

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

Writ Petition No. 5015 of 2020

In the matter of:

An application under Article 102 of the
Constitution of the People's Republic of
Bangladesh

AND

IN THE MATTER OF:

Rezia Akhter Daughter of Harunur
Rashid Assistant Cashier (now removed
from Service), Jamalpur Palli Bidyut
Samity, Beltia Jamalpur

.....Petitioner

-Versus-

Bangladesh Rural Electrification Board
represented by its Chairman, Sadar
Daptar Bhaban, Nikunja-2, Khilket,
Dhaka and others.

..... Respondents

Mr. Md. Bodruddoza, Advocate

.....For the petitioner

Mr. Hasibul Huq Advocate.

..... For the respondent No.1.

Mr. SK.Shaifuzzaman (Zaman),DAG with
Mr.Md.Shafiquzzaman (Rana).A.A.G.

..... For the respondents

Judgment on 21.06.2023

Present:

Mr. Justice K.M. Kamrul Kader

And

Mr. Justice Showkat Ali Chowdhury.

Mohammad Showkat Ali Chowdhury, J: On an
application under Article 102 of the Constitution of the People's
Republic of Bangladesh, the Rule Nisi was issued on 27.09.2020
in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to
show cause as to why the Memo No.27.12.3936.523.02.002.20.1147
dated 19.02.2020 issued by the respondent No.5 (vide Annexure-

H) convicting the petitioner under Rule 38 (1) (Ka) and (Gha) and removing her from the post of Assistant Cashier under Rule 39 (1) (Kha) (3) of the Jamalpur Polli Bidyut Samity Koarmachari Chakuri Bidhi, 1992 (as amended in 2012) and the decision of the appellate authority under Memo No.27. 12. 0000. 17. 58. 523. 20. 315 dated 31.08.2020 communicating the same by a Memo No. 27.12. 3936. 523.02. 018. 20.4393 dated 6th September, 2020, (vide Annexure-L) should not be declared to have been issued without lawful authority and is of no legal effect and why the respondents should not be directed to reinstate the petitioner in her service in the post of Assistant Cashier under the respondents with all arrear salaries and other benefits and / or such other or further order or orders pass as to this court may seem fit and proper”

2. Facts necessary for disposal of Rule Nisi in short are as follows:

The petitioner was serving as an Assistant Cashier with REB and her service was regularized on 08.09.2009 and by another office Memo dated 10.12.2009 she was posted from Sherpur Office to Jamalpur Office and thereafter, by another office Memo dated 23.12.2009 she got appointment in the said post to serve at Jamalpur Office and accordingly she joined the Jamalpur Office on the same date and she was posted to serve at Islampur Zonal Office and she joined there accordingly. Thereafter, she was serving as an Assistant Cashier for about

10(ten) years. To her utter surprise, she received a show cause notice issued by the respondent No.5 asking her to show cause as to why she should not be held liable for her failure to monitor the official functions of the Assistant Accountant Mr. Masud Ahmed who allegedly misappropriated of Taka 1,81,977.00/ (One lac eighty one thousand nine hundred and seventy seven taka); further charge against the petitioner was that though the concerned Deputy General Manager verbally ordered her to monitor the functions of Mr. Masud Ahmed, but on failure of her monitoring this opportunity was created in favour of Mr. Masud Ahmed to misappropriate the money by using a password in the name of “Rokti”, the third charge was that the petitioner was though the custodian of petty cash at Islampur Zonal Office but she failed to monitor the functions of Mr. Masud Ahmed who took charge of petty cash from January, 2018. The last charge against the petitioner was that though the Assistant Accountant, Masud Ahmed, used to collect bills from the field level customers but he did not put those bank collection report in the bank collection register and bank deposit which misappropriated by the Assistant Accountant Masud Ahmed. The petitioner having received the show cause notice dated 24.06.2019, replied the same on 08.07.2019 and the said reply was sent to the respondent by courier service in which the petitioner categorically rebutted the charges brought against her.

3. It is further stated in the petition that the respondents by another Memo dated 28.08.2019 framed charges stating all the charges brought against her in the show cause notice dated 24.06.2019 and by the said charges the petitioner has been informed that an inquiry committee has been formed comprising by 1(one) Member and with the said charges, the statements of fact has been enclosed therein and thereafter the petitioner having received the charges, replied the same denying all the charges leveled against her. Thereafter, 01(one) Member Inquiry Committee conducted inquiry in respect of the entire allegations against the petitioner, took depositions of the persons against whom allegations were brought, the petitioner was given an opportunity to defend herself and finally the Inquiry Officer on 24.12.2019 submitted his report wherein the allegations brought against the petitioner and others were alleged to have been proved. Thereafter, the respondents, after receiving the inquiry report, by another Memo dated 14.01.2020 issued final show cause notice to the petitioner to reply within 10(ten) days from the date of receipt of the notice as to why the petitioner should not be removed from service and the petitioner having received the said final show cause notice, replied the same on 29.01.2020 and the office of the respondents received the said reply on the same day. It is also stated that the respondents, without examining the inquiry report and without considering the reply of the petitioner, removed the

petitioner from service by a memo dated 19.02.2020 mentioning the charges brought against her. The petitioner having received the Memo of removal of service preferred a Departmental Appeal stating inter alia that the petitioner did not commit any offence whatsoever and the concerned authority imposed major penalty of removal from service and she prayed to review the order of removal of the petitioner from service.

4. In supplementary affidavit on behalf of the petitioner, it has been averred that the appeal was dismissed by the REB Board on 31.08.2020 after lapse of 06 months 05 days in violation of Rule 45(2) Service Rules and since the appeal was dealt with and dismissed by the REB Board, both the Samity Board and the REB Board acted in gross violation of Rule 45(4) of the Service Rules.

5. Being aggrieved by the decision of the respondents, the petitioner finding no other efficacious alternative remedy filed this instant Writ Petition before this Court and obtained the present Rule.

6. Respondent No. 1 contested the Rule by filing an affidavit in opposition dated 26.01.2021 and stated that duties and responsibilities of the post of Assistant Cashier are laid out in PBS Instruction 300-14. It is categorically stated that apart from specific duties designated to an Assistant Cashier under the said PBS Instructions 300-14, or she is also required to “function such other duties and responsibilities as will be assigned from time to

time.” Regular duties of Assistant Cashier also include receiving and certifying collection of accounts of consumers; preparing daily cash collection report; reconciling cash with consumer’s records; preparing bank deposits and maintaining control of petty cash fund. A preliminary Inquiry has been conducted into the said allegations, upon which allegations against the writ petitioner have been found correct. Thereafter, the relevant department of the respondent No.1 served a show-cause notice dated 24.06.2019 to the petitioner, who submitted a reply dated 07.07.2019 thereto; there is some discrepancy between the reply by the writ petitioner in writ petition and the one submitted by her to the relevant respondent authority. The relevant authority considered the said reply but did not find it satisfactory and accordingly, the relevant department of the respondent No.1 framed charge dated 28.08.2019 against the writ petitioner, who submitted a reply against the same. The Inquiry Committee then conducted a thorough inquiry in which it considered all relevant documents and statements of all relevant persons, including the writ petitioner. Thereupon, the Inquiry Committee submitted Inquiry Report dated 24.12.2019, wherein allegations against the writ petitioner have been clearly found proved. The relevant authority then served final show-cause notice dated 14.01.2020 upon the writ petitioner along with a copy of the said Inquiry Report attached therewith. The writ petitioner submitted a reply dated

29.01.2020 against the final show-cause notice and that the relevant authority considered the said reply, but did not find it satisfactory and accordingly, the relevant authority decided to remove her from service vide Memo No.27.12.0000.012.31.047.19.951 dated 11.02.2020. Pursuant to this said Memo, the respondent No.5 authority Jamalpur PBS removed the writ petitioner from service vide Memo dated 19.02.2020. Thereafter, the writ petitioner preferred Departmental Appeal before the elected and independent Samity Board of Jamalpur PBS. The Samity Board perused the said appeal thoroughly and thereupon found that the removal order of this petitioner was justified and as a result, the Samity Board recommended keeping the punishment intact, and this recommendation was approved by BREB when the same was forwarded to BREB and accordingly Jamalpur PBS informed the petitioner about the said decision of rejection of appeal vide Memo dated 6.9.2020. On several occasions in the past, the writ petitioner has been given warning by the respondent No.5 authority after she has been found to have committed a variety of misconduct. The writ petitioner has prayed for apology in all of her replies during the departmental proceeding for taking what she called co-operation from the said Masud Ahmed on verbal instruction from the concerned Deputy General Manager. As such even if her claim is taken at face value for the sake of argument only, she is still clearly at fault for which the authority correctly

initiated departmental proceeding against her and, upon finding allegations against her proved she was removed from service. In her writ petition, the petitioner also implicitly admitted to her involvement in the allegations against her in as much as she stated in ground No.III of her petition that her punishment of removal is “harsh in terms of allegation of omission of the petitioner “as such she acknowledged, tacitly at least, that she was at fault in respect of the allegations against her and it is only the said major punishment of removal imposed on her, as opposed to imposing any of the other more lenient punishments provided under the Service Code, that was inappropriate. Several claims made by the writ petitioner in her replies during departmental proceeding are completely misleading including when she stated that she signed bank collection reports prepared by Assistant Accountant Masud Ahmed merely because Masud prepared those reports on verbal order of the D.G.M but this claim is totally baseless because even if her said statement is assumed correct in that case no prudent and reasonable Assistant Cashier would sign a report as sensitive as bank collection report prepared by another person (Masud Ahmed) and on the other hand, if her statement is not correct then the entire responsibility falls on her, because she then failed to prepare daily cash collection report and prepared bank deposits, both of which are her jobs as Assistant Cashier as per PBS

instruction 300-14 and she has been removed from service in accordance with the Service Code.

7. In the supplementary affidavit-in-opposition dated 15.02.2023, it has been averred the findings of the impugned judgments that according to Article 40 of the Palli Bidyut Samity Service Code, the departmental proceeding has to be completed within $90+30=120$ days is not correct as no consequence has been attached thereto. The Inquiry Committee conducted inquiry in respect of the entire allegations against the petitioner, took depositions of the persons against whom allegations were brought, the petitioner was given the opportunity to defend herself. The Inquiry Officer is not to follow the procedure of trial by a court. In appropriate cases, the Inquiry Officer may arrive at a decision simply by questioning the delinquent officer and considering his explanation.

8. In the supplementary affidavit-in-opposition dated 22.02.2023, it is stated that this petitioner, at different stages during the departmental proceeding conducted by the authority in relation to her, categorically stated that Deputy General Manager Mr. Bhojon Kumar Barman has never given any written order regarding taking co-operation from Assistant Plant Accountant Mr. Masud Ahmed with regard to certain aspects of her official duties. In fact, she based her defence (which was presented by her before the inquiry committee) on her claim that Mr. Masud

Ahmed committed all the alleged misappropriation of money on his own without any manner of participation from the writ petitioner's end and that Mr. Masud Ahmed committed the said misconduct by exploiting the opportunity of co-operating with the writ petitioner which was afforded to him by verbal order of the said D.G.M.

9. In the supplementary affidavit-in-opposition dated 24.05.2023, it is stated that after the preferred departmental appeal dated 25.02.2020 challenging her removal from service before the Samity Board of Jamalpur Palli Bidyut Samity (PBS), the Samity Board considered her appeal in its 409th Board Meeting held on 18.03.2020. In that Board Meeting, it was found that the writ petitioner was removed from service in accordance with Palli Bidyut Samity Service Code and that, therefore, there is no scope to consider the appeal, which they numbered as decision No.02/409/2020.

10. In the supplementary affidavit-in-opposition dated 26.01.2021, it is stated that the writ petitioner's claim that Masud Ahmed was in charge of petty cash from January, 2018 is contradicted by the writ petitioner herself in her reply during departmental proceeding and the writ petitioner inappropriately signed petty cash vouchers and that she did so on her own and not on the verbal order of the D.G.M can be understood from her said reply made during the proceeding.

11. During hearing Mr. Md. Bodruddoza, the learned Advocate appearing on behalf of the petitioner submits that though various allegations of different functioning were brought and leveled against the petitioner, but the petitioner was not at all responsible for doing all those jobs on verbal order of the Deputy General Manager. The post of Assistant Accountant holds by Mr. Masud Ahmed is two ranks higher than the post holds by the petitioner and though it is evident that the Assistant Accountant Masud Ahmed was in charge of petty cash from January, 2018 and he was also responsible to collect the arrear bills from the field level and admittedly he collected the bills and he was also removed from service by the respondents but on the basis of vague allegation the petitioner was removed from service though the petitioner was not in charge of collecting money/bills. He then contends that despite no allegation of misappropriation or misconduct has been proved but imposed major penalty of removal from service to the petitioner and therefore, the imposition of punishment against the petitioner is a malafide act.

12. Mr. Bodruddoza further submits that since the post of Assistant Account hold by Mr. Masud Ahmed is two ranks higher than the post held by the petitioner, it was beyond the service Rules, job description of the petitioner to monitor the job responsibility of the Assistant Accountant on the basis of so-called verbal order of the Deputy General Manager but unfortunately this

petitioner was fired from service only on the basis of vague allegation of failure on the part of the petitioner to monitor the functions of the Assistant Accountant and therefore, the impugned Memo issued by the respondents removing the petitioner from service, is apparently an illegal and malafide one and is liable to be declared to have been passed without lawful authority and of no legal effect.

13. He next submits that though the petitioner preferred the Departmental Appeal addressing the Chairman of the Palli Bidyut Samity Board under Rule 45 of the Service Rules, but the appeal was dismissed by the REB Board on 31.08.2020 after lapse of 06 months 05 days in violation of Rule 45(2) of the Service Rules and since the appeal was dealt with and dismissed by the REB Board, both the Samity Board and the REB acted in gross violation of Rule 45(4) of the Rules and as such the impugned order of removal and the dismissal of departmental appeal are liable to be declared illegal and without lawful authority.

14. He finally submits that though it appears from the Inquiry Report that the D.G.M Mr. Bhojon Kumar was responsible to oversee and supervise the functions of his subordinate staffs, despite for his negligence, he was only imposed a minor punishment but the writ petitioner was imposed highest punishment for no fault on her part and the petitioner has been discriminated as such the impugned order of removal and

the dismissal of Departmental Appeal are liable to be declared to have been passed without lawful authority and he has prayed for making the Rule absolute.

15. To substantiate his submission Mr. Badrudduza referred a catena of case laws; such as, case of Md. Abdul Jabbar Vs. Bangladesh Rural Electrification Board (BREB) represented by its Chairman, Bidyut Bhaban, Nikunja Dhaka and others in Writ Petition No. 7069 of 2017 (Unreported), General Manager, Palli Bidyut Samity Board, Jamalpur Palli Bidyut Samity, Beltia Jamalpur Vs. Abdul Jabbar and others in Civil Petition for Leave to Appeal No. 4800 of 2018(from the judgment and order dated 09.08.2018 passed by the High Court Division in Writ Petition No. 7069 of 2017), (unreported), Case of Sheikh Md. Saifullah Vs. Government of People's Republic of Bangladesh represented by the Secretary, Ministry of Energy and Mineral Resources, Bangladesh Secretariat, Shahbag, Dhaka and 5(five others) in Writ Petition No. 12063 of 2015, (Unreported) and Case of the Chairman, Rural Electrification Board at present(Bangladesh Rural Electrification Board) Nikunja, Khilket, Dhaka Vs. Maziruddin Ahmed Khan and others in Civil Petition for Leave to Appeal No. 2846 of 2014 (unreported).

16. Conversely Mr. Hasibul Haq, the learned Advocate for the Respondent No.1 in his submission has reiterated the grounds taken in affidavit in oppositions narrated above and precisely

contends that it is the responsibility of the petitioner to prepare daily cash collection report, certifying collection of accounts of customers, reconciling cash with consumers records, preparing daily cash collection report, reconciling cash with consumers records, preparing bank deposits and maintain control of petty cash fund. He contends that specific duties designated to an Assistant Cashier under the said PBS Instructions 300-14, or she is also required to “function such other duties and responsibilities as will be assigned from time to time. The entire responsibility falls on her, because, she then failed to prepare all these things, so if it was prepared by Assistant Accountant Masud Ahmed as per her claim in such situation, she ought not to sign those sensitive documents without making check list and her failure doing so the authority incurred loss. The petitioner’s contention that she cannot be expected to monitor the works of her superior is totally misleading because the said D.G.M only asked that Masud to assist her in her works, not to commit any of the misconduct and negligence which were committed at her own instance and as such, no legal right accrued in favour of the petitioner. He then contends that the Inquiry Committee conducted a thorough inquiry in which it considered all relevant documents and statements of all relevant persons, including the writ petitioner. Thereupon, the Inquiry Committee found the allegations against the writ petitioner have been clearly proved. Against the final show-cause

notice the writ petitioner submitted a reply and that the relevant authority of BREB considered the said reply but did not find it satisfactory and accordingly, the relevant authority of BREB decided to remove her from service. Pursuant to this decision, the respondent No.5 authority Jamalpur PBS removed the writ petitioner from service.

17.He lastly contends that the Samity Board perused the appeal of the petitioner thoroughly and thereupon found that the removal order of this petitioner was justified and as a result, the Samity Board recommended keeping the punishment intact and this recommendation was approved by BREB when the same was forwarded to BREB and accordingly Jamalpur PBS informed the petitioner about the said decision of rejection of appeal and The petitioner has been removed from the service in accordance with the Service Code which is not to be interfered. He vehemently claims that there is no infringement of fundamental rights of the petitioner and accordingly he has prayed for discharging the Rule.

18. To substantiate his submission he has referred case of Muhammad Anisur Rahman Vs. Chairman, Bangladesh Rural Electrification, Sadar Daftar Bhaban, Joar Sahara, Khilket, Dhaka-1229 and others in Writ Petition No. 7596 of 2017, (unreported), Case of Kamrul Islam, Lineman Grade-1(now dismissed) ID No.108, Narasingdi Polli Biddut Somity-1 Madhobdi, Narasingdi Vs. Bangladesh represented by the Secretary of Electricity,

Bangladesh Secretariat, Ramna, Dhaka in Writ Petition No. 3510 of 2012(unreported), Case of Zannatul Ferdous Vs. The Government of Bangladesh and others in Writ Petition No. 5465 of 2013, (unreported),Case of General Manager, Munshigonj Polli Bidyut Samity, Sepahipara, Munshigonj Vs Jannatul Ferdous and others in Civil Petition for Leave to Appeal Nos. 1500 and 590 of 2018(From the judgment and order dated 09. 11. 2017 passed by the High Court Division in Writ Petition No. 5465 of 2013),(unreported),Case of Md. Nazrul Islam Khan Vs. Bangladesh Rural Electrification Board, represented by the Chairman, Head office of Nikunja-2 Khilket, Dhaka in Writ Petition No. 3361 of 2017, (unreported).

19. We have heard the learned Advocates for both sides, perused the materials on record, affidavit-in-oppositions, supplementary affidavit-in-opposition and all other connected papers annexed thereto and also perused the case laws referred by the learned Advocates of the contending parties.

20. The moot question to be decided and adjudicated in this Rule is the legality and propriety of the impugned order of removal of the petitioner Rezia Akhter from the service by the respondents.

21. It appears from the Annexure-E that in charge form the allegations among others are of her failure to supervise and monitor the tasks of Assistant Accountant Masud Ahmed and

thereby created an opportunity to misappropriate money Tk. 2,03,069/- of the Zonal Office of REB by Assistant Accountant Masud. The other three allegations centered the petitioner's failure to supervise the tasks of Assistant Accountant Masud Ahmed and for that reason she is guilty of misconduct.

22. The material on record reveals that though Assistant Accountant Masud used to collect bills from the field level customers but he did not put that bank collection report in the bank collection register and bank deposit which led misappropriation by the Assistant Accountant. From the reply of the petitioner against show cause notice (Annexure E-2), it appears that the petitioner categorically denied the charges and it reveals from the Annexure "E" it is admitted in charge form that D.G.M verbally ordered Assistant Accountant Masud to help the petitioner in preparation of the report and others. The statement made in affidavit in opposition with regard to the denial of giving verbal order by the DGM to Assistant Accountant is not supported by the Annexure "E". It further appears from the Annexure "E" that the Assistant Accountant Masud by the verbal order of DGM took charge of the petty cash from the month of March, 2018.

23. From the material on record, it appears that the alleged misappropriation of money was taken place between March, 2018 to September, 2018. From the material on record, it appears that

from January, 2018 Assistant Accountant Masud Ahmed was in charge of the petty cash by verbal order of D.G.M and from the charge, it reveals that the petitioner did not misappropriate any amount of money but simple allegation was that of her failure to monitor the official function of the Assistant Accountant Masud who enjoys two ranks higher than that of the petitioner. So, it is ridicules and unexpected to monitor the official job of the higher post official by the lower post official.

24. Since specific allegation of the misappropriation of money was not raised against the petitioner, so there was no occasion on the part of the petitioner to create any opportunity to misappropriate money by the Assistant accountant Masud Ahmed and it necessary to mention here that we must not make any observation whether Assistant Accountant Masud Ahmed misappropriated that said amount of money or not? It appears from material on record that the petitioner under no circumstances became the beneficiary of the so-called misappropriation of money. It further appears from the material on record that the petitioner was over burdened in office and that is why the D.G.M verbally ordered the Assistant Accountant to help the petitioner in preparation of the bank report and others. It further appears from reply of the petitioner that the petitioner put signature on bank report by the order of the D.G.M. In this regard, the petitioner without verifying the report put her signature which is not

permissible by law and we find her negligence in carrying out her job but that negligence was not willful on the part of the petitioner. In the attending facts and circumstances, it appears that for mere negligence awarding major punishment of removal of the petitioner from the service is very harsh and disproportionate to the gravity of wrongs committed by the petitioner.

25. In the case of Md. Abdul Jabbar Vs. Bangladesh Rural Electrification Board (BREB) represented by its Chairman, Bidyut Bhaban, Nikunja Dhaka and others in Writ Petition No. 7069 of 2017 (Unreported) the petitioner Md. Abdul Jabbar was removed from service by BREB for gross failure of performing his duties and in the above writ petition their lordships held that in appeal one Nur Alam has been reinstated in his service after considering his removal order by imposing minor penalty and their lordships further observed that it clearly discriminate with the decision given in respect of another person for the similar offence as committed as alleged and directed the respondents to reinstate the petitioner Md. Abdul Jabbar in service if he is not found otherwise disqualified. In the case of Sheikh Md. Saifullah Vs. Government of People's Republic of Bangladesh represented by the Secretary, Ministry of Energy and Mineral Resources, Bangladesh Secretariat, Shahbag, Dhaka and 5(five others) in Writ Petition No. 12063 of 2015 (Unreported) the petitioner was removed from service for his unauthorized absence in the office for 10(ten)

months and 15 (fifteen) days and the said writ petition has been made absolute and the order of removal was set aside and observed that the petitioner is deemed to have been throughout in service. The respondents have been directed to allow him to continue his service and he is entitled to get arrear salaries.

26. In the case of Muhammad Anisur Rahman Vs. Chairman, Bangladesh Rural Electrification, Sadar Daftar Bhaban, Joar Sahara, Khilket, Dhaka-1229 and others in Writ Petition No. 7596 of 2017, (unreported) the petitioner was dismissed from service by BREB for misappropriation of money. Their lordships made the Rule absolute on the ground that the Inquiry Committee did not follow the procedure 41 of the Service Code and of the Sunamgonj Palli Bidyut Samity and the documents on record respondent No. 3 has been directed to take immediate steps to reinstate the petitioner in his post in accordance with the 217th Board Meeting dated 22.03..2017 Sunamgonj Palli Bidyut Samity in accordance with rules 39 (Kh)(1) and to pay the arrear to the petitioner within three months from the date of receipt of the judgment and order.

27. In the case of Kamrul Islam, Lineman Grade-1(now dismissed) ID No.108, Narasingdi Palli Bidyut Somity-1 Madhobdi, Narasingdi Vs. Bangladesh represented by the Secretary of Electricity, Bangladesh Secretariat, Ramna, Dhaka in Writ Petition No. 3510 of 2012 (unreported) the petitioner was

reduced from his rank as lineman Grade -2 from lineman Grade -1 and subsequently dismissed from service for disobeying office order in course of performing his duties and also violating the provision of section 37(ka) and (Kha) of the Service Code No. 1992. Their lordships observed that reduction of rank and reducing salaries of the petitioner has been made lawful but the dismissal order of the petitioner from service was not made in accordance with law. The Rule was made absolute in part and the respondents are directed to take necessary step to restore the petitioner in service for the post of lineman Grade -2 with all service benefits from the date of dismissal of his service in accordance with law within 30 days from the date of receipt of the judgment and order of the court.

28. In the case of Zannatul Ferdous Vs. The Government of Bangladesh and others in Writ Petition No. 5465 of 2013, (unreported) the petitioner was removed from the post of cashier by the BREB for the allegation of discrepancies of TK. 1,56, 457/-. Material on record of that writ petition that that petitioner Zannatul Ferdaous after collection of electricity bills used to keep the said money in her hand and did not deposit daily collected money in the Bank. Their lordships found that the petitioner has sustained loss of Tk. 1,56, 457/- to the Palli Bidyut Samity but found that the petitioner was dutiful to her service and the Board required her to deposit asking the consumer to deposit by easy

installment and modified the order of removal and punished her under section 38(1) (kha) (3) of Palli Bidyut Samity Staff Rules 1992 amended 2012 and demotion her as Assistant cashier. Her reinstatement to the said post would be without any pay from date of her removal dated 11.02. 2013 till her joining in the said post. The allegation against Zannatul Ferdous is distinguishable from the allegation brought against the present petitioner Rezia Akter.

29. In Civil Petition for Leave to Appeal Nos. 1500 and 590 of 2018 (From the judgment and order dated 09. 11. 2017 passed by the High Court Division in Writ Petition No. 5465 of 2013), (unreported), their lordships of our Hon'ble Apex Court observed, "Considering the facts and circumstances of the case, we find no legal infirmity in the impugned judgment and order factually and legally calling for interference by this court."

30. It is pertinent to mention here that it appears from the material on record that the D.G.M was awarded lesser punishment for his misconduct. It is not supported by any law that persons at similar fault be dealt with law differently. It is guaranteed in our Constitution in Article 27 that all citizens are equal before law and are entitled to equal protection of law. But in the instant case, we find clear discrimination in awarding punishment to the petitioner which can be redressed under Article 102 of our Constitution.

31. In the cases referred by the learned Advocate of the petitioner as discussed above, it appears that all the petitioners

were reinstated in service. It also appears from case laws referred by the learned Advocate by the respondent No. 1 all the petitioners were also reinstated in their service. It is remarkable to mention here that the case of Zannatul Ferdous Vs. the Government of Bangladesh and others in Writ Petition No. 5465 of 2013, (unreported) is distinguishable with the instant writ petition on point of the petitioner was removed from the post of cashier by the BREB for the allegation the petitioner sustained loss of TK. 1,56, 457/- to the respondents. However, she is ordered to be reinstated in service. But in the instant writ petition there is no specific allegation of misappropriation of money but allegation of her negligence to monitor the tasks of Assistant Accountant who enjoys two ranks higher than the post holds by the petitioner. So, the case laws referred by the learned Advocate of the Respondent No. 1 in no way help the respondents. Upon meticulous examination of the whole proceeding against the petitioner and case laws cited above it appears to us that the submission of the learned Advocate of the petitioner is partially acceptable.

All underlines are supplied for emphasis.

32. Under the above facts and circumstances, we again hold that the punishment awarded to the petitioner disproportionate to her gravity of fault and we hold the view that justice will be best served if we modify the order of the removal of the petitioner

from the service and punished her under rule 39(ii)(ka) of the পলী বিদ্যুৎ সমিতি কর্মচারী চাকুরী বিধি, ১৯৯২ সংশোধিত, ২০১২ to held up one increment for one year as minor punishment for her negligence.

33. In view of the above, the Rule is made absolute in part however without any order as to costs. The Memo No. 27. 12. 3936. 523. 02. 002. 20. 1147 dated 19.02.2020 issued by the respondent No.5 (vide Annexure-H) convicting the petitioner under Rule 38 (1) (Ka) and (Gha) and removing her from the post of Assistant Cashier under Rule 39 (1) (Kha)(3) of the Jamalpur Polli Bidyut Samity Koarmachari ChakuriBidhi, 1992 (as amended in 2012)and the decision of the appellate authority under Memo No. 27. 12. 0000. 17. 58. 523. 20.315 dated 31.08.2020 communicating the same by a Memo No. 27.12. 3936. 523.02. 018. 20.4393 dated 6th September, 2020, (vide Annexure-L) is hereby declared to have been issued without lawful authority and is of no legal effect.

34. The respondents are directed to reinstate the service of the petitioner Rezia Akhter in the post of Assistant Cashier and to pay all arrears and other benefits of the service as per law to the petitioner within 30 (thirty days) from the receipt of this judgment and order.

35. The office is directed to communicate the judgment and order of this court to the office concerned for compliance.

K.M. Kamrul Kader, J

I agree