

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

**Writ Petition No. 10313 of 2023**

IN THE MATTER OF:

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

-AND-

IN THE MATTER OF:

Md. Shahjahan alias Md. Shahjahan Ali  
...Petitioner

-Versus-

**Present:**

Mr. Justice Sashanka Shekhar Sarkar  
And  
Justice Urmeem Rahman

Government of Bangladesh, represented  
by the Secretary, Ministry of Public  
Administration and others

..... Respondents

Mr. Md. Abdur Rahman, Advocate with

Ms. Farzana Afrin, Advocate

...For the petitioner

Mr. Mansur Habib, Senior Advocate with

Ms. Rahima Akter, Advocate and

Mr. Khandoker Firoz Ahmed, Advocate

... For the respondent no. 3

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

Ms. Nilufar Yesmin, A.A.G,

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

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

Mr. Md. Faridul Islam, A.A.G

.... For the respondents

Heard on 25.02.2026, 11.03.2026, 20.04.2026  
and 21.04.2026

Judgment on 22.04.2026

**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 show cause as to why the Memo No. 46.18.0000.300.006.23-2523 dated 31.07.2023 issued by respondent No. 2 giving forced retirement to the petitioner from his service counting the age as per service book instead of National Identification Card (NID) and other relevant documents (Annexure-E) and issued post retirement leave (PRL) letter shall not be declared to have been issued without lawful authority and is no legal effect and as to why the respondents shall not be directed to reinstate the petitioner and allow him to continue the service in the post of Road Light Inspector, Electricity Dept. Rangpur City Corporation, Rangpur till he reaches 59 years as per NID card age and/or pass such other or further order or orders passed as to this Court may seem fit and proper.”*

Relevant facts for disposal of the matter in brief are that, the petitioner joined Rangpur Municipality on 28.12.1980 as a Municipal guard on daily payment basis. Subsequently, he was promoted to the post of Assistant Lineman on 22.09.1982, thereafter to the post of Electrician on 23.07.1985 and finally to the post of Road Light Inspector in the Electricity Department by the office order dated 30.12.1999. As per his NID Card, Birth Certificate, Nikahnama, School Transfer Certificate and the

succession certificate his date of birth is 02.08.1968 but in his service book the authority inadvertently recorded his date of birth as 02.08.1964. The petitioner filed an application to the Civil Surgeon, Rangpur for a radiological test for ascertaining his actual age and after holding a radiological test on 04.04.2022 the Civil Surgeon, Rangpur issued a certificate on 28.05.2022 mentioning the radiological age of the petitioner to be between the age of 50 to 55 years. Thereafter on 16.03.2023 the petitioner filed an application before the respondent No. 2 praying for correction of his date of birth in the service book on the basis of his NID card and other relevant documents. No response was made to that application. All on a sudden on 31.07.2023 the respondent No. 2 issued an office order mentioning that the petitioner will attain the retirement age of 59 years on 01.08.2023 and therefore granted post retirement leave (PRL) for the period of 02.08.2023 to 01.08.2024. This office order was issued without considering the date of birth of the petitioner as per the documents submitted by him.

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.

Ms. Farzana Afrin, learned Advocate appearing on behalf of the petitioner submitted that, according to the NID card and other official documents petitioner's date of birth is 02.08.1968 and therefore he is entitled to continue his service till 01.08.2027 on completion of 59 years of age but the authority issued the impugned

order without taking into consideration those documents. As such the impugned order was issued without any lawful authority and thus is liable to be set aside.

Learned Advocate next submitted that, after holding a radiological test the age of the petitioner has been certified by the Civil Surgeon on 28.05.2022 to be between the age of 50 to 55 years, which demonstrates that on 01.08.2023 the petitioner could not have attained the age of 59 years as claimed by the respondents. The impugned order was issued without taking into consideration of this important document and as such the same is liable to be set aside.

Learned Advocate strongly submitted that, with this writ petition the petitioner has annexed a discharge certificate from his school issued on 07.11.1983, from which it also appears that the date of birth of the petitioner is 02.08.1968. This certificate was submitted by the petitioner at the time of joining his service but the authority recorded a wrong date of birth due to their own inadvertence. Hence the impugned order has no lawful basis.

Learned Advocate for the petitioner finally submitted that, the petitioner made several representations before the employer for correction of his service book taking into consideration the official documents provided by him but they never took any action for correcting the same, hence the impugned order is liable to be declared to have been issued without any lawful authority and the

petitioner may be allowed to continue his service till 01.08.2027 on the basis of his actual date of birth, i.e. 02.08.1968.

On the other hand, learned Senior Advocate Mr. Mansur Habib with learned Advocates Ms. Rahima Akter and Mr. Khandoker Firoz Ahmed, entered appearance on behalf of respondent No. 2 and contested the Rule by filing an affidavit in opposition.

Learned Senior Advocate for the respondent No. 2 emphatically submitted that, petitioner's service book contains his actual date of birth and there is no scope to change the same on the basis of the documents provided by him subsequently inasmuch as those documents apparently have been issued a long time after the petitioner joined his service.

He next submitted that, the service book of the petitioner was prepared on the basis of the document provided by him at the time of joining his service which is a school discharge certificate dated 20.11.1983 and according to this certificate his date of birth is 02.08.1964. Now, at the verge of his retirement, his prayer for correction of his date of birth relying on some subsequently created documents, does not deserve to be considered.

He finally submits that, Section 28 (2) of the Labour Act, 2006 (শ্রম আইন, ২০০৬) provides that, in order to ascertain the age of a worker, the date of birth recorded in the concerned worker's service book shall be considered to be the valid proof, as such no illegality has been committed by the respondents in computing his

date of birth. Therefore, he prays that the Rule having no merit, is liable to be discharged.

We have heard the learned Advocates for both the parties and perused the writ petition, the affidavit in opposition and all the documents annexed thereto.

It is admitted that the petitioner joined Rangpur Pourashava on 28.12.1980 as a Municipal guard on temporary basis and lastly, he was promoted to the post of Road Light Inspector, Electricity Department on 30.12.1999.

On perusal of the petitioner's service book annexed as Annexure-X-1 to the affidavit in opposition it appears that, it was prepared on 20.11.1983 and the date of birth of the petitioner has been recorded as 02.08.1964 on the basis of a discharge certificate from the school. It also appears that the petitioner has signed the service book, thereby admitting the information recorded therein.

It further appears that the petitioner continued in service for more than thirty years without raising any question as to the recorded date of birth in his service book. Only on 28.05.2022 he made an application before the authority praying for correction of the service book and in support of that he provided his birth registration certificate, National Identification Card, *Nikahnama* and a radiological medical test report from the Civil Surgeon, Rangpur. The NID card and birth registration certificate were obtained a long time after the petitioner joined his service. The NID

card was issued on 19.01.2023 and the birth registration certificate was issued on 04.01.2022. The radiological report does not give a specific age reference of the petitioner, rather it provides a range of five years and as such petitioner's date of birth cannot be ascertained on the basis thereof.

With the writ petition the petitioner has annexed a discharge certificate from the school issued by the “কেরামতিয়া উচ্চ বিদ্যালয়/মাদ্রাসা” mentioning the date of birth of the petitioner as 02.08.1968 (Annexure D-2). This particular certificate was not produced by the petitioner before the authority at the time when he made the application for correction of his service book. Furthermore, the original certificate has not been produced before this Court, only the photocopy has been annexed. Similarly, the *Nikahnama* annexed as Annexure-B-2 is also a photocopy, which has been attested on 11.05.2023.

Most importantly, Section 28(2) of Bangladesh Srama Ain, 2006 provides that:

“(২) এ ধারার উদ্দেশ্যে বয়স যাচাইয়ের ক্ষেত্রে সংশ্লিষ্ট শমিকের সার্ভিস বইয়ে লিপিবদ্ধ জন্ম তারিখ উপযুক্ত প্রমাণ হিসাবে গণ্য হইবে।”

The original service book of the petitioner has been shown to the Court by the learned Advocate for the respondent No. 2 and it is manifested that, the date of birth of the petitioner has been recorded as 02.08.1964. This service book was prepared long ago on 20.11.1983 and the petitioner himself signed that document thereby

admitting the information recorded therein. After a long thirty-six years, when he was about to go on retirement from his service, he has come up with the claim that his date of birth is 02.08.1968 instead of 02.08.1964 and raised a dispute in this regard. On this issue the provision of labour law is very clear that, in order to determine the age of an employee the date of birth recorded in his service book shall be deemed to be the valid proof.

Therefore, the subsequent claim of the petitioner, at the verge of his retirement, regarding his date of birth has no lawful basis and the respondents authority were not under any lawful obligation to consider those documents and make a correction to the service book.

In view of the facts and circumstances of the case and in light of the statutory provision, we find that the claim of the petitioner to be reinstated in his service on the basis of his alleged date of birth is without any lawful basis and devoid of any substance.

In the result, the Rule is discharged.

However, there is no order as to cost.

Communicate the judgment and order at once.

Sashanka Shekhar Sarkar, J:

I agree.