

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

Writ Petition No. 5214 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:

A.K.M. Shamsul Huda Sarkar

...Petitioners

-Versus-

Government of Bangladesh, represented
by the Secretary, Ministry of Industries
and others

..... Respondents

Ms. Mahmuda Parveen, Advocate

...For the petitioner

Mr. Md. Imam Hossain, Advocate

... For the respondent Nos. 3 and 4.

Mr. Mohammad Waliul Islam Oli, D.A.G with

Mr. Mohammad Rashadul Hassan, D.A.G,

Ms. Nilufar Yesmin, A.A.G,

Mr. Md. Moshiur Rahman (Rahat), A.A.G,

Mr. Md. Motasin Billah Parvez, A.A.G and

Mr. Bishwanath Karmaker, A.A.G

.... For the respondents

Heard on 18.02.2026 and 12.03.2026

Judgment on 21.04.2026

Urmeem Rahman, J:

In the instant writ petition Rule was issued in the following
terms:

*“Let a Rule nisi be issued calling upon the
Respondents to show cause as to why the impugned*

office order being No. 36.091.008.01.02.444 (ଜେଡି).2019/387 dated 06.03.2019 purportedly issued under the signature of respondent No. 12, Assistant Chief of Personnel on behalf of respondent No. 4, Chief of Personnel of BCIC, cancelling the petitioner's appointment to the post of Sub-Assistant Engineer (Mechanical) of Jamuna Fertilizer Company Ltd. Tarakandi, Jamalpur (as contained in Annexure-“H”) shall not be declared to have been issued without lawful authority and is of no legal effect and or such other or further order or orders passed as to this Court may seem fit and proper.”

Relevant facts for disposal of the Rule in brief are that, after successful completion of education, the petitioner applied for appointment in the post of Sub-Assistant Engineer (Mechanical) in the factories under Bangladesh Chemical Industries Corporation (BCIC). Following the duly conducted selection process, he was finally selected in the said post by the office order dated 09.05.2017 and was posted as Sub-Assistant Engineer (Mechanical) in Jamuna Fertilizer Company Limited, Tarakandi, District-Jamalpur. Accordingly, appointment letter was issued on 11.05.2017 and the petitioner joined his post on the same day, which was accepted by the authority on 24.05.2017. After joining, a police verification was said to be conducted. By the Office Order dated 06.03.2019 (Annexure-H) petitioner's appointment was cancelled as per clause

5 of the appointment letter stating that, in the police verification report it has been stated that the Security Service Division (সুরক্ষা সেবা বিভাগ) of Ministry of Home affairs has objected to the appointment of the petitioner. Challenging the order of cancellation he filed an appeal before the Chairman, BCIC, on 07.04.2019 but that has not been disposed of as yet.

Being aggrieved thereby and there having no other alternative and efficacious remedy available, the petitioner has filed the instant writ petition and obtained the present Rule and an order of stay of the order of cancellation. By dint of the order of stay the petitioner is still continuing his service.

Ms. Mahmuda Parveen, learned Advocate appearing on behalf of the petitioner, at the very outset submitted that, no show cause notice was given to the petitioner to defend himself before cancelling his appointment, as such there has been a violation of the principle of natural justice in issuing the impugned order and as such the instant Rule is liable to be made absolute.

She further submitted that, petitioner's appointment was cancelled solely on the basis of the police verification report, the content of which was not even known to him and the authority did not verify the authenticity of the police report independently, hence the impugned order is liable to be declared to have been issued without any lawful authority.

She next submitted that, as per Rule 6 of the Bangladesh Chemical Industries Corporation Service Regulations, 1988, the

petitioner has become a regular employee of the corporation on completion of 6 (six) months service. The time of the probation period may be extended 6(six) months more as per Rule 6, hence the petitioner has completed the probation period. Thus, he is entitled to get a statutory notice of 90 (ninety) days as per Section 54 of the said Regulation. As such, cancellation of appointment of the petitioner without giving him proper notice is illegal and without any lawful authority.

Referring to the supplementary affidavit dated 01.03.2026 learned Advocate submitted that, after issuance of the impugned cancellation order, petitioner preferred an appeal on 07.04.2019 before the Chairman, BCIC but the same has not been disposed of yet.

She finally submitted that, during pendency of this writ petition a police report has been submitted on 26.02.2023 before the authority of the Jamuna Fertilizer Company Limited, Tarakanda, Jamalpur where it petitioner is currently working. The report was made with a positive finding about the petitioner, hence the impugned order is liable to be set aside.

On the other hand, learned Advocate Mr. Md. Imam Hossain, entered appearance on behalf of Respondent nos. 3 and 4 and contested the Rule by filing an affidavit in opposition.

Learned Advocate for the respondents submits that, the appointment letter of the petitioner contains some terms and conditions. Clause 5 of the appointment letter provides that, in

order to make the job permanent, two conditions need to be fulfilled, which are successful completion of probation period and a satisfactory police verification report. The police report of the petitioner not being satisfactory, his temporary appointment was rightly cancelled by the authority.

His next submission is that, since the petitioner was not made permanent, his appointment can be cancelled without serving any show cause notice and without initiating any departmental proceeding as per the BCIC Employees' Service Regulations 1988.

Learned Advocate next submits that, the application for appeal was submitted on 07.04.2019 and the instant writ petition was filed on 05.05.2019 and the High Court Division issued the Rule on 28.05.2019 with an ad interim order of stay of the impugned office order of cancellation. Therefore, the authority did not have any opportunity to take any action regarding the application for appeal dated 07.04.2019.

He then submits that, the petitioner's appointment was cancelled on the basis of the objection raised by the police authority, which was conveyed to the respondent nos. 3 and 4 through Ministry of Home Affairs and Ministry of Industries. Hence, respondent no. 4 had no other choice but to cancel the appointment of the petitioner. Respondent nos. 3 and 4 tried to get the detail information about the content of the police report but they were refused by the Security Service Division, Ministry of Home Affairs vide memo dated 27.01.2019. Therefore respondent nos. 3

and 4 did not violate any existing law, terms and conditions of the temporary appointment or any fundamental right of the petitioner by issuing the impugned memo dated 06.03.2019.

Mr. Hossain also submits that, the latest police verification report dated 26.02.2023 was conducted by the local police during pendency of this writ petition as per the instruction of Police Super, DSB, Gaibandha, which was not communicated to the respondent nos. 3 and 4 as evident from the supplementary affidavit filed by the petitioner and therefore they did not have any knowledge about the report.

Learned Advocate further submits that, if the petitioner seeks any relief on the basis of the latest police verification report, he is required to file an application for issuance of a supplementary Rule inasmuch as no illegality has been committed by the respondents in issuing the impugned order of cancellation earlier. Since the petitioner has failed to do so, the present Rule is liable to be discharged.

Finally he submits that, no illegality having been committed by the respondent authority in issuing the impugned order, there is no substance in the Rule and therefore the Rule is liable to be discharged.

We have heard the learned Advocate for the petitioner and the learned Advocate for the respondent nos. 3 and 4 and perused

the writ petition, supplementary affidavit thereto, affidavit in opposition and the annexures annexed therewith.

For the purpose of brevity, facts of the case need not be repeated.

It appears from the record that, clause 5 of the appointment letter, annexed as Annexure-E, to the writ petition dated 11.05.2017 provides as follows:

“৫। নিয়োগের প্রথম ৬ (ছয়) মাস আপনি শিক্ষানবিশ (প্রবেশন) থাকিবেন। এ সময়ে আপনার কর্মদক্ষতা আচার-আচরণ সন্তোষজনক না হইলে এবং সংস্থা/কারখানা কর্তৃপক্ষ উপযুক্ত বিবেচনা করিলে এই শিক্ষানবিশ কাল আরও ৬ (ছয়) মাস পর্যন্ত বৃদ্ধি করিতে পারিবে। সন্তোষজনকভাবে শিক্ষানবিশ মেয়াদ সমাপ্ত করার পর এবং সন্তোষজনক পুলিশ ভেরিফিকেশন প্রতিবেদন প্রাপ্তি সাপেক্ষে নির্ধারিত পদ্ধতিতে আপনার নিয়োগ স্থায়ী বিবেচনা করা হইবে।”

It thus appears that, there are two conditions for making the service of an employee to be permanent, which are, satisfactory completion of probation period (6 months or one year as the case may be) and satisfactory police verification report.

It has been stated in the impugned order (Annexure-H) that, it was communicated to the BCIC authority by the Security Service Division of the Ministry of Home Affairs that, an objection has been raised by the police regarding the appointment of the petitioner in the police verification report. On the basis of this

communication the respondent no. 4 cancelled the petitioner's appointment as per clause 5 of the appointment letter.

It appears that petitioner joined his service on 11.05.2017 and his appointment was cancelled on 06.03.2019. As per clause 5 of the appointment letter, he completed his 6 months' probation period on 11.11.2017 and there is nothing on the record to show that the probation period was further extended. The impugned order of cancellation was issued 15 months after completion of the probation period, which is long after the completion of initial probation period of 6 (six) months.

The appointment letter also provides a condition in clause 7 that, his service shall be guided by the BCIC Employees' Service Regulation of 1988. Rule 6 of this regulation provides as follows:

“৬। শিক্ষানবিসি- (১) সরাসরিভাবে নিয়োগপ্রাপ্ত ব্যক্তিগণ হয় মাসের জন্য শিক্ষানবিসি থাকিবেনঃ তবে শর্ত থাকে যে, নিয়োগকারী কর্তৃপক্ষ, কারণ লিপিবদ্ধ করিয়া, যে কোন ব্যক্তির ক্ষেত্রে উক্ত মেয়াদ অনূর্ধ্ব হয় মাসের জন্য বৃদ্ধি করিতে পারিবে।

(২) কোন ব্যক্তিকে কোন পদে স্থায়ী করা হইবে না, যদি না তিনি সন্তোষজনকভাবে শিক্ষানবিসি মেয়াদ সমাপ্ত করিয়া থাকেন এবং বোর্ড কর্তৃক সময় সময় নির্ধারিত বিভাগীয় পরীক্ষায় (যদি থাকে) পাশ করেন এবং নির্ধারিত প্রশিক্ষণ (যদি থাকে) গ্রহণ করিয়া থাকেন।”

There is no requirement of obtaining police verification report in this particular provision. Only successful completion of

probation period and duly passing the departmental examination (if there is any) or taking part in the training (if there is any) are required by the Board.

Admittedly, no objection has been raised by the respondent authority regarding satisfactory service rendered by the petitioner and apparently there was no requirement of any departmental examination or of taking part in any training by the Board; therefore the petitioner has become eligible to be made permanent in his service by the authority as per the provision of Rule 6 of the Service Regulation of 1988.

Furthermore, from Annexure-I to the supplementary affidavit dated 01.03.2026 it appears that, the Police Super of D.S.B, Gaibandha submitted a report on 26.02.2023 before the Manager and Departmental Head of Administration of Jamuna Fertilizer Company Limited, Tarakandi, Jamalpur, where the petitioner is currently posted, stating inter alia that, upon receiving the instruction from him i.e. the Manager, the police department conducted enquiry about as many as 13 employees including the petitioner and did not find any adverse information against them.

Learned Advocate for the contesting respondent nos. 3 and 4 submitted that the inquiry was conducted by the local police, who prepared the report during pendency of this writ petition and it was submitted before the Manager and Departmental Head of Administration of Jamuna Fertilizer Company Limited, Tarakandi, Jamalpur. No such report was communicated to the BCIC authority

and therefore they have no knowledge about this particular police verification report.

However, on receiving the supplementary affidavit dated 01.03.2026 the respondent nos. 3 and 4 came to learn about this police report and they have not controverted the content of the same. It is admitted fact that, by dint of the order of stay issued at the time of issuance of the instant Rule, the petitioner is continuing his service since 2019 till date.

Therefore, we find that, the requirement of satisfactory police verification report, as per clause 5 of the appointment letter, has been fulfilled during pendency of this writ petition.

Since both the conditions of clause 5 of the appointment letter have been accomplished, the office order of cancellation of appointment of the petitioner now appears to be of no legal effect.

In the given facts and circumstances and with the findings and discussion made hereinabove, we find substance in the submissions made by the learned Advocate for the petitioner. Accordingly, we find merit in the Rule.

In the result, the Rule is made absolute.

However, there is no order as to cost.

The impugned order cancelling the appointment of the petitioner is hereby declared unlawful and accordingly set aside. Since the petitioner is very much in service since 2017, he may be

allowed to continue his service as a permanent employee as per the provision of law.

Communicate the judgment and order at once.

Sashanka Shekhar Sarkar, J:

I agree.

Helal/ABO