

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

**WRIT PETITION NO. 14039 OF 2018**

**IN THE MATTER OF:**

An application under Article 102 read with Article 44 of the Constitution of the People's Republic of Bangladesh.

AND

**IN THE MATTER OF:**

Mr. Enamul Haque and others  
.....Petitioners

-VERSUS-

Government of the People's Republic of Bangladesh,  
represented by the Secretary, Ministry of Finance,  
and others  
..... Respondents

Mr. Md. Faridul Islam, Advocate  
..... For the Petitioners

Mr. Mohammad Waliul Islam Oli, D.A.G with  
Mr. Md. Rashadul Hassan, D.A.G with  
Ms. Nilufar Yesmin, A.A.G with  
Mr. Md. Moshiur Rahman (Rahat), A.A.G with  
Mr. Md. Motasin Billah Parvez, A.A.G with  
Mr. Bishwanath Karmaker, A.A.G  
.....For the Respondents

**Present:**

**Mr. Justice Sashanka Shekhar Sarkar  
And  
Justice Urmee Rahman**

**Heard on 06.01.2026, 02.02.2026,  
15.02.2026 and 11.03.2026  
Judgment on 19.04.2026**

**Urmee Rahman, J:**

In the instant matter a Rule Nisi was issued on an application under Article 102 read with Article 44 of the Constitution of the People's Republic of Bangladesh in the following terms:

*“Let a Rule Nisi be issued calling upon the respondents to show cause as to why inaction and failure of the respondents to upgrade salary scale of the petitioners from Grade-11 to Grade-10 according to Circular being Memo No. Son (Bidi-21), Padunnati-27/94-164 dated 19.11.1994, published by Public Administration Ministry, should not be declared to be without lawful authority and is of no legal effect and why direction upon the respondents for approving upgradation of salary scale of petitioners from Grade-11 to Grade-10 according to Circular being. Memo No. Son (Bidi-21), Padunnati-27/94-164 dated 19.11.1994 published by Public Administration Ministry, should not be given and/or such other or further order or orders be passed as to this Court may seem fit and proper.”*

The relevant facts necessary for disposal of the instant Rule, in short, are that, the petitioners (four in number) are Diploma Engineers, who passed from different institutions under Bangladesh Technical Education Board, Dhaka. They joined the ‘Barendra Bohumukhi Unnayan Katripokkho’ (Barendra Multipurpose Development authority, in short BMDA) in its project on contractual basis as temporary workers between the year 2004 – 2006 in the post of ‘নব্বাকার’ (craftsman), which is equivalent to the post of Sub-Assistant Engineer. Thereafter they were made permanent in the

same post on 17.10.2016 to be effective from the date of their joining in the service. The petitioners are enjoying salary scale as Grade-11 of National Pay Scale of Bangladesh since their appointment. Earlier on 19.11.1994 a notification was issued by the Ministry of Public Administration upgrading the posts of Sub-assistant Engineers and equivalent posts of Diploma Engineers from 3<sup>rd</sup> class to 2<sup>nd</sup> class employee and at the same time salary scale was upgraded from grade-11 to grade-10 as per the National Pay Scale. This directive was followed by different Government Departments but BMDA did not follow the same. This issue has been raised by the petitioners before the authority on various occasions but without any result. Finally, on 03.10.2028 petitioners served a Notice Demanding Justice upon the respondents through their lawyer but they have not made any response thereto till date.

Being aggrieved thereby and there having no other alternative and equally efficacious remedy available, the petitioners have filed the instant writ petition and obtained the present Rule.

Learned Advocate Mr. Md. Faridul Islam, appearing on behalf of the petitioners submits that, the post of নক্সাকার (craftsman) is equivalent to the post of Sub-Assistant Engineer, who are currently enjoying salary scale of Grade-10 under National Pay Scale. The petitioners holding the same post deserves to get upgraded salary of Grade-10 but instead they are getting the salary scale of Grade-11. As such they are not being treated equally in accordance with law and are being discriminated.

He further submits that the BMDA authority failed to comply with the notification issued by the Ministry of Public Administration on 19.11.1994, by which salary scale of the Sub-Assistant Engineers and equivalent Diploma Engineers was upgraded from Grade 11 to Grade 10. Such inaction of the respondents is absolutely illegal, mala fide and arbitrary and therefore is liable to be declared without any lawful authority.

By filing a supplementary affidavit dated 01.03.2026 the learned Advocate for the petitioner submits that, the BMDA authority enhanced the salary scale of an employee of the same post that of the petitioners namely, Md. Abdul Latif Sarker, to Grade -10 from Grade-11 by the office order dated 21.10.1997 as per the National pay Scale of 1997 and he is still receiving the salary as Grade-10 employee. As such the petitioners are also entitled to get the Grade-10 salary scale being on the similar footing.

He finally submits that the petitioners made a number of representations to the BMDA authority to take appropriate steps to determine this issue but they have never responded, which is intentional, arbitrary and thus mala fide and therefore the Rule is liable to be made absolute.

No one appeared to contest the Rule.

Heard the learned Advocate for the petitioners, perused the writ petition, supplementary affidavit thereto and all the annexures annexed therewith.

In the present case the petitioners joined the BMDA between the year 2004-2006 in the post of *Nakshakar* and they were made permanent in the same posts by issuing a single office order dated 17.10.2016 giving effect from the date of their initial joining and mentioning that, their financial benefits shall be given from 01.07.2009. They were given Grade-11 salary scale as per the National Pay Scale which was applicable at the relevant time of their joining. (Annexure-H).

It appears from Annexure-B that by the notification dated 19.11.1994 the Ministry of Public Administration upgraded the salary scale of Sub-Assistant Engineers and Diploma Engineers, working in the equivalent post, from Tk. 1725 - 3725 (Grade 11 as per National Pay Scale of 1991) to Tk. 2300 - 4480 (Grade 10 as per National Pay Scale of 1991) and were given the status of Second-Class Officer.

From Annexure C, which is an appointment circular of PSC dated 06.07.2008, it appears that, the posts of Deputy-Assistant Engineers and *Nakshakar* are equivalent and salary scale for the said post is Tk. 5100-280X7-7060-EB-300X11-10360/-, which is of Grade 10 as per National Pay Scale of 2005.

Therefore, in our view, since the Deputy Assistant Engineers/Sub-Assistant Engineers of various Departments/Organizations of the

Government have been granted pay scale in Grade 10, the petitioners, who possess the same status and are working as '*Nakshakar*' in the BMDA, not only have a legitimate expectation to be treated at par with their counterparts, but they also have a right in this respect as guaranteed by the Constitution.

In the case of *Government of Bangladesh Vs. M. Shamsul Huq*, reported in **59 DLR AD 54**, the Personal Officers working in the Supreme Court of Bangladesh challenged the refusal of the Government to grant them the same pay scale and grade as that of their counterparts working at the Secretariat in various Ministries under the Government of Bangladesh. The High Court Division made the Rule absolute against which Government preferred and appeal. While dismissing the appeal, the Apex Court held that, “ we are of the view that, the respondent and Personal Officers of the Secretariat having been similarly situated have been discriminated and cannot be treated differently and is repugnant to the equality doctrine and under like circumstances and conditions, should be treated alike both in their rights and privilege.”

It appears from Annexure-I that, salary scale of one employee of BMDA, namely Md. Abdul Latif Sarkar, holding the similar post of *Nakshakar* as that of the petitioners, was upgraded by the Office order dated 01.06.1996 from Tk. 1725 to Tk. 2300, which is Grade 10 as per National Pay Scale of 1991, in compliance with the notification dated 19.11.1994 issued by the Ministry of Public Administration.

Since the BMDA authority once complied with the notification dated 19.11.1994 issued by the Ministry of Public Administration (annexure B) and provided higher pay scale to one of its employees, they are under a lawful obligation to apply the same in case of all the employees who holds the similar post. Respondent authority cannot pick and choose among the employees and place them under discrimination.

Therefore, we find the inaction of the respondents to upgrade the salary scale of the petitioners from Grade-11 to Grade-10 is arbitrary and discriminatory and hereby declared as unlawful.

In view of the above, we find merit in the Rule.

In the result, the Rule is made absolute.

However, without any order as to costs.

The respondents are hereby directed to approve the upgradation of salary scale of petitioners from Grade-11 to Grade-10 according to the memo no. Son (Bidi-21), Padunnati-27/94-164 dated 19.11.1994 issued by the Ministry of Public Administration within 30 (thirty) days from receiving this order.

Communicate the judgment and order at once.

**Justice Sashanka Shekhar Sarkar, J:**

I agree.