

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

**WRIT PETITION NO.2895 OF 2024.**

**In the matter of:**

An application under Article 102 of the Constitution of the People's Republic of Bangladesh.

And

**In the matter of:**

Khaleda Parvin, wife of late Md. Mojibur Rahman.

..... Petitioner.

-Versus-

Government of Bangladesh, represented by the Secretary, Ministry of Education, Bangladesh Secretariat, Dhaka and others.

.....Respondents.

Mr. Babul Akhter Chowdhury, Advocate

..... For the Petitioner.

Mr. Sk. Shafique Mahmud, Advocate

..... For the Respondent No.3.

**Present:**

**Mr. Justice Mohammad Ullah**

**And**

**Mr. Justice Md. Toufiq Inam**

**Heard and Judgment Delivered on 21.05.2025.**

**Md. Toufiq Inam, J:**

This Rule Nisi was issued on 12.03.2024 at the instance of the petitioner, directing the respondents to show cause as to:

*“why the inaction respondents to take necessary steps to pay the Monthly Pay Order (MPO) in favour of the petitioner from December 2016 to June 2019 amounting taka 5,43,980/- (Five lacs forty three thousand nine hundred and eighty) in considering the application dated 16.08.2023 filed by the petitioner should not be declared without lawful authority and is of no legal effect and why the respondents should not be directed to pay the Monthly Pay Order (MPO) in favour of the petitioner from December 2016 to June 2019 amounting to taka 5,43,980/- (Five lacs forty-three thousand nine hundred and eighty) and/or pass such other or further order or orders as to this Court may seem fit and proper.”*

At the time of issuance of the Rule Nisi, this Court passed an interim order directing Respondent No. 3 to dispose of the petitioner's application dated 16.08.2023, which sought payment of due salaries for the period between December 2016 and June 2019 (Annexure-Q to the Writ Petition). In compliance with the said order, Respondent No. 3 disposed of the petitioner's representation on 09.06.2024 (Annexure-R to the Supplementary Affidavit) by rejecting the claim for due

salaries on the ground that there was no specific direction from this Court regarding such payment.

The facts relevant for disposal of the Rule Nisi are as follows: Late Md. Mojibur Rahman, the husband of the petitioner, joined Joshihati Islamia Dakhil Madrasha, Bashail, Tangail ("the Madrasha") on 16.11.2001 as an Assistant Teacher. He served with utmost honesty and diligence, earning the full confidence and satisfaction of the Madrasha authorities. Subsequently, he was enlisted under the Monthly Pay Order (MPO) scheme and began receiving government salary benefits under MPO Index No. 2027069 from May 2010. He continued to receive these benefits regularly and without interruption until December 2016.

According to his S.S.C. certificate, his date of birth was 19.11.1965. However, due to an error on the part of the authorities, his date of birth was incorrectly recorded in the MPO records as 19.11.1956 instead of 19.11.1965. This clerical error came to his attention when MPO payments were stopped in December 2016.

Subsequently, he applied to the concerned Respondents for correction of the error. The matter was discussed at a meeting of the committee formed by the Directorate of Madrasha Education, Dhaka, held on 29.10.2018, and was placed for consideration (Annexure-F to the Writ Petition). Pursuant to this, the Assistant Director of the Madrasha Education Directorate issued a memorandum on 27.05.2019 addressed to Respondent No. 2, requesting the correction of the clerical error and re-enlistment of Md. Mojibur Rahman's name.

Eventually, in response to the request from the Directorate of Madrasha Education, Dhaka, the Directorate of Secondary and Higher Education, Bangladesh, decided on 08.07.2019 (Annexure-G) to correct the MPO record. It states at serial No.11 that "The MPO record contains an error: 19.11.1956; it shall be corrected to 19.11.1965." Accordingly, the date of birth was corrected, and his MPO payments were resumed from July 2019.

Thereafter, on 23.10.2019, Md. Mojibur Rahman submitted a representation to Respondent No.3, seeking disbursement of his outstanding MPO salary for the period from December

2016 to June 2019, amounting to Tk. 5,43,980, as calculated by Respondent No.8. However, despite repeated requests and follow-up representations, the said amount remained unpaid.

While the matter was pending, he fell ill and, unfortunately, passed away on 12.01.2023. The present petitioner, being his widow, legal representative, and nominee of his account, pursued the matter and subsequently submitted a fresh representation on 16.08.2023 to Respondent No. 3, seeking disbursement of her late husband's outstanding MPO salary. As she received no response from the Respondents, she has been constrained to approach this Court under Article 102 of the Constitution, seeking appropriate redress.

Mr. Babul Akhter Chowdhury, the learned Advocate for the petitioner, submits that the petitioner's husband, Late Md. Mojibur Rahman, was a regular MPO-listed Assistant Teacher whose service was uninterrupted until December 2016. The stoppage of his salary was solely due to a clerical error made by the respondent authorities, whereby his date of birth was incorrectly recorded as "19.11.1956" instead of 19.11.1965 in the MPO records. This error was not committed by the teacher

himself and was later acknowledged and rectified by the competent authority.

He adds that once the date of birth was corrected, it became evident that Md. Mojibur Rahman was wrongfully deprived of his MPO salary for the period between December 2016 and June 2019, although he served during the period. There is no reason that would justify the non-payment of salary for that period. The only reason for the stoppage was an administrative error, and as such, the petitioner is entitled to the arrears amounting to Tk. 5,43,980 as calculated by the Respondent No, 8.

Mr. Chowdhury further submits that repeated representations made by the petitioner and her late husband, including the final application dated 16.08.2023, were ignored or rejected arbitrarily. Despite a clear interim direction from this Hon'ble Court to dispose of the representation, Respondent No. 3 merely rejected the claim on the superficial ground that there was "no specific court order for payment," rather than deciding the matter on merits. This amounts to non-application of mind

and constitutes inaction and abdication of statutory responsibility.

He further submits that the right to salary for duly rendered services is protected under the right to livelihood and cannot be denied except in accordance with law. The petitioner's husband continued in service during the disputed period and was *de facto* entitled to receive salary. Non-payment of salary without lawful cause violates Article 27 (equality before law) and Article 31 (protection of law) of the Constitution.

He concludes, by praying for making the absolute, that the present petitioner, as the widow, nominee, and legal representative of the deceased employee, has a legitimate right to claim the arrears that were wrongfully withheld. This is not merely a matter of legal entitlement but also one of equity and justice, particularly in light of the prolonged administrative inaction and the financial hardship endured as a result of the delay.

Contrastingly, Mr. Sk. Shafique Mahmud, the learned Advocate for Respondent No. 3, without filing any affidavit-in-

opposition, at the very outset, candidly submits that the respondent does not dispute the factual position or the petitioner's entitlement. However, due to the absence of a 'specific court order for payment,' the arrear amount could not be disbursed, despite correction of error.

We have heard the learned Advocates for both parties and have carefully perused the writ petition, annexures appended thereto, supplementary affidavit filed by the petitioner, and other materials on record.

The core factual matrix of the case remains undisputed. The petitioner's late husband, Md. Mojibur Rahman, was a duly appointed as an Assistant Teacher at Joshihati Islamia Dakhil Madrasha and had been receiving MPO benefits regularly from May 2010 until December 2016. His service and eligibility for MPO were never in question, and the stoppage of salary was admittedly due to an administrative clerical error in recording his date of birth.

Pursuant to internal proceedings and official communications, most notably the memo dated 27.05.2019, the authorities



rectified the erroneous record of the date of birth and accordingly resumed MPO payments from July 2019. This action effectively amounts to a recognition that the petitioner's husband had remained continuously eligible for MPO benefits throughout the disputed period. The sole ground for withholding payment was the clerical error regarding his date of birth, which has now been duly corrected. There is no allegation of misconduct, voluntary abandonment of service, or any form of disqualification during the relevant period. As such, the salary for that duration was lawfully earned and remains legally payable.

The petitioner has exhausted all remedies and was constrained to approach this Court under Article 102. Repeated representations were made, including the final application dated 16.08.2023, which was directed by this Court to be disposed of. However, in Annexure-R, Respondent No. 3 summarily rejected the claim, not on the merits or legal basis, but merely citing the absence of a specific court order, which reflects non-application of mind and abdication of lawful authority.

Salary for services rendered is not a gratuitous benefit but a matter of statutory entitlement. The arbitrary withholding of salary despite service and eligibility violates Articles 27 and 31 of the Constitution and established principles of natural justice.

Significantly, Mr. Sk. Shafique Mahmud, the learned Advocate for Respondent No. 3, candidly submits before this Court that the respondent does not dispute the factual background or the petitioner's entitlement to the arrear salary. However, he contends that a clear and specific court order is required before such arrears can be disbursed. With respect, such a procedural pretext cannot be allowed to override a vested constitutional and statutory right, particularly when the entitlement itself stands undisputed and the administrative error has already been corrected.

Any clause or provision in the Manpower Structure and MPO Guidelines that purports to impose such a procedural requirement must be interpreted in harmony with the fundamental right to receive salary for services lawfully rendered. Procedural formalities cannot be invoked as a shield to deny legitimate entitlements, nor can they be used to

perpetuate an admitted wrong, especially when the respondents themselves have acknowledged their fault and the applicant's rightful claim.

The petitioner, being the widow, nominee, and legal representative, is entitled to claim arrears on behalf of her deceased husband. Her locus standi is unquestionable, and the death of her husband does not extinguish the accrued financial benefits that are rightfully due.

Having regard to the admitted facts, the corrected error, the official acknowledgment, and the respondent's submissions, there remains no legal justification for the denial of the claimed arrears. Our intervention is, therefore, not only justified but essential to uphold justice, remove administrative inaction, and enforce constitutional rights.

**Accordingly, the Rule is made Absolute.**

The respondents are directed to pay the arrears of MPO salary of late Md. Mojibur Rahman, amounting to Tk. 5,43,980/-, for the period from December 2016 to June 2019, in favour of the

petitioner, within sixty (60) days from the date of receipt of this judgment, without fail.

There will be no order as to costs.

Let this judgment be communicated immediately.

**(Justice Md. Toufiq Inam)**

**Mohammad Ullah, J:**

I agree.

**(Justice Mohammad Ullah)**

Syed B.O.  
Ashraf/A.B.O.