

Present:  
Mr. Justice Mohammad Bazlur Rahman  
and  
Mr. Justice Md. Ruhul Quddus

Writ Petition No.4947 of 2010

Project Head, Aleem Jute Mills Ltd.  
...Petitioner

-Versus-

The Chairman, Labour Appellate Tribunal,  
Dhaka and another  
...Respondents

Mr. Tufailur Rahman with Ms. Umme Salma,  
Advocates

... for the petitioner

Mr. M. A. Khaleque, Advocate

... for respondent 2

Judgment on 16.06.2013

*Md. Ruhul Quddus, J:*

This *rule nisi* at the instance of an employer was issued challenging the legality of order dated 25.05.2010 passed by the Labour Appellate Tribunal, Dhaka in Appeal No.44 of 2010 and the judgment and order dated 15.03.2010 of the Labour Court at Khulna passed in BLL Case No.168 2007. The Labour Appellate Tribunal by order dated 25.05.2010 dismissed the appeal as being not maintainable and the Labour Court by judgment and order dated 15.03.2010 allowed the BLL case in part directing reinstatement of respondent 2 in service, however, without back wages.

Facts leading to issuance of the Rule, in brief, are that respondent 2 a worker of Aleem Jute Mills Ltd. filed an application being BLL Case No.168 of 2007 under section 33 (3) read with 213 of the Bangladesh Labour Act 2006, (hereinafter called the Act, 2006) before the Labour Court at Khulna for his reinstatement in service with back wages.

The employer Aleem Jute Mills Ltd. (herein petitioner) contested the case by filling a written statement on the facts stated therein.

The Labour Court, Khulna heard the case and ultimately allowed the same in part by judgment and order dated 15.03.2010, challenging which the employer preferred Appeal No.44 of 2010 before the Labour Appellate Tribunal, Dhaka under section 33 (6) of the Act, 2006. The Labour Appellate Tribunal without going into merit of the appeal dismissed the same on the ground of maintainability. In doing so the Appellate Tribunal held that an appeal against a judgment and order passed by a Labour Court does not lie under section 33 (6) of the Act.

The petitioner being aggrieved by the aforesaid order of the Appellate Tribunal moved in this Division with the instant writ petition and obtained the Rule with an order of stay to operate against judgment of the Labour Court.

Mr. Tufailur Rahman, learned Advocate appearing for the petitioner submits that it has already been decided that an appeal under section 33 (6) of the Act, 2006 is well maintainable against a judgment and order passed under section 33 (4) (5) by a Labour Court in a case under section 33 (3). The petitioner had filed the appeal before the

Labour Appellate Tribunal within time and under the correct provision of law, but the Appellate Tribunal without proper appreciation of law dismissed the appeal on the point of maintainability and thereby acted without lawful authority. In support of his contention he refers to an unreported decision dated 05.08.2009 passed in Writ Petition No. 1946 of 2009 (annex-F), wherein a Division Bench of this Court on thorough discussion held:

*“From the above quoted subsections (4), (5) and (6) of section 33 it is very much clear that the word “আ দশ” employed in those subsections means the final decision/order of the Labour Court which can be in the form of judgment. So our considered opinion is that the judgment passed by the Labour Court in BLL Case No.9 of 2006 as per section 33 (4) (5) of the Bangladesh Labour Law, 2006 being, in fact, the final order as per subsections (4) and (5) of section 33 it was appealable under section 33(6) of that law within 30 days from the date of passing of the judgment as prescribed in that very section.+*

Mr. M. A. Khaleque, learned Advocate appearing for respondent 2 finds it difficult to oppose the Rule only on the point of law on maintainability of the appeal before the Appellate Tribunal.

We have gone through the record as well as the judgment cited by Mr. Rahman. Facts of the case cited are identical with the present case. We do not find any reason to differ with the ratio laid down by their lordships in that case and in that view of the matter the Rule merits consideration.



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Accordingly, the Rule is made absolute so far it relates to the Appellate Tribunal's order. The impugned order dated 25.05.2010 passed by the Labour Appellate Tribunal, Dhaka in Appeal No.44 of 2010 is set aside. The Appeal No.44 of 2010 is sent back on remand to the Labour Appellate Tribunal, Dhaka for disposal on merit.

Mohammad Bazlur Rahman, J:

I agree.