

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

**Writ Petition No. 7668 of 2020.**

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:**

Sanjib Chakroborty

..... Petitioner

-Versus-

The Secretary, Electricity Division, Ministry  
of Power, Energy and Mineral Resources  
and others.

Mr. Md. Shameem Sarder, Advocate

. . . For petitioner.

None appears

. . . For the respondents.

Present:

Mr. Justice J. B. M. Hassan

and

Mr. Justice Razik Al Jalil

Heard and judgment on 30.05.2024.

**J. B. M. Hassan, J.**

The petitioner obtained the Rule Nisi in the following terms:

“ Let a Rule Nisi be issued calling upon the respondents to show  
cause as to why the Rule 7.8(a) of the Employee Service Rules-  
2016 promulgated by the West Zone Power Distribution  
Company Limited (WZPDCL) (Annexure-I to the writ petition)  
and section "২৩(১)(ক) " of the "বাংলাদেশ শ্রম আইন," 2006 published  
in Bangladesh Gazette dard 11.10.2006 (Annexure-J to the  
writ petition) should not be declared to be ultra vires the  
Constitution of the People's Republic of Bangladesh and why  
the office order vide Memo No. 27. 22. 4785. 002.

29.054.20.592 dated 12.03.2020 issued by the respondent No.3 dismissing the petitioner from service on conviction (Annexure-F to the writ petition) should not be declared to be without lawful authority and of no legal effect And as to why a direction should not be given upon the respondents to reinstate the petitioner in original post of his service with arrear salary, seniority and other financial benefits and/or pass such other or further order or orders as to this Court may seem fit and proper.”

Relevant facts leading to issuance of the Rule Nisi are that the petitioner got appointment on 19.09.1987 as MLSS-Cum-Guard in the office of the Chief Engineer, Distribution, West Zone, BU Board, Boyra Prodhan Sarok, Khulna. Thereafter, he was further appointed in the Post of Computer Operator-A/Store Keeper-A/Miter Rider (LDA cum Typist) in the Operation and Keeping Circle of the West Zone Power Distribution Company Limited (WZPDCL), Khulna (An Enterprise of BPBD) vide memo No. ৩-27/ওজোপাডিকো/2008/527 dated 27.02.2008 and joined the service accordingly. He was then transferred to the Sale & Distribution Division of the WZPDCL, Bagerhat office on 14.02.2019 and as per office order he joined the said office on 16.02.2019 and the concerned authority accepted his joining letter on that day.

In course of his service, he was entangled in a criminal case being C. R. No. 317 of 2016 under section 138 of the Negotiable Instrument Act (NI Act) and ultimately by the judgment and order dated 06.02.2020 he was convicted and sentenced to suffer simple imprisonment for three months along with fine of Tk.1,00,000/- (one lac).

Following the said judgment of conviction and sentence, the respondent company issued the office memo dated 12.03.2020 dismissing the petitioner from service in accordance with rule 7.8(a) of the Employee Service Rules-2016 due to conviction in criminal case. Challenging the said order the petitioner filed this writ petition and obtained the present Rule Nisi.

Mr. Md. Shameem Sarder, learned Advocate for the petitioner by filing supplementary affidavit, at the very outset submits that during pendency of the Rule Nisi, the petitioner preferred Criminal Appeal No. 257 of 2020 against the conviction and sentence under the NI Act and eventually, the appeal was allowed by the judgment and order dated 09.11.2021 passed by the Metropolitan Sessions Judge, Khulna acquitting the petitioner from the charge. He further submits that since the petitioner has been acquitted, the dismissal order of service can not sustain. He, however, does not press the 1<sup>st</sup> part of the Rule Nisi challenging Rule 7.8(a) of the Employees Service Rules, 2016 (the Rules, 2016).

None appears on behalf of the respondents.

We have gone through the writ petition and other materials on record.

Rule 7.8(a) of the Rules, 2016 incorporates the following provisions:

“7.8 Procedure for disposal of a case, where an employee has been convicted by a court of law

(a) When an employee is convicted by a court of law on charge of a criminal offence, the competent authority may dismiss or remove him/her from the service of the company. or impose any other penalty upon him without following the inquiry procedure or may not impose any penalty, if the Appointing

authority decides that the offence for which he/she is convicted is not liable to disciplinary action under these rules.”

Pursuant to the said provision, the petitioner was dismissed from service but now from the supplementary affidavit we find that in appeal, the petitioner got acquittal setting aside the judgment of conviction and sentence. In view of above, the petitioner is entitled to be reinstated in the service. Although the petitioner made representation intimating the authority on 21.11.2021 regarding acquittal annexing the judgment, but the respondent, have not taken any step. In view of above, we find merit in part of this Rule Nisi.

In the result, the Rule Nisi is made absolute in part. The respondents are directed to reinstate the petitioner in the service within 30 (thirty) days from the date of receipt of the judgment with arrear from 21.11.2021 and the period from 12.03.2020 to 20.11.2021 shall be treated as leave without pay.

Communicate a copy of this judgment and order to the respondents at once.

**Razik Al Jalil, J**

I agree.