

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

Writ Petition No.1895 of 2023.

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:

Titas Gas Transmission and Distribution (T
& D) Company Limited represented by its
Managing Director.

..... Petitioner

-Versus-

Government of Bangladesh represented by
the Secretary, Ministry of Labour and
Employment and others.

. . . . Respondents.

Mr. Mohammad Miftaul Alam, Advocate

. . . For the petitioner.

Mr. Mohammad Enamul Hoque, Advocate

. . . For the respondent No.4.

Present:

Mr. Justice J. B. M. Hassan

and

Mr. Justice Razik Al Jalil

Heard and Judgment on 28.02.2024.

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 order No. 04 dated 08.01.2023 (Annexure-
G to the writ petition) passed by the respondent No.2 Chairman,
Labour Appellate Tribunal, Dhaka in Appeal No. 200 of 2022
summarily dismissing the appeal holding the same is barred by
limitation and thereby affirming the judgment and order dated
17.05.2022 (Annexure-E to the writ petition) passed by the
respondent No.3 Chairman, 3rd Labour Court, Dhaka in B.L.L
(Complaint) Case No. 09 of 2008 allowing the said case should

not be declared to be without lawful authority and is of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.”

The respondent No. 4 being dismissed from service, filed B.L.L Case No. 09 of 2008 before the 3rd Labour Court, Dhaka under section 33 of the বাংলা আইন, ২০০৬ (the Act, 2006) praying for reinstatement. Ultimately, the Labour Court by the judgment and order dated 17.05.2022 allowed the B.L.L Case. Against the said judgment the present petitioner filed Appeal No. 200 of 2022 before the Labour Appellate Tribunal, Dhaka. But the appeal was dismissed by the impugned order dated 08.01.2023 which led the petitioner to file this writ petition challenging the said order dated 08.01.2023.

Mr. Mohammad Miftaul Alam, learned Advocate for the petitioner submits that the petitioner preferred the appeal under section 33(6) read with section 219 of the Act, 2006 read with Rule 205(4) of the “বাংলা বিধিমালা, ২০১৫” shortly, the Rules, 2015 which incorporates provision to condone the delay. But the Appellate Tribunal on misconception of law dismissed the appeal on point of limitation.

On the other hand, Mr. Mohammad Enamul Hoque, learned Advocate for the respondent No.4 contends that the law does not provide any provision for condonation of delay. Since the appeal was barred by 154 days, the Appellate Tribunal rightly dismissed the appeal.

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

The issue involved under this Rule has already been decided in the case of Islam Prodhan and another Vs. The Government of Bangladesh and others reported in 23 ALR (HCD) 79 wherein on consideration of section

219 of the Act, 2006, Rule 205(4) of the Rules, 2015 and the Form 66, a Division Bench of the High Court Division held as under:

“12. However, the land the Rules if be read together it gives a clear picture that an appeal filed before the Labour Appellate Tribunal under section 217 has to be read with 219 (gha) which clearly prescribed that appeal if be filed out of time the reasons for delay must be stated with a prayer for condonation of the delay of the said Ruling. together with that when we visit Rule 205(4) of the Rules, 2015 we find that in terms of the procedure of form 66 an appeal should be filed. In this connection section 219 of the Act, 2006 shall have to be mentioned. And in form 66 column 2 it has been clearly mentioned “আপীল দা বিল ”.

13. The law and the Rules clearly spelt out that limitation act would certainly operate as an aid to a party seeking condonation of delay in filing the appeal. This legal fiction or so to say the analogy has certainly escaped notice of the Appellate Tribunal. Further it has also failed to take into consideration the provisions of Rules, 2015 in the manner as we have discussed. Be it mentioned in this regard that right to appeal is a statutory right, a right which certainly should not be circumvent with any other provisions having prohibiting effect. Rules, 2015 came into force in chapter 15(9) of 2015 by SRO No. 291/Ain/2015.

This Rule was framed and promulgated pursuant to Section 351 of Act, 2006 which is the enabling section.

14. Therefore, we are of the view that the submissions of the learned Counsel for the petitioners merit substance and hold that with the introduction of Rules, 2015 the question of Section 5 of the limitation Act shall have clear application in filing of appeal before the Labor Appellate Tribunal. This aspect was not considered while passing the impugned judgment summarily rejecting the appeal on the ground of limitation. Therefore, this Rule succeeds.”

In spite of above mentioned ratio, in passing the impugned order, the Labour Appellate Tribunal has referred to the order of the Appellate Division passed in Civil Petition for Leave to Appeals (CPLA) No. 1363 and 1519 of 2019 which has no relation with the issue involved in this matter. Therefore, the Labour Appellate Tribunal committed error of law in passing the impugned order which needs to be interfered.

Thus, the Rule Nisi finds merit.

In the result, the Rule Nisi is made absolute. The order No. 04 dated 08.01.2023 (Annexure-G to the writ petition) passed by the respondent No.2 Chairman, Labour Appellate Tribunal, Dhaka in Appeal No. 200 of 2022 summarily dismissing the appeal holding the same, barred by limitation and thereby affirming the judgment and order dated 17.05.2022 (Annexure-E to the writ petition) passed by the respondent No.3 Chairman, 3rd Labour Court, Dhaka in B.L.L (Complaint) Case No. 09 of 2008 allowing the said

case is hereby declared to have been passed without lawful authority and of no legal effect.

The Labour Appellate Tribunal, Dhaka is directed to dispose of the Appeal No. 200 of 2022 on merit in accordance with law expeditiously preferably within 03(three) months from the date of receipt of a copy of this judgment and order.

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

Razik Al Jalil, J

I agree.