

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

Writ Petition No. 13988 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. Mostofa Jaman Sheikh and others
...Petitioners

-Versus-

Present:

Mr. Justice Sashanka Shekhar Sarkar
And
Justice Urmee Rahman

Government of Bangladesh, represented
by the Secretary, Ministry of Youth and
Sports and others

..... Respondents

Mr. B.M. Elias, Senior Advocate with
Mr. Muhammad Mizanur Rahman, Advocate
...For the petitioner

Mr. Mohammad Rashadul Hassan, D.A.G with
Ms. Nilufar Yesmin, A.A.G,
Mr. Md. Moshir Rahman (Rahat), A.A.G,
Mr. Md. Motasin Billah Parvez, A.A.G and
Mr. Bishwanath Karmaker, A.A.G

.... For the respondents

Heard on 30.06.2026

Judgment on 27.07.2026

Urmee Rahman, J:

In the instant writ petition Rule was issued in the following
terms:

*“Let a Rule nisi be issued calling upon the
Respondents to show cause as to why the Serial 22
(Kha) of the Youth Development Directorate (Officers
and Employees) Recruitment Rules, 2012 excluding
the post of the petitioners from the Feeder post of*

Youth Development Officer (YDU) as in (Annexure-E) should not be declared ultra vires the Constitution and why the respondents should not be directed to consider the promotion of the petitioners in the post of Youth Development Officer with effect from date they became eligible to be promoted under the service rules they had been appointed and/or such other or further order or orders passed as to this Court may seem fit and proper.”

Initially, the writ petition was filed by two petitioners. Thereafter on an application for addition of party, as many as 18 (eighteen) others were added as co-petitioners no. 3-20 by the order dated 12.03.2026.

Relevant facts for disposal of the Rule in brief are that, all the petitioners joined the Department of Youth Development under Ministry of Youth and Sports during the period between 1994-2004. Some of them joined as ‘Stenographer’, and some of them joined as Office Assistant cum Typists. Vide memo no. 432 dated 05.10.2008 the authority recognized the post of ‘Stenographer’ as ‘Upper Division Assistant (UDA)’ with prior approval from the Ministry of Public Administration and the Ministry of Finance. Pursuant to the aforesaid approval, the petitioners and others were given posting in the post of Upper Division Assistant vide order dated 18.06.2019. Among the petitioners who joined as Office Assistant cum Typist, were subsequently given promotion to the

post of Upper Division Assistant by the order dated 02.04.2013. All the petitioners have been discharging their duties with the highest satisfaction of the authority with the legitimate expectation to be promoted to the post of Youth Development Officer.

While the petitioners were serving in their respective posts as Upper Division Assistant, all on a sudden the respondent No. 1 vide notification dated 04.11.2012, promulgated through Official Gazette dated 08.11.2012, introduced ‘যুব উন্নয়ন অধিদপ্তর (কর্মকর্তা ও কর্মচারী) নিয়োগ বিধিমালা, ২০১২’ in exclusion of the post of the petitioners i.e. Upper Division Assistant. It appears from Serial-22(Kha) of the newly introduced Rules that, the provision of promotion from the post of Credit Supervisor has been newly inserted and all other posts including the post of Upper Division Assistant (UDA) have been excluded from the feeder post of Youth Development Officer.

Questioning the new Rules the petitioners made several representations before the respondent authority, however, without any result. The petitioner Nos. 1 and 2 even served a Notice Demanding Justice upon the respondents through their Lawyer on 15.10.2023 but no response has been made thereto till date.

Being aggrieved thereby and finding no other alternative and efficacious remedy available, the petitioners have filed the instant writ petition and obtained the present Rule.

Mr. B.M. Elias, Senior Advocate with Mr. Muhammad Mizanur Rahman, learned Advocate appearing on behalf of the petitioners submitted that, all the petitioners had joined the post

prior to 2012 and considering their length of service all of them have become eligible to be promoted to the post of Youth Development Officer (YDO) long ago but due to the inaction of the respondents they are yet to get the promotion. They have been waiting for all these years to be promoted to the next higher post. If those posts are filled up by the direct recruitment, they would never get their legitimate promotion in those posts. As such the new Rules of 2012 is liable to be declared illegal and without lawful authority so far as the exclusion of the petitioners' posts are concerned.

His next submission is that, the cardinal principle in service rules is that, rights accrued under previous service rules cannot be taken away by subsequent new rules or amendments to the detriment and disadvantage of the existing employees, who were appointed under the previous rules. Therefore, he prayed that a direction may be given to consider the promotion of the petitioners before making any direct recruitment in the post of Youth Development Officer as per the new Regulation of 2012.

In support of his submission learned Advocate for the petitioners placed reliance on the cases of *Bakhrabad Gas System Limited vs. Al Masud-ar-Noor and others* reported in 66 DLR (AD) (2014) 187, *Pashchimanchol Gas Company Limited vs. Md. Nuruzzaman and others* reported in 3 SCOB [2015] (AD) 27 and *Mohammad Abul Monsur Khan and others vs. Mir Bahar Shahdat Hossain and others* reported in 9 LM (AD) [2020] 120. In all these

cases the apex court held that the rights accrued under the previous service rule cannot be taken away by subsequent new rules or amendments to the detriment and disadvantage of the existing employees, who were appointed under the previous Service Rules.

Hence the learned Advocate for the petitioners prayed that the instant Rule may be made absolute with a direction upon the respondents to consider the promotion of the petitioners in the post of Youth Development Officer as provided under the previous Rules.

On the other hand, learned Deputy Attorney General Mr. Mohammad Rashadul Hassan contested the Rule on behalf of Respondents, however, without filing any affidavit in opposition and submitted that, it is upon the respondents to promulgate a new Rules/Regulation as per the necessity and that being a policy decision of the concerned authority, the same cannot be interfered with in writ jurisdiction. Hence, he prayed that the Rule having no merit is liable to be discharged.

We have heard the learned Advocate for the petitioners and the learned Deputy Attorney General for the respondents and perused the writ petition, supplementary affidavit thereto as well as all the annexures annexed therewith.

It is admitted that all the petitioners joined the Directorate of Youth Development under the Ministry of Youth and Sports during the period of 1994 to 2004. Some petitioners were appointed in the post of ‘Stenographer’, which post was subsequently re-named as

‘Upper Division Assistant’ by the order dated 5.10.2008 and rest of the petitioners were promoted to the post of ‘Upper Division Assistant’ from the post of Office Assistant cum Typist by the order dated 02.04.2013.

On perusal of Clause 5 to the schedule of the ‘যুব উন্নয়ন অধিদপ্তর (কর্মকর্তা ও কর্মচারী) নিয়োগ বিধিমালা, ২০০৪’, it transpires that, the posts of Youth Development Officer are to be filled up 67% by way of direct requirement and 33% by way of promotion. Clause 5(kha) (উ) of column No. 5 provides that, for promotion to the post of Youth Development Officer from the post of Upper Division Assistant (UDA) or Stenographer or Steno typist or Store Keeper, a 10 years’ service experience is required.

Admittedly all the petitioners have been working in the post of ‘UDA’ and they all have the required experience of 10 years of satisfactory service; hence, they have a legitimate expectation to get promotion to the post of Youth Development Officer in accordance with the provision of the Rule of 2004. However, in 2012 ‘যুব উন্নয়ন অধিদপ্তর (কর্মকর্তা ও কর্মচারী) নিয়োগ বিধিমালা, ২০১২’ came into effect and from Clause 22 to the schedule of this Rule we find that, appointment in the post of ‘Youth Development Officer’ would be made 30% by direct requirement and 70% by way of promotion and in case of promotion only 5(five) years’ experience in the post of ‘Credit Supervisor’ would be required. By including this clause, the post of ‘Upper Division Assistant’ as the feeder post of ‘Youth Development Officer’ has been abolished. Clause 45 of this

schedule provides that the post of ‘Upper Division Assistant’ i.e. “উচ্চমান সহকারী” has been made as a closed post, from which there will be no opportunity to get any promotion to a higher post.

By filing a supplementary affidavit dated 30.04.2025 it has been submitted by the learned Advocate for the petitioners that earlier the ‘যুব উন্নয়ন অধিদপ্তর (কর্মকর্তা ও কর্মচারী) নিয়োগ বিধিমালা, ২০১২’ was challenged in terms of different posts and in a similar circumstances the High Court Division in Writ Petition Nos. 1984 of 2013 and 9568 of 2020 were pleased to make the Rules absolute upon directing the Ministry to give promotion to the employees as per the provisions of the Rule which were applicable to them at the time when they got appointed in their respective posts. The Appellate Division also affirmed this judgment of the High Court Division which was upheld in Civil Review Petition No. 206 of 2024 and the concerned authority complied with the judgment and direction passed by this Division by issuing a Circular on 04.03.2026.

On examination of the judgment passed by this Division we find that in that case ‘যুব উন্নয়ন অধিদপ্তর (কর্মকর্তা ও কর্মচারী) নিয়োগ বিধিমালা, ২০১২’ was challenged by different post holders and in a similar situation this Division was pleased to hold that:

“We find that the impugned Recruitment Rules, 2012 published in the Additional issue of Bangladesh Gazette on 08.11.2012 without incorporating the provisions for the post of Steno Typist and now held by

the petitioner Nos. 6,7,9,10,12 and without providing any promotional opportunities to them gave rise to differential treatment and opportunities to the two classes of the employees of Youth Development Department.

*In this connection, we may take into consideration the facts of the case of **Pachimanchol Gas Company Ltd vs. Nuruzzaman & ors.** 3 SCOB (AD) 2015, 27, wherein the Apex Court held that:*

"There is no dispute that the petitioner got appointment in 1997, that is, long before the promulgation of the Service Rules of 2005. So he is entitled to get benefit of the Service Rules under which he got his appointment, that is, he is entitled to get the benefits as provided in Service Rules of 1988 and his service would be regulated under the said provision of law.

The High Court Division rightly held that the provision of Service Rules of 2005 are to be effective in respect of the appointment of the employees who have been appointed on 21.01.2005 or onward."

The principle laid down in the case referred to above is also applicable in the instant case in hand. So, there is no earthly reason that the petitioners should be deprived of their legitimate claim of promotion. Therefore, the respondents are further directed to consider the matter relating to promotion of the petitioners under the provision of "The Youth Development Adhidaptar (Karmakarta and Karmachari) Recruitment Rules, 1993" on fulfillment of requisite conditions."

In view of the facts and circumstances of the present case, and particularly in view of the judgment passed by this Division and affirmed by the Appellate Division and also taking into consideration of the decisions of the Appellate Division referred by the learned Advocate for the petitioners, we find that, under the Rules prevailing at the time when the petitioners entered into service, they had an available promotional avenue to the next higher post, namely, ‘Youth Development Officer’, upon completion of 10 (ten) years of satisfactory service. Such promotional opportunity constituted a condition and benefit attached to their service under the then prevailing Rules. The subsequent Rules of 2012, however, brought about a change whereby the said promotional avenue was taken away from the petitioners. Such alteration cannot be treated as a mere change in the mode or criteria of promotion; rather, it resulted in the deprivation of a service benefit which had accrued to the petitioners under the Rules governing their service at the time of their entry into service.

Therefore, we find that the authority should consider the promotion of the petitioners as per the provision of ‘যুব উন্নয়ন অধিদপ্তর (কর্মকর্তা ও কর্মচারী) নিয়োগ বিধিমালা, ২০০৪’.

In the given facts and circumstances and with the findings and discussion made hereinabove, we find substance in the submissions made by the learned Advocate for the petitioner. Accordingly, we find merit in the Rule.

In the result, the Rule is made absolute.

However, there is no order as to cost.

The respondents are hereby directed to consider the promotion of the petitioners in the post of ‘Youth Development Officer’ as per the provisions of ‘যুব উন্নয়ন অধিদপ্তর (কর্মকর্তা ও কর্মচারী) নিয়োগ বিধিমালা, ২০০৪’ on fulfillment of the required qualification under that Rules within 60 (sixty) days from the date of receipt of a copy of this judgment and order.

Communicate the judgment and order at once.

Sashanka Shekhar Sarkar, J:

I agree.