

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

Present:

Ms. Justice Naima Haider
And
Ms. Justice Kazi Zinat Hoque

Writ Petition No. 9314 of 2022

In the matter of :

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

-And-

In the matter of :

Masudur Rahman

..... Petitioner

-VERSUS-

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

..... Respondents

Mr. Abu Hanif Miah, Advocate

..... For the Petitioner

Mr. Md. Mahbubur Rashid, Advocate

.... For the respondents

Date of Hearing : 07.12.2023 and 14.01.2024

Date of Judgment: 16.01.2024.

Kazi Zinat Hoque, J :

In this application under Article 102 of the Constitution a Rule Nisi has been issued calling upon the respondents to show cause as to why a direction should not be given upon

respondent Nos. 6 and 7 to accept the joining report of the petitioner in the position of Upper Division Assistant (উচ্চমান সহকারী) pursuant to the letter of appointment vide file No. কঅ-নারা/জঃপ্রঃ-১/প্রঃশাঃ-৯/নি-য়াগ/২০২১-২০২২/৮৬৬(১-৫৬) dated 13.03.2022 issued by respondent No.7 under freedom fighter quota (Annexure-G) and/or pass such other or further order or orders as to this court may seem fit and proper.

Relevant facts for disposal of the instant writ petition are that the petitioner successfully completed Bachelor of Science in Botany from Government Bangabandhu College, Gopalganj under National University and Master of Science in Botany from Dhaka College affiliated with Dhaka University. The petitioner's father Md. Akkash Ali Mullah is a valiant freedom fighter and his name has been included in the list of freedom fighters by the Government of Bangladesh. The petitioner applied for the position of Upper Division Assistant (উচ্চমান সহকারী) in the office of respondent No.7 under freedom fighter quota. He appeared in the written examination on 25.02.2022 and was selected amongst 51(fifty one) candidates. He also sat for viva-voce and practical examinations. On 03.03.2022 respondent No.7 published a notice wherein the petitioner was selected for the position of Upper Division Assistant.

Respondent No.7 issued an appointment letter vide file No. কঅ-নারা/ জঃপ্রঃ-১/ প্রঃশাঃ-৯/ নি-য়াগ/ ২০২১-২০২২/ ৮৬৬(১-৫৬) dated 13.03.2022 directing him to join the said position. On 21.03.2022 the petitioner wanted to join the said position. However, the respondents did not accept the joining report. The petitioner filed an application on 13.06.2022 for accepting his joining report. However, the respondents have not yet been taken any positive step. Hence this writ petition.

Mr. Abu Hanif Miah, learned Advocate appearing for the petitioner, submitted that the petitioner's father actively participated in the War of Liberation in 1971 and as such his name appeared in the civil gazette published by the Ministry of Liberation War Affairs. However, the respondent most arbitrarily and illegally are not accepting the joining report of the petitioner.

Mr. Md. Mahbubur Rashid, learned Advocate representing for respondent No.5, submitted that the petitioner failed to provide certified copy of the list of freedom fighter, though subsequently he provided copy of the civil gazette and as such the respondents did not accept the joining report. Therefore, the Rule is liable to be discharged.

On careful perusal of the Annexure-B-1 it is evident that the petitioner's father's name was included in the Civil Gazette issued by the Ministry of Liberation War Affairs. From Annexure-B-2 (detailed information of freedom fighter) it is evident that the freedom fighter No. of the petitioner's father is 01350009793.

On careful perusal of Annexure-B-3 it is evident that Central Command Council of Bangladesh Muktiyudha Sangsad, has issued a certificate in favour of the petitioner's father Md. Akkash Ali Mullah. It is admitted that the petitioner applied for the position of Upper Division Assistant in the office of respondent No.7 under freedom fighter quota and he was selected for the said position. From merit list (Annexure-G) it is evident that the petitioner's name is included in Serial No.6. The petitioner submitted the civil gazette issued by the Ministry of Liberation War Affairs along with his joining letter. However, the respondents most arbitrarily had not accepted his joining report for flimsy ground.

In the facts and circumstances stated above, we find merit in the Rule.

In the result, the Rule is made absolute. Respondent Nos. 6-7 are directed to accept the joining report of the petitioner in the position of Upper Division Assistant (উচ্চমান সহকারী) pursuant to the letter of appointment vide file No. কঅ-নারা/জঃপ্রঃ-

১/প্রশাসন-৯/নি-সাগ/২০২১-২০২২/৮৬৬(১-৫৬) dated 13.03.2022 within a period of 30 (thirty) days from the date of receipt of a copy of this judgment.

There is no order as to cost.

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

(Kazi Zinat Hoque, J):

I agree

(Naima Haider, J):