

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

Writ Petition No. 2028 of 2010

IN THE MATTER OF:

An application under Article 102(2)(a)(ii) of the
Constitution of People's Republic of Bangladesh.

AND

IN THE MATTER OF:

1. Md. Balal Hossain
2. Md. Rayhan Mia
3. Md. Mostofa Kamal
4. Md. Shelim
5. Md. Humayun Kabir
6. Md. Nuruzzaman
7. Md. Rafiqul Islam
8. Md. Rabiul and
9. Moina Begum

....Petitioners

Versus

The Secretary, Bangladesh Parliament, Sher-E-
Bangla Nagar, Dhaka-1207 and others

....Respondents

Mr. Md. Omar Farouq, Advocate with
Ms. Fatema-Tuz-Zahura, Advocate and
Mst. Sajia Sharmin, Advocate

....For the Petitioners

Mr. Md. Abid Chowdhury, DAG with
Mr. M Mohiuddin Yousuf, DAG,
Mr. Monjur Elahi Porag, AAG,
Mr. Ariful Alam, AAG,
Mr. Md. Nazmul Hasan Chowdhury, AAG and
Mr. Md. Shahidul Islam, AAG

.... For the respondents

Present:

Mr. Justice Md. Iqbal Kabir

And

Mr. Justice S M Saiful Islam

Judgment on 23.07.2026.

Md. Iqbal Kabir, J:

On an application under Article 102 of the Constitution of the People's
Republic of Bangladesh, this Rule Nisi was issued in the following terms:

"Let a Rule Nisi be issued calling upon the respondents to show
cause as to why the impugned Notification contained in Memo No.
বাজাসস-মাস-৩/ জাসঃসিঃবিঃ/ ৩(৪)/ ২০০৯/ ৯০, ৯১, ৯৩, ১০০, ১০৭, ৯৯, ১৩৭, ১৩৩, ১৩৮
dated 18.02.2010 (Annexure-G) issued by the respondent No. 2
reliving the petitioners from their service by canceling the

appointment being Memo No. বাজাসস/ সং-৩/ ২(১)/ ২০০৪/ ১২৮ dated 21.04.2006, being Memo No. বাজাসস/ সং-৩/ ২(১)/ ২০০৪/ ২১৩, dated 12.05.2006 being Memo No. বাজাসস/ সং-৩/ ২(১)/ ২০০৬/ নিয়োগ/ ৩০১, dated 20.09.2007 being Memo No. বাজাসস/ সং-৩/ ২(১)/ ২০০৪/ ১৮২ dated 21.04.2006, being Memo No. বাজাসস/ সং-৩/ ২(১)/ ২০০৪/ ১৬২, dated 21.04.2006, being Memo No. বাজাসস/ সং-৩/ ২(১)/ ২০০৪/ ১৫১, dated 21.04.2006, being Memo No. বাজাসস/ সং-৩/ ২(১)/ ২০০৪/ ১৬৫, dated 21.04.2006, being Memo No. বাজাসস/ সং-৩/ ২(১)/ ২০০৪/ ১৭০, dated 21.04.2006, being Memo No. বাজাসস/ সং-৩/ ২(১)/ ২০০৪/ ১৮৩, dated 21.04.2006 respectively illegally and without lawful authority (Annexure-G) should not be declared to have been made without any lawful authority and is of no legal effect and/or such other or further order or orders passed as to this Court may seem fit and proper.”

Short facts of above case narrated for disposal of the Rule are that a recruitment notice was published by the Respondent No. 7 inviting applications for various posts including the post of officer in the Bangladesh Parliament Secretariat. Pursuant to the said recruitment notice, the petitioners applied for the advertised post. Upon completing all stages of the recruitment process and fulfilling the prescribed requirements, the petitioners were issued appointment letters. After completing their two-year probationary period, their service was confirmed vide various dates and effective from the date of joining in the said service, considering their satisfactory performance under Rule 6(3) (ka) of the Sangshad Sachibaloya, Employees and Officers Appointment Rules, 1994. However, the respondent No. 2 memo dated 18.02.2010 releasing the petitioner from the service without appropriate inquiry in accordance with the Sangshad Sachibaloya Employees and Officers Appointment Rules, 1994. That being so, aggrieved thereby, the petitioner, finding no other alternative, has come before the Court and obtained the present Rule Nisi.

It is pertinent to note that each petitioner has challenged the legality of dismissal of his service. The only distinguishing features are impugned memo, therefore, same submission made by the learned Advocate for the petitioners in the above mentioned writ petitions.

Mr. Md. Omar Farouq, learned Advocate for the petitioners, submits that the petitioners were appointed through a lawful recruitment process, completed

probation, and their services were duly confirmed. Therefore, they could not be removed from service without following the procedure prescribed in the Sangshad Sachibalaya Officers and Employees (Discipline and Appeals) Rules, 2005 (in short, the Appeal Rules, 2005), including a departmental inquiry, show cause notice, and personal hearing. He contends that none of these mandatory procedures were followed, making the impugned orders contrary to the Rules, the principles of natural justice, and the petitioners' fundamental rights. He further argues that the removal orders were passed with mala fide intention to create vacancies for appointing favored persons and are therefore without lawful authority and of no legal effect.

He submits the impugned memos do not mention any legal provision allowing the cancellation of the petitioners' appointments though they had served for several years as confirmed employees. No allegation of misconduct, fraud, corruption, or violation of service rules has been made against the petitioners. The allegations relate only to the former Hon'ble Speaker in connection with the recruitment process. Therefore, the petitioners cannot be punished for any alleged irregularity committed by the appointing authority. The petitioners were removed from service without any show-cause notice, prior notice, or opportunity of hearing as required by the service rules.

He submits the inquiry was conducted to investigate allegations against the former Hon'ble Speaker, not against the petitioners. According to him, the investigation was not conducted under the Appeal Rules, 2005. Moreover, the inquiry report contains no finding that the petitioners obtained their appointments through fraud, corruption, or any unlawful means. Therefore, their removal based on that report is unlawful.

He further submits that a similarly situated employee had earlier challenged the same action in Writ Petition No. 2027 of 2010 and obtained a favourable judgment. Following that judgment, the authority reinstated her in service.

Mr. M Mohiuddin Yousuf, learned DAG, finds difficulties in opposing the same; however, informed this Court that, in another matter, the writ respondent filed Civil Petitions for Leave to Appeal, which were allowed. Consequently, Civil Appeal Nos. 145–151 of 2016, arising out of those leave petitions, were heard analogously and allowed by the Apex Court. Thereafter, review petitions were filed against the said judgment, and leave was granted. It was further directed that Civil Review Petition Nos. 290–295 of 2024 be tagged for hearing along with the Civil Appeal arising out of Civil Review Petition No. 78 of 2024.

This Court heard the Advocate for the petitioners along with the learned Deputy Attorney General for the respondent, perused the annexures, application including the impugned orders as annexed by the petitioners in their respective applications.

It appears from the record that the petitioners of all the writ petitions have been duly appointed for their respective posts and their appointment was made following the Rules namely “সংসদ সচিবালয় কর্মকর্তা ও কর্মচারী নিয়োগ বিধিমালা, ১৯৯৪”. Their appointments were also made initially on a temporary basis subject to the terms and conditions as stated therein by issuing their appointment letters. However, the service of the petitioners was confirmed after the expiry of 2(two) years by the authority following Rule 6(3)(Ka) of the said Rules, 1994, having rendered satisfactory performance. Their appointments as well as confirmation of the service are not denied by the respondents, though the respondents did not file any affidavit-in-opposition. No allegations of violations of any terms and conditions have been brought during their service. All of a sudden, the petitioners have been served with the respective impugned memos under the signature of the Deputy Secretary of (Manpower) of the Secretariat of Bangladesh Parliament vide order, dated 18.2.2010, cancelling their respective appointments.

On our scrutiny, it appears that the Appeal Rules, 2005 came into effect on 15.08.2005, which applies to all officers and employees of the Parliament

Secretariat except those serving on contract or lien. Since the petitioners are regular employees, any disciplinary action brought against them, whether major or minor, must be taken strictly in accordance with these Rules. The Rules require the authority to state the reasons for any penalty and to follow the prescribed inquiry procedure before imposing either a major or minor punishment. Only in limited situations, such as when an employee has been convicted in a criminal case or when it is impossible to serve a show-cause notice, can the authority act differently, and even then it must record the reasons.

In the present case, the impugned orders do not mention any legal provision under which the petitioners' appointments were cancelled after more than three years of service and after their services had been confirmed. The orders also do not allege any misconduct or violation of service rules by the petitioners. Instead, the cancellation was based on allegations against the then Hon'ble Speaker of National Parliament that he made appointments without following the rules and government instructions. Against which parliamentary inquiry committee investigated those allegations and found irregularities made by the former Hon'ble Speaker of National Parliament. However, the inquiry was conducted only against the former Speaker, not against the petitioners, and it was not held under the Discipline and Appeal Rules, 2005, which remain in force under the Bangladesh Parliament Secretariat Act, 1994.

In the context, it has remained that we have to examine Article 79 of the Constitution, which mandates that Parliament shall have its own Secretariat and that the recruitment and conditions of service of its officers and employees shall be regulated by law.

The National Parliament Secretariat Act, 1994, came into force on 17.05.1994. Upon combined reading of Article 79 of the Constitution and section 3 of the said Act, it is clear that the Bangladesh Parliament Secretariat is an independent institution and does not function under the administrative

control of any Ministry or Government Secretariat. Further, section 21 of the Act empowers the Speaker to frame rules for regulating the recruitment and service conditions of the officers and employees of the Parliament Secretariat.

In exercise of the powers conferred by section 21 of the Act, the Speaker, in consultation with the Parliament Secretariat Commission, framed the Parliament Secretariat Officers and Employees Appointment Rules, 1994 and subsequently the Parliament Secretariat Officers and Employees (Discipline and Appeal) Rules, 2005, which came into force on 01.11.1994 and 14.08.2005 respectively. Therefore, the allegation made in the impugned memos that the Hon'ble Speaker violated the direction issued by the Ministry of Establishment has no legal basis. Since the Parliament Secretariat is an independent constitutional institution under section 3 of Act No. 8 of 1994, it is not subject to the administrative control of the Ministry of Establishment. The Speaker is legally empowered to make appointments to the Parliament Secretariat in accordance with the service rules framed under the Act.

From the above facts, it is revealed that the petitioners have been appointed pursuant to the Service Rules, 1994, and their services have been confirmed accordingly; hence acquired a legal right to be dealt with under the respective Service Rules whatsoever question of cancellation of their appointment comes up. In other words, awarding penalty of termination, dismissal or removal can only be made in pursuance of the (Discipline and Appeals) Rules, 2005, which is a valid law and has its force. In addition to that, the petitioners, having acquired a legal right, are also entitled to get a show cause notice before issuance of the impugned memos upon them when no allegation of corruption or any mala fide acts have been brought against them in getting their respective appointment letters. No departmental proceedings were started against the petitioners following the Rules, 2005 for the issuance of the impugned orders.

This Court in the selfsame issue made the Rule absolute in Writ Petition No. 1819 of 2010, therefore, there is no room to differ the same.

Accordingly, we find substance in the submissions made by the learned Advocate for the petitioners; therefore, the Rule is made Absolute.

The impugned Notification contained in Memo Nos. বাজাসস-মাস-৩/ জাসঃসিঃবাঃ/ ৩(৪)/ ২০০৯/ ৯০, বাজাসস-মাস-৩/ জাসঃসিঃবাঃ/ ৩(৪)/ ২০০৯/ ৯১, বাজাসস-মাস-৩/ জাসঃসিঃবাঃ/ ৩(৪)/ ২০০৯/ ৯৩, বাজাসস-মাস-৩/ জাসঃসিঃবাঃ/ ৩(৪)/ ২০০৯/ ১০০, বাজাসস-মাস-৩/ জাসঃসিঃবাঃ/ ৩(৪)/ ২০০৯/ ১০৭, বাজাসস-মাস-৩/ জাসঃসিঃবাঃ/ ৩(৪)/ ২০০৯/ ৯৯, বাজাসস-মাস-৩/ জাসঃসিঃবাঃ/ ৩(৪)/ ২০০৯/ ১৩৭, বাজাসস-মাস-৩/ জাসঃসিঃবাঃ/ ৩(৪)/ ২০০৯/ ১৩৩, বাজাসস-মাস-৩/ জাসঃসিঃবাঃ/ ৩(৪)/ ২০০৯/ ১৩৮ dated 18.02.2010 (Annexure-G-series) relieving the petitioners from their confirmed services by cancelling their appointment are hereby set aside.

However, the respondents are directed to reinstate the petitioners in their respective service/posts with all benefits within 90 (ninety) days from the date of the judgment and order of this Court, if otherwise not disqualified.

There will be no order as to costs.

Communicate the order.

S M Saiful Islam, J:

I agree.