

IN THE SUPREME COURT OF BANGLADESH

APPELLATE DIVISION

PRESENT:

Mr. Justice Syed Mahmud Hossain,
Chief Justice

Mr. Justice Hasan Foez Siddique

Mr. Justice Obaidul Hassan

CIVIL APPEAL NO.234 OF 2007.

(From the judgment and order dated 09.03.2006 passed by the High Court Division in Writ Petition No.4714 of 2001.)

Maves Jasmin and others Appellants.

=Versus=

Md. Ruhul Amin-3 and others Respondents.

For the Appellants : Mr. Qamrul Haque Siddique,
Advocate, instructed by Mr.
Md. Taufique Hossain,
Advocate-on-Record.

For the Respondent : Mr. Abdul Wadud Bhuiyan
Nos.1-2 Senior Advocate, instructed
by Mrs. Sufia Khatun,
Advocate-on-Record.

For the Respondent : Mr. A.M. Aminuddin, Attorney
No.3 General (with Mr. Md. Ibrahim
Khalil, Advocate) instructed
by Mr. Md. Zahirul Islam,
Advocate-on-Record.

For the Respondent : Mr. Biswajit Debnath, Deputy
Nos.11-13 Attorney General & Mr.
Samarandra Nath Biswas,
Deputy Attorney General
instructed by Mr. Haridas
Paul, Advocate-on-Record.

For the Respondent : Mr. Probir Neogi, Senior
Nos.14 & 16 Advocate instructed by Mr.
Syed Mahbubar Rahman,
Advocate-on-Record.

For the Respondent : Mr. Abdul Wadud Bhuiyan,
as added respondent Senior Advocate instructed by
Nos.19-26 Mrs. Sufia Khatun, Advocate-
on-Record.

Respondent : Not represented.
Nos. 4-10, 15 & 17-
18

Date of hearing : 18.11.2020 & 25.11.2020.

Date of judgment : 08.12.2020

JUDGMENT

Hasan Foez Siddique, J: This appeal is directed against the judgment and order dated 09.03.2006 passed by the High Court Division in Writ Petition No.4717 of 2001 making the Rule absolute.

The relevant facts, for disposal of this appeal, are that the writ petitioners were the representatives of the registered association of the officers and employees of Bangladesh Parliament, namely, 'Bangladesh Jatiya Sangshad Sachibalaya Karmakarta-o-Karmachari Kalyan Samity' (hereinafter refer to as "Samity"). They challenged the amended Rule 7 of সংসদ সচিবালয় কর্মকর্তা ও কর্মচারী নি-য়োগ বিধিমালা, ১৯৯৪ (hereinafter refer to Service Rules, 1994) pursuant to which appointment by way of absorption was provided which adversely affected the seniority of the existing officers and employees of the Parliament

Secretariat. The writ petitioners were appointed in the Bangladesh Parliament Secretariat in accordance with Parliament Secretariat Officer and Employees Recruitment Rules, 1982 (the service Rules, 1982). The Parliament, exercising the power conferred under Article 79 of the Constitution, enacted Parliamentary Secretariat Act, 1994 (hereinafter refer to as Act, 1994). As per provision of Section 10 of the said Act, 1994, the officers and employees of the Parliamentary Secretariat will be recruited in accordance with the service Rules, to be framed with a condition that till framing Rules, the Service Rules, 1982 should be followed. They stated that in Section 11 of the said Act it has been stipulated that the service conditions of the officers and employees of Parliament Secretariat should be governed by the Rules applicable for the officers and employees of the Republic. The writ respondents No.2, exercising power conferred under Section 21 of the Act, 1994, framed Service Rules, 1994 and in the Service Rules, 1994 the appointment procedures including appointment by way of absorption

has been provided. In Rule 7 of the Service Rules, it has been stipulated that on the day of enactment of the Act, 1994 the persons who were on deputation in the said Secretariat could be absorbed in the Parliament Secretariat. On 29.05.2000, writ respondent No.2 amended the Rule 7 to the effect that the officers and employees working in the Parliament in any manner till 31.12.2000 may be absorbed if their service is deemed essential. The writ Respondent No.2, by notification dated 3rd July, 2001 framed a "Nitimala" namely "Parliamentary Secretariat Absorbed Employees Seniority Nitimala, 2001" (Nitimala, 2001). Pursuant to the amendment dated 29.05.2000, the writ respondent Nos. 12-32 were absorbed in the service of the Parliament Secretariat. Being aggrieved by the aforesaid amended Rule No.7 of the Service Rules 1994, the seniority "Nitimala", 2001 as well as the absorption of the writ-respondents No.12-32, the writ-petitioners filed instant writ petition and obtained the Rule.

The High Court Division, by its judgment and order dated 09.03.2006, made the Rule absolute declaring the amended Rule No.7 of the Service Rules, 1994, 'Nitimala' 2001, and absorption of the writ Respondent Nos. 12-32 have been done without lawful authority and were of no legal effect. Against the said judgment, the writ Respondent Nos. 12-25 preferred Civil Appeal No.234 of 2007 upon getting leave.

Mr. Qamrul Haque Siddique, learned Advocate appearing for the appellant, submits that Section 10(1) of the Act, 1994 provides that officers and employees of the Parliament Secretariat shall be appointed in accordance with procedure provided by the Service Rules and Section 10(2) of the said Act, 1994 provides that the officers and employees working in the Parliament Secretariat before enactment of Act, 1994 shall be 'deemed' to be officers and employees to the Parliament Secretariat from the date of enforcement of the Act, 1994 but officers and employees working on deputation are excluded from the deeming clause. He submits that in Section

10(1) of the Act, 1994 contemplates the provision of framing of Rules for purpose of recruitment of the officers and employees in the Secretariat. Section 21 of the Act empowers the Speaker to frame Rules, by Gazette Notification, in consultation with Parliament Secretariat Commission. He further submits that the officers and employees working on deputation will be deemed to be officers and employees of the Parliament Secretariat. Service Rules, 1994 provided provisions for the recruitment in the Parliament Secretariat in five ways including "absorption" which is the 5th one. He, lastly, submits that by the amended Rule 7 the dateline of absorption was extended from 18.05.1994 to 31.12.2000 and the said dateline was fixed by the Rules framed by the Speaker, the High Court Division erred in law in declaring the amended Rule 7 ultra-vires the Act, 1994 and the Constitution and also declaring the aforesaid 'Nitimala' void.

Mr. A.M. Aminuddin, learned Attorney General appearing for the Respondent No.3, supported the appeal and submits that along

with other methods of appointment/recruitment, Rule 7 of the Service Rules, 1994 provided an option for absorption for the persons who had been working in the Parliament on deputation on the day of promulgation of Act, 1994 with effect from 18.05.1994 and subsequently by amending Rule 7 of the Service Rules, 1994 the cutoff date was shifted from 18.05.1994 to 31.12.2000. Such amended Rule 7 has not in any manner affected the service conditions of officers and employees who have been serving before promulgation of Service Rules, 1994 in the Parliament Secretariat. There was no reason for anyone to be aggrieved by this amendment. He further submits that with a view to achieve in the object of Article 79 of the Constitution and in exercise of the power conferred article 79(2) of the Constitution, the Parliament enacted the Parliament Secretariat Act, 1994. Under Section 21 of the said Act power was delegated with the Speaker to frame Service Rules. Rule 7 was amended exercising such power, the High Court Division erred in law in declaring the impugned amendment void.

Mr. Abdul Wadud Bhuiyan, Senior Counsel appearing for the Respondent Nos.19-26 submits that Rule 7 of the Rules, 1994 as amended on 29.05.2000 is in excess of the power of the Speaker under the Act and adversely affected the service conditions of the existing employees of the Parliament Secretariat, the High Court Division rightly declared the Rule 7 ultra-vires the Act. He submits that Rule 7 of the Service Rules, 1994 as framed on 6th November, 1994 provides the provision of absorption of only those officers and employees who were directly appointed by the Government or employed on deputation on the date of the coming into force Parliament Secretariat Act, 1994, if their service is considered indispensable. But Section 11 of the Act, 1994 provides that the subject to the provisions of the Act, the conditions of the service applicable to the persons appointed in civil posts of the Republic will be applicable to the officers and employees of the Parliament Secretariat. Service Rules, 1994 provides that no direct appointment can be made to any post accept class III & IV employees without

recommendation of the commission which means Bangladesh Public Service Commission. He submits that the High Court Division upon proper appreciation of the materials on record rightly made the Rule absolute.

The moot question for determination in this appeal is as to whether the amended Rule 7 of the Service Rules, 1994; the 'পদোন্নতি জৈষ্ঠ্যতা নীতিমালা, ২০০১' and absorption writ Respondent appellants were rightly declared void by the High Court Division or not.

The Parliament Secretariat is an independent constitutional and statutory body which functions under the guidance and control of the Speaker. The Parliament Secretariat is part of the second organ of the State. The Speaker is the executive head of the Parliament Secretariat. In the discharge of the constitutional and statutory responsibility, the Speaker of the Parliament is assisted by the officers and staffs of Parliament Secretariat. The main activity of the Secretariat is to provide secretarial assistance and support to the functions of the Speaker and Parliament. Article 79(1) of

the Constitution provides the provision that the Parliament shall have its own Secretariat. Clause 2 of Article 79 provides that Parliament may, by law, regulate the recruitment and conditions of service of persons appointed to the Secretariat of Parliament. Exercising the power conferred under Article 79 of Constitution, the Parliament enacted জাতীয় সংসদ সচিবালয় আইন, ১৯৯৪ (the Act, 1994). The preamble of the said Act is relevant here to reproduce for perusal of the object of the said Act which runs as follows:

“গণপ্রজাতন্ত্রী বাংলাদেশের সংবিধানের ৭৯ অনুচ্ছেদের উদ্দেশ্য পূরণকল্পে জাতীয় সংসদ সচিবালয় গঠন এবং উহার কর্মকর্তা ও কর্মচারীগণের নিয়োগ ও কর্মের শর্ত সমূহ বিধান প্রণয়নের জন্য উল্লেখিত আইন।

যেহেতু গণপ্রজাতন্ত্রী বাংলাদেশের সংবিধানের ৭৯ অনুচ্ছেদের উদ্দেশ্য পূরণকল্পে জাতীয় সংসদ সচিবালয়ের গঠন এবং উহার কর্মকর্তা ও কর্মচারীগণের নিয়োগ ও কর্মের শর্তসমূহ সম্পর্কে বিধান প্রণয়ন সমীচীন ও প্রয়োজনীয়; সেহেতু এতদ্বারা নিম্নরূপ আইন প্রণয়ন করা হলো।”

Section 3 (3) of Act 8 of 1994 provides,

“Section 3 (3) “সংসদ সচিবালয় বিধি ধারা নির্ধারিত পদ্ধতি-ত নিযুক্ত কর্মকর্তা ও কর্মচারীগণের সমন্বয় গঠিত হই-ব।”

Section 5 of the said Act provides the power of the Speaker of the Parliament which runs as follows:

Section 5। “সংসদ সচিবালয়-র কর্তৃত্ব।- (১) সংসদ সচিবালয়-র প্রশাসনিক দায়িত্ব স্পীকার-র উপর ন্যস্ত থাকি-ব।

(২) স্পীকার :- তাঁহার এই দায়িত্ব স্বয়ং পালন করি-বন অথবা বিধি দ্বারা নির্ধারিত কোন কর্মকর্তার উপর অর্পন করি-বন।”

Section 7 of the said Act provides:

Section 7। “সংসদ সচিবালয় কমিশন।-(১) নিম্নবর্ণিত সদস্যগ-ণের সমন্ব-য় গঠিত একটি সংসদ সচিবালয় কমিশন থাকি-ব, যথাঃ-

(ক) স্পীকার, যিনি উহার চেয়ারম্যান ও হই-বন;

(খ) প্রধানমন্ত্রী বা তৎকর্তৃক এতদুদ্দেশ্যে ম-নানিত কোন সংসদ সদস্য;

(গ) সংস-দের বি-রাধীদলীয় নেতা বা তৎকর্তৃক এতদুদ্দেশ্যে ম-নানিত কোন সংসদ সদস্য;

(ঘ) সংসদ বিষয়ক মন্ত্রণালয় বা বিভা-গর দায়িত্বে নি-য়াজিত মন্ত্রী বা তৎকর্তৃক এতদুদ্দেশ্যে ম-নানিত সংসদ সদস্য;

(ঙ) অর্থ মন্ত্রী বা তৎকর্তৃক এতদুদ্দেশ্যে ম-নানিত কোন সংসদ সদস্য ।

(২) সংসদ সচিবালয় কমিশন সংসদ সচিবালয়-র কর্মকর্তা ও কর্মচারীগণের সংখ্যা নির্ধারণ, তাহা-দের সংখ্যার হ্রাস/বৃদ্ধি এবং উক্ত সচিবালয়ে বার্ষিক বাজেট প্রণয়ন ও বা-জ-ট বরাদ্দকৃত অর্থ ব্যায়ের পরামর্শ প্রদান করি-ব।”

Section 10 of the said Act provides the provision of appointment of the Officers and Staffs of the Parliament Secretariat which runs as follows:

Section 10। “সংসদ সচিবালয়ের কর্মকর্তা ও কর্মচারী নি-য়োগ।-(১) সংসদ সচিবালয়-র কর্মকর্তা ও কর্মচারীগণ বিধি দ্বারা নির্ধারিত পদ্ধতিতে নিযুক্ত হইবেনঃ

তবে শর্ত থাকে যে, উক্ত বিধি প্রণীত না হওয়া পর্যন্ত The Parliament Secretariat Officers and Employees

Recruitment Rules, 1982 অনুসার উক্ত কর্মকর্তা ও কর্মচারীগণ নিযুক্ত হই-বন।

(২) এই আইন প্রবর্ত-নর অব্যবহিত পূ-র্ব সংসদ সচিবালয় কার্যরত কর্মকর্তা ও কর্মচারীগণ উক্ত সচিবালয়ে প্রেষণে কার্যরত কর্মকর্তা ও কর্মচারীগণ ব্যতীত এই আইন প্রবর্ত-নর সংগে সংগে উক্ত সচিবালয়ের কর্মকর্তা ও কর্মচারী বলিয়া গণ্য হইবেন।”

Section 11 provides the provisions of the terms and conditions of the service of the officers and employees of Parliament Secretariat which runs as follows:

১১। “চাকুরীর সাধারণ শর্তাবলী।- এই আই-নর বিধানবলী সা-প-ক্ষ প্রজাত-ন্ত্রর অসামরিক পদে নিযুক্ত সরকারী কর্মকর্তা ও কর্মচারীগণের ক্ষেত্রে প্রযোজ্য চাকুরীর শর্তাবলী সংসদ সচিবালয়ে নিযুক্ত সকল কর্মকর্তা ও কর্মচারীর ক্ষেত্রে প্রযোজ্য হইবে।”

Section 21 of the said Act empowers the Speaker to frame service Rules which runs as follows:

Section 21 । “বিধি প্রণয়ন :- (১) স্পীকার এই আইনের উদ্দেশ্য পূরণকল্পে সংসদ সচিবালয় কমিশনের সহিত পরামর্শক্রমে সরকারী গেজেট প্রজ্ঞাপণ দ্বারা বিধি প্রণয়ন করিতে পারিবেন ।

(২) বিশেষ করিয়া এবং উপরোক্ত ক্ষমতার সামগ্রিকতা ক্ষুন্ন না করিয়া নিম্নলিখিত সকল বা যে কোন বিষয়ে উক্তরূপ বিধি প্রণয়ন করা যাইবে ।

(ক)

(খ)

(গ) কর্মকর্তা ও কর্মচারীগণের নিয়ন্ত্রণ । ”

Exercising power conferred under Section 21 of the Act, 1994, the Speaker in the consultation with Parliament Secretariat Commission framed services Rules in the name of, "(সংসদ সচিবালয়ের কর্মকর্তা ও কর্মচারী নিয়োগ বিধিমালা, ১৯৯৪)" (service Rules, 1994) on 6th November, 1994.

Rule 3 of the said service Rules provides the procedure to be followed for appointment which runs as follows:

3। "নিয়োগ পদ্ধতিঃ- (১) তফসিলে বর্ণিত বিধান সাপেক্ষে নির্ধারিত কোন পদে নিম্নলিখিত পদ্ধতিতে নিয়োগ করা হইবে, যথাঃ-

(ক) সরাসরি নিয়োগের মাধ্যমে; অথবা

(খ) পদোন্নতির মাধ্যমে; অথবা

(গ) প্রেষণে বদলির মাধ্যমে; অথবা

(ঘ) চুক্তিভিত্তিক নিয়োগের মাধ্যমে; অথবা

(ঙ) আত্মীকরণের মাধ্যমে।"

That is, the Rule 3 (1) (Uma) provides the provision for appointment by way of absorption.

Rule 7 of the service Rules specifically provides the provision by way of absorption which runs as follows:

Rule 7। "আত্মীকরণের মাধ্যমে নিয়োগ।- সংসদ সচিবালয়ের কার্যাদি সুষ্ঠুভাবে সম্পাদনের জন্য জাতীয় সংসদ আইন, ১৯৯৪ কার্যকরী হওয়ার তারিখে সংসদ

সচিবালয়ে সরকার কর্তৃক সরাসরি অথবা প্রেষণে নিয়োজিত কোন কর্মকর্তার চাকুরী অপরিহার্য মনে করিল এবং সংশ্লিষ্ট কর্মকর্তা ও তাঁহার নিয়োগকারী কর্তৃপক্ষের সহিত সম্মতি সাপেক্ষে স্পীকার উক্ত কর্মকর্তাকে স্থায়ী পদে আত্মীকরণ করিতে পারিবেন।”

The writ petitioners in their writ petition did not challenge the original provision of Rule 7 of Service Rules 1994. On 29th May, 2000 Rule 7 was amended. The amended provision of Rule 7 runs as follows:

Amended Rule ৭। “আত্মীকরণের মাধ্যমে নিয়োগঃ- সংসদ সচিবালয়ের কার্যাদি সুষ্ঠুভাবে সম্পাদনের লক্ষ্যে কোন সরকারী কর্মকর্তা বা সংসদে কর্মরত কোন কর্মকর্তার চাকুরী অপরিহার্য মনে করিলে, স্পীকার, সংশ্লিষ্ট কর্মকর্তা ও তাঁহার নিয়োগকারী কর্তৃপক্ষের সম্মতি সাপেক্ষে তাঁহাকে সমপদে বা ক্ষেত্রমত স্থায়ী পদে ২০০০ সালের ৩১শে ডিসেম্বরের মধ্যে আত্মীকরণের মাধ্যমে নিয়োগ করিতে পারিবেন।”

On 3rd July, 2001 Parliament Secretariat, by a gazette notification issued a circular in the name of, “সংসদ সচিবালয়ে আত্মীকৃত কর্মকর্তাদের জৈষ্ঠ্যতা নীতিমালা, ২০০১ (Nitimala, 2001). Clause 3 of the said “Nitimala” provides: ৩। আত্মীকৃত কর্মকর্তার জৈষ্ঠ্যতা।-

(১) আত্মীকৃত পদের সমমর্যাদা সম্পন্ন যে মূল পদ হইতে আত্মীকরণ করা হইয়াছে, উক্ত মূল পদে যোগদানের তারিখ হইতে সংশ্লিষ্ট কর্মকর্তার আত্মীকৃত পদে জৈষ্ঠ্যতা নির্ধারিত হইবে।

(২) মূল পদে আত্মীকৃত পদের সমমর্যাদা সম্পন্ন না হইলে আত্মীকৃত পদে যোগদানের তারিখ হইতে আত্মীকৃত জৈষ্ঠ্যতা নির্ধারিত হইবে।”

It is clear from the constitutional provision, the Act of 1994 and Rules framed thereunder that the idea is to crystallise the position regarding supremacy and centre position of the Speaker and his constitutional and statutory authority in the matters of appointment, disciplinary action and issuing of orders affecting matters or conditions of service of the officers and staffs. The Act and the Rules framed in exercise of powers conferred on the Speaker, it appears that the Speaker has been given wide powers with regard to the affairs of the Secretariat, particularly in the matter relating to appointment, recruitment etc.

The office of the Speaker is held in the highest respect and esteem in parliamentary traditions and the Speaker holds an important and ceremonial office. Such respect is historical and inherent in the concept of Parliamentary democracy. Pandit Jawaharlal Nehru had to say about the position of the Speaker, which is reproduced below: "The Speaker represents the House. He represents the dignity of the House, the freedom of the House and because the House represents the

nation, in a particular way, the Speaker becomes the symbol of the nation freedom and liberty."

In the scheme of the Constitution, the Speaker has been given all the powers to appoint official for the internal management of the Parliament and those appointments can only be challenged in extremely exceptional cases. By operation of Article 79(2) of the Constitution, the Parliament may by law, regulate the recruitment and conditions of service of persons appointed. Until the provision is made in this behalf by the Parliament, the President may, after consultation with the Speaker of the Parliament, make rules regulating the recruitment and condition of service of persons appointed to the secretariat of Parliament, and rules so made shall have effect subject to the provisions of any law.

The legislature has power to make laws in respect of any matter and that power to make laws is subject to the provisions of the Constitution. Legislation to be valid, must, in all cases be in conformity with the constitutional requirements. The presumption

is in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a transgression of constitutional principles. There is a strong presumption that a legislature understands and correctly appreciates the needs. The Judges are not called upon to play the role of path-finders and architects.

From the aforementioned proposition of law it appears that in exercise of the power conferred under article 79 of the Constitution Parliament Secretariat Act, 1994 was enacted. Section 3(3) of the Act provides that the Parliament Secretariat will be constituted by the officers and employees appointed under the Rules to be framed. Section 7(2) authorises the Parliament Secretariat Commission will fix, create or reduce the number of posts of the officers and employees of the Parliament Secretariat. Section 10 of the Act mandates that the officers and employees of the Parliament Secretariat shall be appointed following the procedure of the service Rules to be framed.

Section 11 of the Act provides that the terms and conditions of the service applicable to the officers and employees of the Government will be applicable to the officers and employees of the Parliament Secretariat subject to the provisions of the Act. Rule 3 of the Service Rules contemplates the method or methods by which a post or class of posts may be filled. Rule (3) (1) (uma) of the service Rules provides the provision of appointment by way of absorption. Rule 7 of the Rules provided that the government officers or any other officers working in the Parliament Secretariat on the date of coming into force of the Act, if considered by the Speaker to be inevitable, may be absorbed in the service of the Parliament Secretariat provided that their appointing authority and the officer concerned give consent. The impugned amended Rule simply replaced the date 18.05.1994, that was date of coming into force of the Rules. Keeping other conditions as it were Rule 7 was amended extending the time upto 31st December, 2000. The power of amendment and modification of the original provision was still available to the Speaker

and, therefore, the absorption of writ respondents No.12-32 was not without authority. One of the source of recruitment is absorption. The constitution has given unfettered powers to the Speaker for recruitment of the employees of the parliament. The question which arises for consideration is, whether the Recruitment Rules formulated at one point of time be changed or amended by the Speaker or he is bound the Rules for all times to come. Article 79 (3) of the Constitution is so worded that the President may after consultation with the Speaker make rules regulating the recruitment which indicates the authority of the Speaker. It is difficult to say that by the law under challenged the legislature encroached the Parent Act or any provision of Constitution.

A statute may be declared unconstitutional by the High Court Division exercising its power under article 102 of the constitution only if the statute is inconsistent of the constitution. Such inconsistency may be of various kinds such as

the contravention of a fundamental right. The validity of the subordinate or delegated legislation can be challenged if the same is found to be ultra-vires the enabling or Parent Law. When the delegated legislation is found to be directly or indirectly in conflict with the provisions of the enabling law or Parent Law, it is held to be ultra-vires which are absent in this case. By the impugned amendment extended period of absorption was mentioned only.

The speaker is authorized under Section 5 of the Act to take any step in exercise of his administrative power necessary for ensuring effective administration of the Parliament Secretariat and accordingly 'Nitimala', 2001 was issued and adopted by the Speaker. The High Court Division is authorized to declare a provision of law ultra-vires mainly on two grounds, which are No.(i) If subordinate legislation is promulgated in violation of the current law or (ii) same is inconsistent with any Constitution, which are absent in this case.

The High Court Division has observed, "In Section 11 of the Act of 1994, it has been stipulated that the service conditions of the employees are to be determined by the existing laws for the employees of the Republic and the seniority is one the service conditions and as such, the framing of such Regulations by respondent No.2 exercising the power conferred under section 21 of the Act of 1994 is a gross violation of the provisions of section 11 of the Act". The High Court Division has failed to notice that section 11 of the Act, 1994 has started with the words, "প্রজাতন্ত্রের অসামরিক পদে নিযুক্ত সরকারী কর্মকর্তা ও কর্মচারীগণের ক্ষেত্রে প্রযোজ্য চাকুরীর শর্তাবলী সংসদ সচিবালয়ে নিযুক্ত সকল কর্মকর্তা ও কর্মচারীর ক্ষেত্রে প্রযোজ্য হইবে।" That is , conditions of service applicable to the civilian officers and employees of the Republic would be applicable for the officers and employees of the Parliament Secretariat subject to the provisions of the Act, 1994. Act, 1994 and Rules framed thereunder provided special provisions for recruitment of the officers and employees of Parliament Secretariat. Here, the word "conditions" has been used to mean the standard terms and conditions of

service. A term given a certain meaning in the Act shall have the same meaning when used in the conditions of service. Otherwise the normal rules of interpretation of the law will apply. The ordinary rule of construction of a statute must be construed in accordance with the language used depending upon the context. The Court should adopt purposive interpretation of the statute to articulate the felt necessities of the time. Article 79 of the constitution has been provided with the object that the Secretariat attached to the parliament should have staff, which should be under the effective control with the head of the parliament. The idea is to crystallise the position regarding supremacy of the Speaker and to give constitutional authority . The Speaker is the framer, operator and interpreter of the Rules and consequently he can amend the Rules from time to time following the related laws.

We have seen that Section 21 of the Act allowed the Speaker to promulgate Rules and exercising that power the instant amendment was made and published in the Official

Gazette. There is nothing in the amended provision of Rule 7 which is or can be said to be repugnant to any provisions of the Act, of 1994 or of the Constitution.

Accordingly, we find substance in the appeal.

Thus, the appeal is allowed. The impugned judgment and order of the High Court Division is hereby set aside.

C.J.

J.

J.