

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

CONTEMPT PETITION NO. 735 OF 2019

(Arising out of W.P. No. 7124 of 2014)

IN THE MATTER OF:

An application under Article 108 of the Constitution
of the People's Republic of Bangladesh

AND

IN THE MATTER OF:

Dr. Md. Mizanul Hasan and others

.....Petitioners

-VERSUS-

Mahbubul Hoq and others

..... Respondents

Mr. Md. Shakhawat Hossain, Advocate

..... For the Petitioners

Mr. Md. Salahuddin, Advocate

.....For the Respondents

**Heard on 19.11.2025, 27.11.2025, 03.12.2025, 04.12.2025
and 10.12.2025 Judgment on 27.11.2025**

Present:

Justice Md. Bazlur Rahman

&

Justice Urmee Rahman

Urmee Rahman, J:

In the instant matter Rule Nisi was issued on an application under Article 108 of the Constitution of the People's Republic of Bangladesh calling upon the contemnor-respondents to show cause as to why the proceeding of the contempt of court should not be drawn up against them

for willful disregard and violation of the judgment and order dated 10.03.2015 passed by the High Court Division in Writ Petition No. 7124 of 2014 and why they should not be punished in accordance with law and/or pass such other of further order or orders as to this Court may seem fit and proper.

This contempt petition has arisen out of Writ Petition No. 7124 of 2014. It is the allegation of the Petitioners that the respondents-contemnors have willfully violated the judgment and order of the High Court Division dated 10.03.2015, which has also been upheld by the Appellate Division vide judgment and order dated 31.10.2018 passed in Civil Appeal No. 506 of 2016.

Relevant facts for disposal of the matter, in short, are as follows:

The petitioners were appointed in the project name, “পরমানু চিকিৎসা ইনস্টিটিউট, ঢাকার জন্য ভবন নির্মাণ ও আধুনিকীকরণ” under the Bangladesh Atomic Energy Commission (herein after referred as BAEC) between 2004 to 2006 as Chief Medical Officer (CMO), Principal Medical Officer (PMO), Medical Officer, Librarian, Experimental Officer etc. and after joining the project, they performed their duties with utmost satisfaction to the authority concerned. After completion of the said project on 30.06.2006, the services of the petitioners along with their respective posts were transferred to the revenue budget on year to year basis. The respondent no. 4 framed a Rule for regularization of the service of the employees for

transferring them to the revenue budget from the project and the said Rule was published in the official gazette on 17.02.2015 under the title, “বিজ্ঞান ও প্রযুক্তি মন্ত্রণালয়ের অধীন পরমানু শক্তি কমিশনের পরমানু চিকিৎসা ইনস্টিটিউট, ঢাকার জন্য ভবন নির্মাণ ও আধুনিকীকরণ প্রকল্পে ধারাবাহিকভাবে কর্মরত কর্মকর্তা ও কর্মচারী রাজস্ব বাজেটে স্থানান্তরিত পদে নিয়মিত করণ ও জ্যেষ্ঠতা নির্ধারণ (বিশেষ বিধান) বিধিমালা, ২০১৪।” Forty two employees were regularized on the basis of this Rule of 2014, including the petitioners, in the revenue set up. In Rule 5 of the said Rule of 2014, the seniority of the petitioners was given with effect from the date of regularization i.e. from 13.07.2014.

As many as 40 (forty) petitioners filed the Writ Petition no. 7124 of 2014 challenging this Rule no. 5 on the ground that, their seniority has been seriously hampered inasmuch as their service ought to have been regularized from the next day of completion of the project i.e. from 01.07.2006. Moreover, the respondents in similar case regularized the service of the employees of another project in the revenue budget with effect from the next day of completion of the project. As such this present Rule has been made unreasonably, discriminatorily and therefore is liable to be set aside. After issuance of the Rule Nisi, the respondents did not appear to contest although notices were duly served upon them. Upon considering the fact and circumstances of the case and perusing the materials on record, a division bench of the High Court Division was pleased to make the Rule absolute by the judgment and order dated 10.03.2015. The respondents were directed to “**regularize the service of**

the petitioners under revenue head in the Bangladesh Atomic Energy Commission with effect from 01.07.2006 and to give them all service benefits including seniority, fixation of salary, pension and other benefits from that date in accordance with law.”

Bangladesh Atomic Energy Commission filed **Civil Petition for Leave to Appeal No. 2815 of 2015** before the Appellate Division challenging the judgment dated 10.03.2015 delivered by the High Court Division and leave was granted giving rise to **Civil Appeal No. 506 of 2016**, which was finally dismissed by the judgment and order dated 31.10.2018 on the ground that there was no impropriety or illegality in the decision of the High Court. Being aggrieved, the appellant filed **Review Petition No. 306 of 2019**, which is still pending for disposal; however no order of stay of the judgment of the High court is in force.

High Court Division passed the judgment on 10.03.2015 and the same was upheld by the Appellate Division on 31.10.2018 but the respondents remained inactive in giving effect to the judgment passed in Writ Petition no. 7124 of 2014. Moreover, they gave promotion to other junior officers and employees superseding the petitioners. As many as 38 (thirty eight) writ petitioners were given promotion but without giving effect to the seniority from 01.07.2006 and also were not given any service benefits with effect from the said date as per the direction of the High Court Division. In these circumstances, 38 petitioners filed the instant contempt petition and obtained a Rule on 04.12.2019.

After issuance of the contempt Rule, the Bangladesh Atomic Energy Commission (BAEC), the contemnor no. 11, as compliance of the Order of the court, vide its office order No. 417/2019 dated 24.12.2019 gave effect to the petitioners' regularization from 01.07.2006 with seniority in their respective posts and by another office order dated 13.01.2020 fixed the petitioners' salary and increment, calculated all arrears against salaries and benefits from 01.07.2006 to 30.06.2019. Accordingly an affidavit in compliance dated 03.02.2020 was submitted before this court.

By the order dated 03.02.2020 High Court Division was pleased to observe that, "It appears that the contemnor-respondents in the meantime partially implemented the order dated 10.03.2015 passed by the High Court Division in Writ Petition No. 7124 of 2014 as evident in Annexure-2-A. However, considering the facts and circumstances, the contemnor-respondents are directed to implement the order passed by the High Court Division in full within 15 (fifteen) days from the date of receipt of the instant order and file affidavit to that effect."

Accordingly by the office order no. 183 of 2021 dated 21.06.2021 the contemnor-respondent no. 2, the then Chairman of BAEC, adjusted the seniority of the petitioners giving them seniority from a back date. In clause 2 of that office order it was stated that, "২। উপরোক্ত কর্মকর্তা ও কর্মচারীগণ তাদের নামের পাশে উল্লেখিত তারিখ হতে জ্যেষ্ঠতা পাবেন। তবে MIS এর জ্যেষ্ঠতা তালিকায় কমিশনে রাজস্ব খাতে নিয়োগ প্রাপ্ত হয়ে একই তারিখে একই পদে পদোন্নতি প্রাপ্ত অন্যান্য কর্মকর্তা ও

কর্মচারীগণের নামের পরে উপরোক্ত জ্যেষ্ঠতা প্রাপ্ত কর্মকর্তা ও কর্মচারীদের নাম অন্তর্ভুক্ত /সন্নিবেশিত হবে।”

Subsequently by the office order no. 232 of 2021 dated 12.09.2021 this clause 2 of the order dated 21.06.2021 was amended, by giving reference to an order of the High Court Division dated 09.09.2021, in the following manner, “ সংশ্লিষ্ট কর্মকর্তা ও কর্মচারীদের সর্বশেষ পদোন্নতি প্রাপ্ত পদে পারস্পরিক জ্যেষ্ঠতা তাদের স্ব-স্ব পদে কর্মরত সমসাময়িকদের সাথে নন ক্যাডার কর্মকর্তা ও কর্মচারী (জ্যেষ্ঠতা ও পদোন্নতি) বিধিমালা, ২০১১-এর ৪(২) ও (৩) অনুযায়ী নির্ধারিত হবে এবং সে মোতাবেক কমিশনের MIS-এ জ্যেষ্ঠতা তালিকা সংশোধিত হবে।” Pursuant to this amended order, the Management Information System (MIS) was published on 13.09.2021. In that list the names of the petitioner nos. 2 and 3 of this contempt petition were shown in serial no. 27 and 28. Two affidavits in compliance were submitted before the High Court Division on 18.08.2021 and 13.11.2021 in this regard.

On 12.10.2024 one Md. Hasinur Rahman, a Chief Scientific Officer of BAEC, filed an application to the Chairman, BAEC, on the grievances that, as a result of issuance of office orders dated 21.06.2021 and 12.09.2021 the seniority of 67(sixty seven) CSO/CMO/CE were breached and those orders had not been passed in accordance with law, thus prayed for rectification of those orders.

On receipt of the application the Contemnor No. 3, the then Chairman of BAEC, vide office order no. 230/2024 dated 14.10.2024

formed an investigation committee consisting of 3 (three) members for scrutiny of the issue raised by Md. Hasinur Rahman and made recommendation for proper compliance of the judgment and order of the Writ Petition no. 7124 of 2014. The committee after conducting investigation into the matter submitted its report on 09.12.2024 with recommendation that the judgment and order passed in Writ Petition No. 7124 of 2024 had already been complied with by virtue of office order No. 417/2019 dated 24.12.2019. It was further stated in that report the subsequent office orders no. 183/2021 and 232/2021 being contrary to the existing legal provision as prescribed by **Bangladesh Atomic Energy Commission Service Regulations, 1985** as well as Non-Cadre Officer and Employees (Seniority and Promotion) Regulations, 2011 are liable to be cancelled and the seniority of Md. Hasinur Rahman in the post of CMO be restored.

Thereafter, the Board of Members, BAEC in its meeting dated 10.12.2024 on perusal of the report dated 09.12.2024 submitted by the investigation committee and upon considering the relevant legal provisions, resolved to cancel the Order no. 183/2021 dated 21.06.2021 and order no. 232/2021 dated 12.09.2021. Accordingly vide an office order no. 001/2025 dated 01.01.2025 BAEC cancelled those two orders and revised the MIS list for CSO/equivalent on 05.01.2025.

Meanwhile, when the petitioners no. 2 and 3 of this contempt petition came to know about the application filed by the said Md. Hasinur

Rahman, they served a legal notice through their lawyer on 12.11.2024 upon the present Chairman (current charge) of BAEC Dr. Md. Shawkat Akbar and the members of the investigation committee and requested them not to take any decision in violation of the judgment and order dated 10.03.2025 passed in writ petition no. 7124 of 2014. These two petitioners also served a notice of contempt upon the said Md. Hasinur Rahman through their lawyer on 17.12.2024.

Thereafter the petitioners no. 2 and 3 filed an application praying for addition of the present Chairman, members of the investigation committee and Md. Hasinur Rahman as contemnor-respondent nos. 3-9 and further sought a direction upon respondents not to hamper or cancel their seniority given earlier vide officer order no. 183/2021 dated 21.06.2021 and office order no. 232/2021 dated 12.09.2021 as well as the Management Information System (MIS) list published on 13.09.2021.

By the order dated 22.12.2024 a vacation Bench of the High Court Division was pleased to allow the said application for addition of party and was further pleased to direct the respondents not to hamper or cancel their seniority given earlier by office order dated 21.06.2021 and 12.09.2021.

Md. Hasinur Rahman, the added contemnor-respondent no. 9, challenged the order dated 22.12.2024 passed by the High Court Division before the Appellate Division by filing Civil Petition for Leave to Appeal No. 264 of 2025. The Hon'ble Judge in Chamber vide its order dated

21.01.2025 was pleased to direct the parties to maintain status-quo in respect of subject matter of the case till 27.01.2025 and posted the matter for hearing by full bench of Appellate Division on 27.01.2025. The full Bench of the Appellate Division passed the order that, Justice would be best served, if the contempt petition itself is disposed of on merit by the High Court Division and the order of status quo granted earlier by the Hon'ble Judge in Chamber shall continue till disposal of the contempt petition.

Hence the matter has been fixed before this Bench for hearing.

Md. Shakhawat Hossain, Senior Advocate, appeared on behalf of the contempt petitioners. Upon placing the chronological facts of the matter he emphatically submitted that, the contemnors-respondents are showing deliberate and willful disregard in implementing the full effect of the judgment dated 10.03.2015 passed by the Hon'ble High Court Division in writ petition no. 7124 of 2014. He further submitted that, by the office order no. 183 of 2021 dated 21.06.2021 the contemnor-respondent no. 2, the then Chairman of BAEC, adjusted the seniority of the petitioners pursuant to the order dated 03.03.2020 of the High Court Division; however in that order they, with mala fide intention, inserted a clause stating that, “২। উপরোক্ত কর্মকর্তা ও কর্মচারীগণ তাদের নামের পাশে উল্লেখিত তারিখ হতে জ্যেষ্ঠতা পাবেন। তবে MIS এর জ্যেষ্ঠতা তালিকায় কমিশনে রাজস্ব খাতে নিয়োগ প্রাপ্ত হয়ে একই তারিখে একই পদে পদোন্নতি প্রাপ্ত অন্যান্য কর্মকর্তা ও কর্মচারীগণের নামের পরে উপরোক্ত জ্যেষ্ঠতা প্রাপ্ত কর্মকর্তা ও কর্মচারীদের নাম অন্তর্ভুক্ত /সন্নিবেশিত হবে।” Mr. Hossain submitted

that, in such circumstances, the Hon'ble High Court Division on 09.09.2021 again directed the contemnor-respondents to follow নন ক্যাডার কর্মকর্তা ও কর্মচারী (জ্যেষ্ঠতা ও পদোন্নতি) বিধিমালা, 2011 and as such the contemnor-respondents amended the earlier order no. 183/2021 by the subsequent order no. 232/2021 dated 12.09.2021 in the following manner.

“.....২১-০৬-২০২১ খ্রি. তারিখের ১৮৩/২০২১ সংখ্যক অফিস আদেশে প্রদত্ত জ্যেষ্ঠতা সঠিকভাবে সংশোধনের জন্য মহামান্য হাইকোর্টে দায়েরকৃত Contempt Petition 735/2019 এর সূত্রে মহামান্য হাইকোর্টের ০৯.০৯.২০২১ খ্রি. তারিখের নির্দেশনা মতে কর্তৃপক্ষের সিদ্ধান্ত মতে কমিশনের ২১-৬-২০২১ খ্রি. তারিখের ১৮৩/২০২১ সংখ্যক অফিস আদেশের ২ নং অনুচ্ছেদ নিম্নোক্তভাবে সংশোধন করা হলো:

“সংশ্লিষ্ট কর্মকর্তা ও কর্মচারীদের সর্বশেষ পদোন্নতি প্রাপ্ত পদে পারস্পরিক জ্যেষ্ঠতা তাদের স্ব-স্ব পদে কর্মরত সমসাময়িকদের সাথে নন ক্যাডার কর্মকর্তা ও কর্মচারী (জ্যেষ্ঠতা ও পদোন্নতি) বিধিমালা, ২০১১-এর ৪(২) ও (৩) অনুযায়ী নির্ধারিত হবে এবং সে মোতাবেক কমিশনের MIS-এ জ্যেষ্ঠতা তালিকা সংশোধিত হবে।”

Learned Advocate for the petitioners submitted that, pursuant to this amended order, the Management Information System (MIS) was published on 13.09.2021 and in that list the names of the petitioner no. 2 and 3 were listed in serial number 27 and 28 respectively. His contention is that, on the basis of the application made by Mr. Md. Hasinur Rahman, the contemnor-respondent no. 9, the BAEC authority by disregarding the order of the High Court dated 09.09.2021 prepared a new MIS list without prior permission of the Hon'ble High Court Division, which is highly

contemptuous of this Hon'ble Court. Learned Advocate for the petitioners finally submitted that, the seniority list was prepared in accordance with the provision of নন ক্যাডার কর্মকর্তা ও কর্মচারী (জ্যেষ্ঠতা ও পদোন্নতি) বিধিমালা, ২০১১ and as such the Bangladesh Atomic Energy Commission Service Regulations, 1985 has no manner of application in cases of the petitioners. Hence he prayed that the Rule issued in this contempt petition may be made absolute for willful disregard and violation of the judgment and order dated 10.03.2025 passed by the High Court Division in Writ Petition No. 7124/2014 and the contemnors-respondents may be punished in accordance with law.

On the other hand Mohammed Ismail Hossain, Advocate, appeared on behalf of Bangladesh Atomic Energy Commission (BAEC), the contemnors-respondents herein, contested the Rule by not filing any affidavit in opposition, however, by submitting an affidavit in compliance. At the very outset he submitted that, after the issuance of the instant contempt Rule, the petitioners had been regularized in the revenue set up by giving effect from 01.07.2006 upon payment of all arrear salary from 2006 to 2019 and had also been given seniority with their contemporary colleagues in the respective posts and thereby the judgment and order dated 10.03.2015 passed by the High Court Division has been fully complied with and affidavit in compliances have also been filed in this regard. Learned Advocate submitted that, all the contempt petitioners except the petitioner no. 2 and 3 are fully satisfied with the action taken

by the BAEC pursuant to the order made by the High Court Division in the instant contempt petition no. 735 of 2019. The case of the petitioners no. 2 and 3 is that, their service had been regularized in the posts of Principal Medical Officer (PMO) on 12.07.2014 with effect from 01.07.2006 as per the order of the High Court Division; after completion of required four years of satisfactory service, they, along with others, were recommended by the Departmental Promotion Committee (DPC) for promotion in the post of Chief Medical Officer (CMO) and accordingly by the office order no. 114/2019 dated 08.04.2019, petitioner no. 2 and 3 were promoted to the posts of CMO. Learned Advocate submitted that, in their new post as CMO, the petitioner no. 2 and 3 had been given seniority above all those promoted as CMO at the same time with them on 08.04.2019 but the petitioner no. 2 and 3 now seeking seniority in the post of CMO above all other CSO/CMO/CE, who were promoted in their respective posts in 2015 and 2017. Learned Advocate argued that, petitioner no. 2 and 3 had no grievance with regard to their seniority in the post of PMO at the time of their regularization but now they are aggrieved by an order by which they were given promotion. He submitted that, promotion is not a matter of right rather a privilege which is subject to the rules and regulations of the concerned organization. The direction passed by the High Court Division in terms of 'seniority' means, seniority in the post in which the petitioners had been regularized. This being done by the BAEC by giving seniority to the petitioner no. 2 and 3 in the post of

PMO, the judgment of the High Court has been fully complied with, he submitted. Learned Advocate for the contemnor-respondents then referred to the provision of Bangladesh Atomic Energy Commission Service Regulations, 1985 regarding seniority and promotion, which runs as follows:

“8. Fixation of seniority- (1) Seniority of the employees in their respective post of first appointment and or on promotion shall be regulated in the following manner, namely:-

(a) where the appointment is made on the basis of recommendations of the Selection Board in consideration of result of selection test or examination, if any, and the merit of the candidates in their respective academic examination and the seniority thus fixed shall be taken as the inter-seniority in a specified post;

(b) in case of appointment of a single candidate, the seniority shall be counted from the date of his joining.

(2) The first appointment referred to in sub-section (1) shall mean appointment to a regular post.

(3) The provision of this regulation shall not affect the seniority of employees fixed by the competent authority before the commencement of these regulations.”

9. Promotion- The criteria for promotion to a specified post shall be merit-cum-seniority and no person shall be eligible for promotion unless he has the satisfactory records of service.”

Schedule to the Regulations, 1985 in its serial number 15 provides for the requirements to be eligible for the post of Chief Medical Officer (CMO). Recruitment in this post can be made by direct recruitment or by promotion on the recommendation by Selection Board. In case of promotion a minimum of 4 (four) years outstanding service as PMO is required.

Referring to these provisions learned Advocate for the contemnor-respondents submitted that, as per the BAEC service Regulations the petitioners no. 2 and 3 were eligible for consideration of promotion to the post of CMO in 2019 after completion of 4 years’ service as PMO from their actual date of joining in 2014. After that period recommendation was made by the Selection Committee for promotion and accordingly they were promoted as CMO on 08.04.2019 and they were given seniority in the post of CMO above all those employees who were promoted at the same time.

Learned Advocate for the contemnor-respondents then put forward an explanation as to why they had to rectify the earlier office orders no. 183/2021 and 232/2021. He submitted that, those two office orders dated 21.06.2021 and 12.09.2021 were issued in the process of compliance of

the instant Contempt Rule; by these two orders the petitioners were given seniority above all those promoted in 2015 and 2017. By these two office orders seniority was given under 'non-cadre officer and employees (seniority and promotion) Regulations, 2011' but this Rule is not applicable for the employees of BAEC because it has its own service regulations. Once the petitioners were regularized in the revenue budget of BAEC, their services are being governed by the Regulations of this institution, which is evident from the regularization order dated 13.07.2014. He argued that, even for sake of argument the Non-cadre service regulations 2011 is said to be applicable for determining seniority of the petitioners, they shall still be junior to those promoted in 2015, 2016 and 2017 because, Rule 7 (1) of the said Rules of 2011 provides that, in case of promotion to higher post, an employee who was recommended earlier by the selection committee will be senior to who was recommended later.

He finally submitted that, since the contemnors remained under obligation to comply with the order of the Hon'ble High Court Division passed in writ petition no. 7124 of 2014 in accordance with law, the said defective office orders needed to be cancelled and accordingly new order dated 01.01.2025 was issued for full and proper compliance of the court's order. In paragraph number 21 of the affidavit in compliance the contemnor-respondents have sought for unconditional apology before this court for the course of action taken by them in this process and prayed for

maximum mercy from this court. Hence, he prayed that the contemnors may kindly be exonerated from the allegation of contempt of court and the Rule may kindly be discharged.

Mr. Ruhul Quddus Kazal, Senior Advocate with Md. Salahuddin, Advocate appeared on behalf of Contemnor-respondent no. 9 i.e. Md. Hasinur Rahman by filing an affidavit. Learned Senior Advocate agrees fully with the submissions put forwarded by the Advocate for the BAEC. His further submission is that, this contemnor was not a respondent in writ petition no. 7124 of 2014 and is not the implementing authority of the order passed by the Hon'ble court. He has been added as contemnor-respondent only with a mala fide intention. Furthermore, some internal documents regarding him have been filed by the petitioner no. 2 and 3, which have no relevance with the instant matter, yet the same have been submitted only to harass and humiliate him. Learned Advocate also prayed for the Contempt Rule to be discharged.

Heard the learned Advocates, considered the judgment of this Division passed in Writ Petition No. 7124 of 2019, the contempt petition, submissions made by the lawyers and perused the documents on record.

The foremost issue in the instant matter is whether any contempt of court has been committed by the contemnors-respondents by not taking any action in fulfillment of the judgment of the High court Division dated 10.03.2015.

Legal perception of contempt of Court is being discussed in this context. There is no definition of 'Contempt of Court' as such. 'Contempt' may be constituted by any conduct that brings authority of the Court into disrespect or disregard or undermines its dignity and prestige. It has now been well settled that conduct or action causing obstruction or interfering with the course of justice is contempt. Willful disobedience to any judgment, decree, direction, order, writ or other processes of Court or willful breach of an undertaking given to the Court amount to contempt. The object of the contempt proceeding is to protect the dignity of the Court and not to satisfy the grudge of any private individual.

Contempt proceeding is a quasi-criminal proceeding and in such a proceeding, heavy burden has been thrust upon the contempt petitioner to prove beyond all reasonable doubt that the contemnor has deliberately violated or flouted the Court's direction. There are three categories of contempt of Court, (a) scandalisation of Court, (b) disobedience to the order of the Court or breach of undertaking given to the Court and (c) interference with the course of justice.

Now it is well established that the power of committal for contempt is given to the Superior Courts in order that they may swiftly and summarily perform one of their most important duties which is to protect themselves against willful disregard or disobedience of their authority. This summary power of punishing for contempt should be used sparingly and only in serious cases. To bring home an action within the mischief of

contempt in the absence of any definition available in the contempt of Court Act itself, it can be inferred that only the willful and deliberate disobedience of the Courts order can be considered to be the main ingredient to constitute a contempt of Court in a given situation. Proceedings for contempt of Court are of a quasi-criminal in nature and where there is any reasonable doubt, the person charged with contempt is entitled to benefit of doubt.

In the instant matter the contempt petitioners have no grievances so far as their regularization from the given date mentioned in the judgment, payment of due salaries and seniority in the starting posts are concerned. It is only the petitioner nos. 2 and 3, who are now venting their grievances regarding their seniority in the promoted posts on the basis of the judgment of this Division.

It is an admitted fact, which is evident from Annexure-C to the Contempt petition that, vide the office order no. 352/2014 dated 13.07.2014 the petitioners were regularized in the revenue budget. In clause 1 to that office order it has been clearly stated that, “রাজস্ব খাতে স্থানান্তরিত উল্লেখিত জনবলের চাকরি বাংলাদেশ পরমাণু শক্তি কমিশন চাকরি প্রবিধান মালা ১৯৮৫ অনুসারে পরিচালিত হবে।” There is no scope for doubt that since there is a specific service regulations prevailing in any institution, the employees shall be guided by that particular regulations. This Division in its judgment dated 10.03.2015 did not mention any specific law but it stated categorically that their service benefits and other benefits shall be given

“in accordance with law”. In the present case the law applicable for the petitioners are, without any ambiguity, is the ‘Bangladesh Atomic Energy Commission Service Regulations, 1985’.

It appears from the record that after issuance of the Contempt Rule on 04.12.2019, office order no. 417/2019 dated 24.12.2019 was issued in compliance with the judgment passed by the High Court Division on 10.03.2015 in writ petition no. 7124 of 2014 upon giving effect to the regularization of the petitioners from 01.07.2006 and accordingly their position in the seniority list was advanced (evident from Annexure Z-63, Z-64 to the application for direction filed by the petitioner no. 2 and 3). It also appears from the office memo dated 13.01.2020, annexed as Annexure R-3 to the affidavit in compliance dated 12.11.2025 filed by the contemnor-respondent no. 11, that the BAEC authority fixed all the contempt petitioners’ salary and increment, calculated all arrears against salaries and benefits from 01.07.2006 to 30.06.2019 and the petitioners were paid off with the full amount.

It transpires from the record that, in the meantime petitioners no. 2 and 3 became eligible to be considered for promotion to the post of Chief Medical Officer (CMO) as they have completed 4 (four) years of service as Principle Medical Officer (PMO), and accordingly the petitioners no. 2 and 3 along with other eligible candidates were evaluated by the Departmental Promotion Committee and recommended their promotion. Thus vide office order no. 114/2019 dated 08.04.2019 BAEC promoted

the petitioners no. 2 and 3 to the post of CMO with 36 others. By the order dated 03.02.2020, the High Court Division directed the contemnor-Respondents to implement the order passed by the court in full. Learned Advocate for the petitioners submitted that since the seniority was not given from 01.07.2006 by the office order dated 417/2019, High Court passed such direction by the order dated 03.02.2020 (Annexure Z-65).

It further transpires from office order no. 183/2021 dated 21.06.2021 that BAEC adjusted the seniority of the petitioners no. 2 and 3 in their promoted posts as CMO by giving effect to their promotion to the said post from 10.12.2015 stating that.

“উপর্যুক্ত বিষয়ে ০৩/০৩/২০২১ খ্রিঃ তারিখ সকাল ১১.০০ ঘটিকায় অনুষ্ঠিত কমিশনের তাৎক্ষনিক সভার সিদ্ধান্ত অনুযায়ী গঠিত ০২টি কমিটির সুপারিশ, ২১/০৬/২০২১ তারিখে অনুষ্ঠিত কমিশনের তাৎক্ষনিক সভার সিদ্ধান্ত এবং মহামান্য হাইকোর্ট বিভাগের Contempt Petition 735/2019 এর সুত্রে ১৫-৬-২০২১ খ্রি. তারিখে প্রদত্ত নির্দেশনা অনুযায়ী কমিশনের ২৪/১২/২০১৯ খ্রিঃ তারিখের ৪১৭/২০১৯ সংখ্যক অফিস আদেশের মাধ্যমে চাকুরীতে ০১/০৭/২০০৬ খ্রিঃ তারিখ হতে নিয়মিতকৃত ৪০ জনের মধ্যে বর্তমানে কর্মরত ৩৭ (বর্তমানে ০৩ জন চাকরিতে নাই) জন কর্মকর্তা ও কর্মচারীকে তাদের স্ব স্ব পদোন্নতি প্রাপ্ত পদে তাদের সমসাময়িকদের সাথে জন প্রশাসন মন্ত্রণালয়ের নন-ক্যাডার কর্মকর্তা ও কর্মচারী জ্যেষ্ঠতা ও পদোন্নতি) বিধিমালা, ২০১১ অনুযায়ী নিম্নে তাদের নামের পাশে উল্লেখিত তারিখ হতে জ্যেষ্ঠতা প্রদান করা হলো” (Annexure Z-66 to the application for direction filed by the petitioner no. 2 and 3). By this order the petitioner no. 2 and 3 were given seniority with effect from 10.12.2015.

We do not find any substance in issuance of this office order inasmuch as that this Division in none of its order gave any specific direction as to the implementation method nor did it mention any particular law in accordance with which the seniority shall be given in the given circumstances.

Thereafter by the subsequent office order no. 232/2021 dated 12.09.2021 the previous order no. 182/2021 was amended stating that, “উপর্যুক্ত বিষয়ে কমিশনের ২৪/১২/২০১৯ খ্রিঃ তারিখের ৪১৭/২০১৯ সংখ্যক অফিস আদেশের মাধ্যমে চাকুরীতে ০১/০৭/২০০৬ খ্রিঃ তারিখ হতে নিয়মিতকৃত ৪০ জনের মধ্যে বর্তমানে কর্মরত ৩৭ (বর্তমানে ০৩ জন চাকরিতে নাই) জন কর্মকর্তা ও কর্মচারীকে তাদের স্ব স্ব পদোন্নতি প্রাপ্ত পদে কমিশনের ২১-৬-২০২১ খ্রি. তারিখের ১৮৩/২০২১ সংখ্যক অফিস আদেশে প্রদত্ত জ্যেষ্ঠতা সঠিকভাবে সংশোধনের জন্য মহামান্য হাইকোর্টে দায়েরকৃত Contempt Petition 735/2019 এর সুত্রে মহামান্য হাইকোর্টের ০৯.০৯.২০২১ খ্রি.তারিখের নির্দেশনা মতে কতৃপক্ষের সিদ্ধান্তক্রমে কমিশনের ২১-৬-২০২১ খ্রি. তারিখের ১৮৩/২০২১ সংখ্যক অফিস আদেশের ২ নং অনুচ্ছেদ নিম্নোক্তভাবে সংশোধন করা হলো”

The reference of the High Court’s order made therein could not be found from the record.

As we have already observed that after regularization the petitioners came under the purview of BAEC Service Regulations of 1985 and as such their subsequent promotion to be guided by the provision of this regulation. The provision of (নন-ক্যাডার কর্মকর্তা ও কর্মচারী জ্যেষ্ঠতা ও পদোন্নতি) বিধিমালা, ২০১১ will not be applicable in their cases. By the office

orders no. 183/2021 and 232/2021 the petitioners were given seniority under the Rule of 2011, which is ex facie not in accordance with law. The then BAEC authority issued those office orders in defiance to the appropriate law in this regard creating anarchy and indiscipline among the employees for reason best known to them.

It is now settled principle of law that promotion is not a matter of right rather a privilege subject to fulfillment of required qualifications. In the present case a 'four years satisfactory service' in the post of PMO is required to get promotion to the post of CMO as per the service regulation of 1985 and it shall be "merit-cum-seniority and no person shall be eligible for promotion unless he has the satisfactory records of service" as per Section 9 of the Regulations. Accordingly the petitioner no. 2 and 3 were promoted in 2019 in the post of CMO. At present they are Grade-3 officer.

On the other hand, the contemnor-respondent no. 9, Md. Hasinur Rahman joined BAEC revenue budget as Scientific Officer in 1995, was promoted as PSO (Principal Scientific Officer equivalent to PMO) in 2007 and was further promoted as CSO (Chief Scientific Officer equivalent to CMO) in 2015. He was upgraded to Grade-2 in 2019.

The BAEC authority amended the MIS on the basis of an inquiry report submitted by a committee formed after an allegation was made by this contemnor-respondent no. 9 that seniority of 67 (sixty seven)

CSO/CMO/CE were breached by the aforementioned officer orders no. 183/2021 and 232/2021.

Now it is to be determined whether BAEC authority can take a positive action regarding the subject matter of the case which is in seisin of the High Court Division without obtaining prior permission from the Court. On this particular point the contemnor-respondent no. 11 by filing an affidavit in compliance dated 12.11.2025 submitted that, as per findings and recommendation of the investigation committee formed for scrutiny of all orders passed by the contemnors' office, BAEC, for the purpose of full compliance of the judgment and order of the High Court Division, the contemnors came to realize that, the affidavit in compliance filed by the contemnors on 18.08.2021 and 13.11.2021 on the basis of office orders no. 182 /2021 and 232/2021 was not a compliance in accordance with law, for that the respondent-contemnors offered unconditional apology before this Court and prayed for maximum mercy and prayed to be exonerated from the allegation of contempt of Court.

When a subject matter is pending for hearing before the Court, it is expected that the parties should refrain from taking any further action which may change the nature and character of the subject matter. In the case in hand the contemnors-respondents went ahead by rectifying their previous error without raising this issue before the court prior to taking such action.

Upon examination of all the aspects, since it is our view that the aforesaid two office orders no. 183/2021 and 232/2021 were issued not in accordance with law, no illegality has been done by the contemnors-respondents rectifying those by the subsequent office no. 001/2025 dated 01.01.2025 and updating the MIS on the basis thereof. However, considering the fact that the contemnors-respondents have sought for unconditional apology, they are only given caution by this Court to be more careful in future before taking any action regarding in any matter which is pending before any Court.

Regarding the submission of the petitioners lawyer that the contemnors-respondents published revised MIS list on 01.01.2025 in violation of the order dated 22.12.2024 passed by this Division directing the respondents not to hamper or cancel the seniority of the applicants, we find that, the direction was issued upon hearing an application for addition of party and for direction filed by the petitioner no. 2; the contemnors-respondents submitted that they were not served with any notice before filing the application before the court and the office of the contemnors received the said order on 07.01.2025, by the time the revised MIS list had already been published on 01.01.2025. Furthermore, since the very Rule issued in the Contempt petition is being heard and disposed of, the effect of the interim order does not bear any consequence.

Regarding the case of the Contemnor-Respondent no. 9, we hold that, since he is not the implementing authority and that he has not done

anything on purpose to disturb implementation of the judgment of this Division, he cannot be held liable in this contempt matter.

Finally, we hold that the recent revised MIS list dated 05.01.2025 being made in accordance with law, the judgment of this Division in writ petition no. 7124 of 2014 has been fully complied with and therefore no contempt of court has been committed by the concerned authority.

In the view of facts and circumstances and the discussions made hereinabove, the Rule issued in this contempt petition is discharged.

In the result, the Rule is discharged.

However, without any order as to costs.

Communicate this judgment and order at once.

Md. Bazlur Rahman, J:

I agree.