

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

**Writ Petition No. 12243 of 2018**

In the matter of :

An application under Article 102(2) of the Constitution of the People's Republic of Bangladesh.

-And-

In the matter of :

Md. Nazrul Islam Mia and another.  
..... Petitioner

-Versus-

Government of the People's Republic of Bangladesh and others  
..... Respondents

Mr. M.G Mahmud (Shaheen) with  
Mr. Golam Mahmud Advocates

.... For the Petitioner

Mohammad Abul Hasan , AAG

..... For Respondent no. 2

Present:

Mr. Justice Zubayer Rahman Chowdhury

And

Mr. Justice Md. Aminul Islam

Date of Hearing : 30.01.2024

Date of Judgment : 31.01.2024

**Zubayer Rahman Chowdhury, J :**

By this application under Article 102(2) of the Constitution, the petitioners have challenged the inaction of the respondent to grant monthly Pay Order (MPO) to them in accordance with the

Code assigned for granting MPO to the Headmaster and Assistant Headmaster respectively of the school.

At the time of issuance of the Rule, the concerned respondents were directive to dispose of the petitioners representation dated 12.04.2018 in accordance with law.

Petitioner no. 1 served as Assistant Teacher in Narayanpur Dimukhi High School, Nageshwari, Kurigram (hereinafter referred to as the school) from April 1993 upto August 2000. Thereafter he served as the Assistant Headmaster of the school from August 2000 till February 2011. However, as the post of Headmaster fell vacant, petitioner no. 1 was appointed as the Headmaster of the school vide Memo dated 25.02.2011. The said appointment was made by the District Education Officer, Kurigram upon the request of the managing committee of the school.

Petitioner no. 2 served as Assistant Teacher in the same school from March 1999 till March 2016. Subsequently, as the post of the Assistant Headmaster fell vacant, the District Education Officer, Kurigram, upon the request of the managing committee of the school, appointed petitioner no. 2 as Assistant Headmaster in the said vacant post by order dated 29.10.2010.

It is to be noted that both petitioner no. 1 and petitioner no. 2 have been receiving MPO from the Government since their appointment in the said school from 1993 and 1999 respectively.

Although petitioner no. 1 and petitioner no. 2 have been serving in the post of Headmaster and Assistant Headmaster respectively, they were not receiving the MPO under the appropriate Code assigned for payment of MPO to the Headmaster and Assistant Headmaster of a High School. In such circumstances, both the petitioners filed an application jointly on 20.04.2018 before respondent no. 2 praying for granting them MPO under the proper Code. However, no reply was sent to their application. Ultimately, the petitioners served a Notice Demanding Justice on 24.09.2018 upon the concerned respondent, but to no effect. Being constrained, the petitioners moved this Court and obtained the instant Rule.

The Rule is being opposed by Respondent no. 2 by filing an affidavit-in- opposition.

Mr. M.G Mahmud, the learned Advocate appearing on behalf of the petitioner, having placed the application along with the annexures appended thereto, submits that admittedly both the petitioners have been serving in the post of Headmaster and Assistant Headmaster of the same High School since their appointment in the

said posts in 2011. Although they have been receiving MPO since their appointment in the post of Headmaster and Assistant Headmaster, they have not been paid the MPO under the Code assigned for payment of MPO to the Headmaster and Assistant Headmaster of a High School.

Referring to Annexure-D, Mr. Mahmud submits that the District Education Office, Kurigram forward the application regarding payment of MPO to petitioner no. 1 in the post of the Headmaster of the High School on 13.02.2013 enclosing all necessary documents and papers.

Referring to Annexure-E, Mr. Mahmud submits that the concerned respondent issued the Memo dated 27.01.2015, requesting that District Education Officer, Kurigram to sent some further information which were not included in his previous letter dated 13.02.2013. Referring to Annexure-E-1, Mr. Mahmud submit that the District Education Officer, Kurigram duly replied to the said letter on 08.03.2015 enclosing all the papers that were required by concerned Authority.

Referring to Annexure-I and I-1, Mr. Mahmud submits that although another application was sent by the District Education Officer, Kurigram with regard to payment of MPO to petitioner no. 2

under the Code assigned for the Assistant Headmaster of a High School, the concerned respondents failed to take any action in respect of the said application although it is evident from the website of the Ministry of Education, Directorate of Secondary and Higher Secondary Education that all the documents were verified and found to be in order. Mr. Mahmud submits that despite the factual and legal position noted above, the respondents failed to grant MPO to the petitioners in their appropriate Code, for which they were constrained to move this Court.

On the other hand, Mr. Mohammad Abul Hossen, the learned Assistant Attorney General appearing on behalf of respondent no. 2 submits that the application filed by the petitioners before the Authority on 12.04.2018 was disposed of by the Authority in accordance with the directive passed by this Court at the time of issuance of the Rule. He further submits that as the petitioners failed to provide necessary documents and information to the Authority, their applications for payment of the MPO in the appropriate Code was not entertained.

We have perused the application and the affidavit-in-opposition along with the documents appended thereto. We have also

considered the submissions of the learned Advocate of the contending sides.

Admittedly, both the petitioners have been serving in the same High School since their appointment way back in 1993 and 1999 respectively. It is also admitted that petitioner no. 1 was appointed in the post of Headmaster and petitioner no. 2 was appointed in the post of Assistant Headmaster by the District Education Officer, Kurigram following the recommendation made by the managing committee of the school. That being the undisputed factual position, we are now required to consider whether/inaction the failure of the respondents in granting MPO to both the petitioners under the appropriate Code assigned for payment of MPO to the Headmaster and Assistant Headmaster of the High School was in accordance with law. The answer is in the negative.

From Annexure-E and E-1, being the Memos dated 27.01.2015 and 08.03.2015, it is evident that the queries with regard to the relevant documents was answered by the District Education Officer, Kurigram enclosing the wanting documents.

It is to be noted that, during the course of the submission, Mr. Mahmud has brought to our notice the earlier application sent by the District Education Officer, Kurigram to respondent no. 2, wherefrom

it is evident that at the time filing the applications, all the necessary documents were sent to the Authority from the school. From Annexur-I and I-1, issued by the Ministry of Education, it is evident that the application with regard to granting of MPO to the Assistant Headmaster of the school (petitioner no. 2) was found to be complete and proper.

We have noted from Annexure-Q of the supplementary affidavit dated 21.01.2023, being the MPO eŁćaj;mĭ 2021, that the Headmaster of a Primary school is entitled to receive MPO under Code 7, while the Assistant Headmaster of a Primary school is entitled to receive MPO under Code 8. However, petitioner no. 1 is still receiving his MPO under Code 8 and petitioner no. 2 is still receiving his pay MPO under Code 9, as evident from Annexure-Q-1 of the aforesaid supplementary affidavit.

In view of the provision of the MPO eŁćaj;mĭ 2021, petitioner no. 1 is entitled to receive his MPO under Code 7, while petitioner no. 2 have is entitled to receive his MPO under Code 8 from the date of their appointment in their respective post.

Be that as it may, in view of the foregoing discussion, we are inclined to hold that the instant Rule made positive consideration.

In the result, the Rule is made absolute.

Respondents no. 2 and 3 are hereby directed to take positive steps to grant MPO to petitioner no. 1 under Code 7 in the post of Headmaster and also to grant MPO to petitioner no. 2 in the post of Assistant Headmaster under Code 8 from the date of their respective appointment in the said posts within a period of 3(three) months from date.

There will be no order as to costs.

**Md. Aminul Islam, J:**

I agree.