

Present:

Mr. Justice Mohammad Bazlur Rahman  
and

Mr. Justice Md. Ruhul Quddus

Writ Petition No.487 of 2010

Jalalabad Gas Transmission and Distribution  
Systems Ltd. represented by its Managing  
Director and others

...Petitioners

-Versus-

The Chairman, Labour Appellate Tribunal and  
another

...Respondents

Ms. Shamima Nasrin, Advocate on behalf of Mr.  
Md. Khairul Alam, Advocate

... for the petitioner

No one appears for the respondents

Judgment on 22.07.2013

*Md. Ruhul Quddus, J:*

The Rule was issued at the instance of a Government owned public company named Jalalabad Gas Transmission and Distribution Systems Ltd. to examine the legality of judgment and order dated 23.10.2008 passed by the Labour Appellate Tribunal, Dhaka in Appeal No. 38 of 2008 disposing of the same with some observations and direction and thereby virtually affirming the decision dated 30.03.2008 of the Second Labour Court, Chittagong in Payment of Wages Case No. 56 of 2006.

Respondent 2 Mohsen Ali, an employee of the petitioner-company filed the Payment of Wages Case under section 15(2) of the Payment of Wages Act, 1936 for realization of his retirement benefits before the Second Labour Court, Chittagong on 30.07.2006. His case, in short, was that he had joined the factory as a Security Guard in the year 1988.

Subsequently, he was promoted to the post of Helper in 1989 and was again promoted to the post of Junior Technician in 1999. He had gone on Leave Pre-Retirement on 10.01.2005 and retired from service on 10.01.2006. Being denied to get retirement benefits he was constrained to file the case.

The petitioner-company being opposite party contested the case by filling a written statement denying the material allegations raised by the respondent-worker contending, *inter alia*, that the case was not maintainable and pre-matured in nature; that the company in its 240<sup>th</sup> board meeting held on 19.11.1997 approved an organogram, wherein the respondent-worker along with other workers and employees of equal position were awarded with the scale of Taka 1625-65-2080-75-2155/= with effect from 01.02.1998. Thereafter he was given promotion on 01.07.1999 to the post of Junior Technician at the scale of Taka 2100-120-2940 EB-125-5505/=. During enjoyment of the said benefit, the respondent-worker retired from service on 10.01.2006, but before 01.02.1998 the scale of Junior Technician was Taka 1875-90-2505-100-3605/= and after awarding of the new scale in the 240<sup>th</sup> board meeting the respondent-worker was enjoying the higher scale. The petitioner-company being owned by the Government, its financial matters were being audited by the Audit Department of the Government, which raised an objection under Memo No. 4651/Se-5/TA-2/Jalalabad Gas, Sylhet Agrim 98-99 dated 13.9.2000 against the payment of wages to the respondent-worker. Because of the said objection his retirement benefit was withheld. After

disposal of the audit objection, proper decision towards payment of his retirement benefit would be taken.

The Labour Court, on hearing of the parties, disposed of the case with some observations and directed the concerned authority to dispose of the audit objection in accordance with law within 90 (ninety) days in the light of its observations, and also to report compliance thereof to the Labour Court.

The petitioner-company and its officials being aggrieved thereby preferred Appeal No. 38 of 2008 before the Labour Appellate Tribunal, Dhaka on the grounds taken therein. The Appellate Tribunal after hearing of the appeal disposed of the same by its judgment and order dated 23.10.2008 with observations and directed to finally settle the Audit objection within 90 if it was already not settled and to report compliance to the Chairman, 2<sup>nd</sup> Labour Court, Chittagong. Challenging the said order of the Labour Appellate Tribunal, the petitioner-company moved in this Court and obtained the Rule.

Ms. Shamima Nasrin, learned Advocate appeared on behalf of Mr. Md. Khairul Alam, Advocate for the petitioner and placed the facts and pressed the grounds taken in the writ petition.

We have gone through the judgments of the Labour Court and the Labour Appellate Tribunal and also considered the grounds taken in the writ petition. It does not appear that in the written statement or in the memo of appeal the petitioner company took any objection on defect of parties, which is heavily canvassed in the instant writ petition. It further appears from the written statement of the petitioner-company as well as from the

judgment of the Labour Court that the company though owned by the Government, fully empowered to regulate and manage its own affairs. Moreover, according to Article 108 (5) read with rule 108 (18) of its Memorandum and Article of Association, the company is empowered to give appointment to the employees/workers, to determine the scale of pay and other benefit of the employees/workers and to frame bylaws for regulating its administration. Admittedly, respondent 2 was a permanent worker of the petitioner-company, who retired from service as a Junior Technician. At which scale he would get retirement benefit is subject to disposal of the audit objection, which already took more than 13 (thirteen) years and the officials of the petitioner-company dragged the matter up to the High Court Division without resolving the audit objection. However, it appears that the Chairman of the Labour Court in his wisdom and anxiety of justice directed the concerned authority to dispose of the audit objection in accordance with law within 90 (ninety) days and to let him know about the compliance. It cannot be said that the Labour Court exceeded its jurisdiction. The Labour Appellate Tribunal virtually affirmed the order of the Labour Court and further directed to resolve the audit objection within ninety days. We do not find anything wrong with the order of the Labour Appellate Tribunal.

Accordingly, the Rule is discharged, however, without any order as to cost.

Mohammad Bazlur Rahman, J:

I agree.