direct the respondents to give appointment to the petitioner as Principal of the said College on ad-hoc basis as soon as possible in accordance with the law.

In the result, the Rule is made absolute with direction. The respondents are directed to regularize the petitioner's post as Principal by creating her post with effect from the date of Nationalization of her college and pay her salary and other benefits within 04(four) months, from the date of receipt of this order, in accordance with the law, without fail.

There is no order as to cost.

Communicate at once.

Mohammad Ali, J :

I agree.