

District-Mymensingh.

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL REVISIONAL JURISDICTION)**

Present:

Mr. Justice Md. Toufiq Inam

Civil Revision No. 2001 of 2024.

Emdadul Haque (Shamrat Kabir)

----- Defendant- Appellant-Petitioner.

-Versus-

Md. Abdur Rahim.

----- Plaintiff-Respondent-Opposite Party.

Main Uddin and 17 others.

----- Proforma-Defendant-Opposite-Parties.

Mr. Md. Sajjad Hosen, Advocate, for

Mr. GM Mozahidur Rahman, Advocate

----- For the Defendant-Appellant-Petitioner.

Mr. Ahmad Naquib Karim, Advocate with

Ms. Aklima Akter, Advocate; and

Mr. Saleh Uddin, Advocate.

----- For the Plaintiff-Opposite-Party No.1.

Heard On: 22.10.2025

and

Judgment Delivered On: 28.10.2025.

Md. Toufiq Inam, J.

This Rule was issued calling upon the opposite parties to show cause as to why the judgment and order dated 20.03.2024 passed by the learned District Judge, Mymensingh, in Miscellaneous Appeal No.15 of 2024, whereby the learned appellate Court rejected the application for stay of the order of temporary injunction dated 05.10.2023 passed by the learned Senior Assistant Judge, Phulpur, Mymensingh, in Other Class Suit No.268 of 2022, restraining the defendant Nos.1–3 and 14–18 from making payment of salaries and allowances to defendant

No.19 and further restraining defendant No.19 from withdrawing the same till disposal of the suit, should not be set aside.

The materials on record reveal that the plaintiff–opposite party No.1 instituted Other Class Suit No.268 of 2022 seeking a declaration regarding his service rights in the concerned school. Alongside the suit, the plaintiff filed an application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, praying for a temporary injunction restraining payment of salaries, allowances, and other emoluments to defendant No.19, who had been appointed as Office Assistant (অফিস সহকারী) by the School Managing Committee.

Upon hearing both parties and examining the materials, the trial Court granted the temporary injunction, finding that the plaintiff had established a prima facie case, that the balance of convenience lay in his favour, and that denial of interim protection would cause irreparable injury.

The defendant-petitioner preferred Miscellaneous Appeal No.15 of 2024 before the learned District Judge, Mymensingh, seeking to stay the operation of the said injunction. The appellate Court, however, rejected the application, holding that the petitioner had failed to make out a case for stay. Aggrieved by such rejection, the petitioner moved this revisional application and obtained the present Rule.

Mr. Md. Sajjad Hosen, learned Advocate appearing for the petitioner, submits that the injunction was based on an erroneous interpretation of the MPO (Monthly Payment Order) Policy, 2021. He contends that under the said policy, the post of “দণ্ডরী” (Peon/Office Attendant) had been abolished, and the School Managing Committee rightly placed the plaintiff in an alternative post of “পরিচ্ছন্নতাকর্মী” (Cleaner). He further argues that the subsequent appointment of defendant No.19 as “অফিস সহকারী” (Office Assistant) was lawful, being consistent with the MPO policy and the management authority of the School Committee. According to him, the injunction has caused undue hardship to the petitioner, resulting in financial and administrative prejudice, and the appellate Court failed to exercise its jurisdiction in refusing to stay the order pending appeal.

Conversely, Mr. Ahmad Naquib Karim, learned Advocate for the opposite party No.1, supports the impugned order. He submits that the plaintiff joined the school as a “দণ্ডরী” on 12.09.2001 and has since been a permanent employee. While the MPO policy may have revised or abolished certain posts, there exists no provision authorizing the management to displace a confirmed employee to a lower or incompatible post without ensuring status and continuity of his substantive position. He further submits that the appointment of defendant No.19 as Office Assistant, while the plaintiff’s service rights remain unsettled, was arbitrary, violative of natural justice, and

directly detrimental to the plaintiff's vested interests. He contends that the trial Court rightly found the essential elements of prima facie case, balance of convenience, and irreparable injury, warranting protection of the plaintiff's rights. He also points out that the appeal itself was filed after a delay of 144 days without sufficient explanation, which justified the appellate Court's refusal to stay the injunction.

Having considered the submissions of learned Advocates and perused the record, this Court finds that the trial Court properly exercised its judicial discretion in granting the temporary injunction. The settled principles governing temporary injunctions require satisfaction of three conditions: (i) the existence of a prima facie case, (ii) the balance of convenience in favour of the applicant, and (iii) the likelihood of irreparable injury in the absence of interim protection. The underlying purpose of such injunction is to preserve the existing position until the substantive rights of the parties are adjudicated upon.

In the instant case, the plaintiff has been a permanent employee of the school since 2001. The subsequent appointment of another person in an overlapping post, coupled with the purported re-designation of the plaintiff to a lower post, raises serious questions about the legality of the management's actions. The trial Court's intervention was, therefore, justified to prevent potential disruption of the plaintiff's

long-standing service rights. The contention of the petitioner that the MPO policy permitted such administrative rearrangement cannot be accepted at this stage, as no such authority is apparent on the face of the record, nor was any due process followed in altering the plaintiff's employment status.

The temporary injunction does not confer any final advantage upon the plaintiff; rather, it merely preserves the existing position until the dispute is finally resolved. The trial Court's order is thus a measured exercise of judicial discretion, designed to prevent injustice.

As to the delay of 144 days in filing the appeal, while delay alone may not always disentitle a litigant from relief, the absence of a satisfactory explanation further supports the trial Court's decision to maintain the status quo in order to prevent prejudice to a long-serving employee whose rights are at stake.

When a permanent employee's substantive service rights are threatened by unilateral administrative action, such as re-designation or displacement to a lower post, pending adjudication of his claim, the Court is justified in granting a temporary injunction to preserve the status quo. The MPO Policy, 2021, cannot be invoked to justify arbitrary alteration of a confirmed employee's position without due process. The discretion exercised by the trial Court in granting

injunction, having satisfied the settled tests of prima facie case, balance of convenience, and irreparable injury, ought not to be interfered with in revision unless shown to be perverse or capricious.

In view of the foregoing, this Court finds no illegality or impropriety in the impugned orders warranting interference under revisional jurisdiction. The trial Court's order of injunction was judiciously passed, and the appellate Court rightly declined to stay the same.

Accordingly, **the Rule is discharged.**

There shall be no order as to costs.

In the interest of expeditious disposal, the learned District Judge, Mymensingh, is directed to dispose of Miscellaneous Appeal No.15 of 2024, if still pending, within 4 (four) months from the date of receipt of this order.

The interim order of *status quo* granted at the time of issuance of the Rule is hereby recalled and vacated.

The office is directed to communicate this order at once.

(Justice Md. Toufiq Inam)

Sayed. B.O.