

**1 SCOB [2015] HCD 16****HIGH COURT DIVISION**  
(Special Original Jurisdiction)

Writ Petition No. 11442 of 2014

Mr. Md. Zahurul Islam Mukul, Advocate  
... For the Petitioner**Latif Bawany Jute Mills Limited**

... Petitioner

Mr. Sukumar Biswas, AAG  
... For the Respondent

-Versus-

**The Chairman, Labour Appellate Tribunal,  
Dhaka and others.**

...Respondents

Date of Hearing : 05.05.2015

Date of Judgment : 05.05.2015

**Present:****Mr. Justice Zubayer Rahman Chowdhury****And****Mr. Justice Mahmudul Hoque****Article 102 of the Constitution of the People's Republic of Bangladesh  
&****Section 216 (1)(Chha) of the Bangladesh Labour Act, 2006:****We fail to understand how the learned Chairman of the Labour Appellate Tribunal, Dhaka could entertain the appeal of respondent no. 3 in the very first place when, admittedly, there was no judicial order under challenge. In our view, the appeal before the Labour Appellate Tribunal itself was absolutely misconceived and therefore not maintainable at all. ... (Para10)****Judgment****Zubayer Rahman Chowdhury, J :**

1. By the instant Rule, the petitioner has challenged the legality and propriety of the Order dated 17.11.2014 passed by the learned Chairman, Labour Appellate Tribunal Dhaka (respondent no. 1) in Appeal No. 651 of 2014.

2. At the time of issuance of the Rule on 09.12.2014, the operation of the impugned order dated 17.11.2014 was stayed for a period of 6 (six) months.

3. Relevant facts, necessary for disposal of the Rule are that respondent no. 3 joined Latif Bawany Jute Mills Ltd (briefly, the Mill) on 27.11.1979 as Overhead Helper declaring his age as 25 years. After getting promoted, respondent no. 3 was serving in the Mill as Line Sarder.

4. On 18.09.2014, the Mill issued Memo No. 24.04.2612.904.73.000.14/2334 dated 18.09.2014 informing respondent no. 3 that he was to go on retirement with effect from 26.11.2014, upon attaining the age of 60 years. However, respondent no. 3 filed Labour Case no. 1254 of 2014 under section 213 of the Bangladesh Labour Act, 2006 praying for a declaration that the order dated 18.09.2014 issued by the petitioner was illegal along with further prayer for correcting his age as per the voter ID Card.

5. During the pendency of the aforesaid case, respondent no. 3 filed another application under section 216 (1)(Chha) of the Act praying for stay of the operation of the Memo dated 18.09.2014 issued by the Mill.

6. Respondent no. 2 issued a show cause notice by Order No. 2 dated 19.10.2014. However, being aggrieved thereby, respondent no. 3 filed Appeal No. 651 of 2014 before the Chairman, Labour Appellate Tribunal, Dhaka and obtained an order of status quo till disposal of the appeal.

7. Mr. M. Zahurul Islam Mukul, the learned Advocate appearing on behalf of the petitioner Mill submits that the learned Chairman of the Labour Court, Dhaka had only issued a show cause notice upon the parties. However, without replying to the same, respondent no. 3 moved before the Labour Appellate Tribunal, Dhaka

and managed to secure an order of status quo. He further submits that the Labour Appellate Tribunal, Dhaka had absolutely no jurisdiction to entertain the appeal as the order dated 19.10.2014 merely asked the parties to show cause.

8. We have perused the application and heard the learned Advocate.

9. The impugned order dated 17.11.2014, as evidenced by Annexure-E reads as under :

“Present : Justice Md. Shamsul Huda  
Chairman

Appeal No. 651 of 2014

মোঃ মোস্তফা

..... Appellant

-vs-

চেয়ারম্যান, স্নায়ু শ্রম আদালত, ঢাকা ও অন্যান্য

..... Respondents

Order No. 02 dated-17.11.2014

Admit. Call for the record and issue usual notices upon the respondent by registered post with A/D fixing 17.12.2014 for S/R.

Parties are directed to maintain statusquo till disposal of the Appeal.

Sd/=  
Chairman  
Labour Appellate Tribunal  
Dhaka”

10. We fail to understand how the learned Chairman of the Labour Appellate Tribunal, Dhaka could entertain the appeal of respondent no. 3 in the very first place when, admittedly, there was no judicial order under challenge. In our view, the appeal before the Labour Appellate Tribunal itself was absolutely misconceived and therefore not maintainable at all. Consequently, the impugned order dated 25.12.2014 passed by the learned Chairman, Labour Appellate Tribunal, Dhaka is absolutely without lawful authority.

11. In that view of the matter, we are inclined to hold that the instant Rule merits positive consideration.

12. Accordingly, the Rule is made absolute.

13. The Order dated 17.11.2014 passed by the learned Chairman, Labour Appellate Tribunal Dhaka (respondent no. 1) in Appeal No. 651 of 2014 is set aside, being without lawful authority.

14. Furthermore, as we have found that the proceeding before the Chairman, Labour Appellate Tribunal, Dhaka is without any legal basis and, therefore, not maintainable, all further proceedings of Appeal No. 651 of 2014 is hereby stayed.

15. There will be no order as to cost.

16. The office is directed to communicate the order.