

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

WRIT PETITION NO. 13704 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:

Muhammad Mosharraf Hossen and others
.....Petitioners

-VERSUS-

Government of People's Republic of Bangladesh,
represented by the Secretary, Power Division,
Ministry of Power, Energy and Mineral Resources
and others

..... Respondents

Mr. Mohammad Ibrahim Khalil, Senior Advocate with
Mr. Atique Towhidul Islam, Advocate
..... For the Petitioners

Mr. Hasibul Huq, Advocate
..... For the Respondent Nos. 3 and 4

Mr. Mohammad Waliul Islam Oli, D.A.G with
Mr. Md. Ershadul Bari Khandakar, D.A.G with
Ms.Nilufar Yesmin, A.A.G with
Mr. Md. MoshiurRahman (Rahat), A.A.G with
Mr. Md. Motasin Billah Parvez, A.A.G with
Mr. Md. Faridul Islam, A.A.G
.....For the Respondents.

Present:

**Mr. Justice Sashanka Shekhar Sarkar
And
Justice Urmee Rahman**

**Heard on 14.01.2026 and 18.01.2026
Judgment on 25.01.2026**

Urmee Rahman, J:

In the instant matter a Rule Nisi was issued on an application under Article 102 of the Constitution of the People's Republic of Bangladesh in the following terms:

“Let a rule Nisi be issued calling upon the respondents to show cause as to why the inaction and failure of the respondents upgrading petitioners' pay scale to the Grade X of the national pay scale as was upgraded to the similar footing Auditors of the Department of Comptroller and Auditor General, Dhaka WASA should not be declared to have been done without lawful authority and is of no legal effect and why the respondents shall not be directed to upgrade the pay scale of the petitioners to the Grade X of the national pay scale with all admissible benefits effective from 23.12.2018 which was allowed by the Ministry of Finance to the other Auditors (Annexure-E) and why fixation of the benefits shall not be applicable to the petitioners from the date of their joining and/or pass such other or further order or orders as to this Court may seem fit and proper.”

Relevant facts necessary for disposal of the instant Rule, in short, are that, the 21 (twenty one) petitioners have been duly appointed and subsequently regularized in the posts of Auditor by the Bangladesh Rural Electrification Board (hereinafter referred as BREB) under Grade XIII of the national Pay Scale as per Pay Scale of 2009 during the period of 2012 - 2022.

Some other Auditors of the BREB earlier filed Writ Petition No. 4762 of 2015 before the High Court Division to upgrade their post from Grade XIII to Grade XI of the National Pay Scale and obtained Rule. After hearing, the Rule was also made absolute by the judgment dated

01.12.2016, which was also upheld by the Appellate Division on 21.07.2019 in Civil Petition for Leave to Appeal No. 799 of 2018 as well as in Civil Review Petition No.339 of 2019.

Thereafter the Respondent No. 5 i.e. the Department of Employee Administration, BREB issued an office order dated 10.09.2020 complying with the aforesaid judgment and thereby upgrading the post of the Auditors of Bangladesh Rural Electrification Board from Grade XIII to Grade XI.

Meanwhile, Writ Petition No. 9399 of 2015 was filed by the auditors of Comptroller and Auditor General for upgrading the pay scale of Auditors from grade XI to grade X of the National Pay Scale and Rule was issued. After hearing the Rule, High Court directed the Government to upgrade the pay scale by the judgment and order dated 02. 02. 2016. This judgment was also upheld by the Appellate Division in Civil Petition for Leave to Appeal No. 2711 of 2016 on 19.03.2017 as well as in Civil Review Petition No. 398 of 2017 on 11.02.2018.

In pursuant to this judgment, the Respondent No. 2, the Ministry of Finance issued an office order dated 23.12.2018 upgrading 61 Auditors (the petitioners of the Writ Petition No. 9399 of 2015) from Grade XI to Grade X, which was made effective from 23.12.2018.

Following this order of the Ministry of Finance various Government institutions e.g. Dhaka WASA, Bangladesh Chemical Industries Corporation (BCIC), Bangladesh Export Processing Zone

Authority (BEPZA), Civil Aviation Authority of Bangladesh (CAAB) have issued office orders and upgraded the pay scale of their Assistant Audit Officers/Auditors at Grade X of the National Pay Scale except Bangladesh Rural Electrification Board.

Being discriminated, the petitioners, who are the Auditors of Bangladesh Rural Electrification Board (BREB) filed an application before the Respondent No. 5 on 10.09.2024 and also sent a Notice Demanding Justice on 02.10.2024 but with no result; hence they have filed the instant writ petition and obtained Rule.

Mr. Mohammad Ibrahim Khalil, learned Senior Advocate with Mr. Atique Towhidul Islam, Advocate appeared on behalf of the petitioners and submitted that the petitioners are the victim of discrimination in respect of their status of the pay scales for the post of Auditors because other Auditors working in various Government institutions i.e. Comptroller and Auditor General, Dhaka WASA. Bangladesh Chemical Industries Corporation, Bangladesh Export Processing Zone Authority, Civil Aviation Authority of Bangladesh, who were equivalent to the petitioners' post and used to receive pay scale in Grade XI are now receiving upgraded pay scale of Grade X.

Learned Advocate for the petitioner next submitted that, all the petitioners were appointed by the Bangladesh Rural Electrification Board as Auditors and after joining their respective posts, they have been discharging very important functions in respect of accounts of the BREB with utmost efficiency, honesty and sincerity, but the Respondents

arbitrarily and with a malafide intention did not upgrade the pay scale for their posts though the other various Government institutions have already upgraded the pay scale from Grade XI to Grade X.

On the contrary, Md. Hasibul Huq, learned Advocate entered appearance on behalf of the Respondent no. 3 and 4 i.e. the Bangladesh Rural Electrification Board (BREB). He opposed the Rule by filing an affidavit in opposition. Learned Advocate submitted that earlier pursuant to the judgment of Writ Petition No. 4762 of 2015 pay scale of the Auditors of BREB was upgraded from Grade XIII to Grade XI vide office order dated 10.09.2020. This order was given effect from 01.01.2017 as mentioned in that judgment and no arrear benefit prior to the said date was paid to them.

He then submitted that the issue of upgrading the salary grade of Auditors of BREB has already been settled in Civil Review Petition No. 339 of 2019 upholding the order passed by the High Court Division in Writ Petition No. 4762 of 2015, the same legal issue cannot be reopen again by the present writ petitioners hence the instant writ petition is not maintainable.

He strongly submitted that, there exists no directive from the Government that salary grade of any posts in any statutory authority must be matched by all other statutory bodies in the country. As such the petitioners equating themselves with other authorities is absolutely misconceived; moreover there are other statutory authorities in the

country at which Auditors currently enjoying Grade XI benefit. Hence the petitioners' claim regarding discrimination does not have any merit.

He finally submitted that, allowing the petitioners' prayer of grade X rank will significantly increase expenses of BREB which in turn would put it at risk of getting dissolved, merged with other entity or privatized given that the government is currently considering said new measures to cut back on its burgeoning budgetary cost. Considering in this light, unless the Government decides otherwise, it is upto every respective statutory body to determine salary grade of their personnel by considering all relevant factors, including their financial resources. In the end he prayed for the Rule to be discharged.

Heard the learned advocates for the petitioners as well as the Respondent Nos. 3-4 and perused the writ petition, affidavit in opposition and the documents annexed therewith.

It appears that earlier the writ petition no. 4762 of 2015 was filed by the Auditors of Bangladesh Rural Electrification Board (BREB) wherein they called in question the legality and propriety of the memo dated 26.06.2014 issued under the signature of respondent no. 6 refusing to grant Pay Scale in Grade XI to the petitioners. After hearing the parties and perusing the documents a Division bench of the High Court Division made the Rule absolute with the finding that the petitioners have been subjected to discrimination and the failure/refusal by the concerned respondents to grant them pay scale in Grade XI is undoubtedly without any lawful authority.

It was held in that judgment that,

“In our view, since the Auditors working under various Department/ Organizations of the Government as well as the CAG, Bangladesh were granted pay scale in Grade XI, the petitioners, who possess the same qualification and are working as Auditors under REB, not only have a legitimate expectation to be treated at par with their counterparts serving under various other Departments/Organizations of the Government, but they also have a right in this respect, as guaranteed by the Constitution.”

In that judgment the case of *Government of Bangladesh v. M. Shamsul Huq reported in 59 DLR AD 54* was referred, where the Personal Officers working in the Supreme Court of Bangladesh challenged the refusal of the Government to grant them the same pay scale and grade as that of their counterparts working at the Secretariat in various Ministries under the Government of Bangladesh. The High Court Division made the Rule absolute against which the Government preferred an appeal. While dismissing the appeal, the Apex Court held as under:

“We find substance in his above argument and, as such, we are of the view that the respondent and Personal Officers of the Secretariat having been similarly situated have been discriminated and cannot be treated differently and is repugnant to the equality doctrine and under like circumstances and conditions, should be treated alike both in their rights and privilege.”

It appears from the record that the judgment passed in writ petition no. 4762 of 2015 was implemented by the order dated 10.09.2020,

meanwhile another writ petition was filed by the Auditors of Comptroller and Auditor General. In that writ petition they claimed upgrading their Pay Scale from Grade XI to X and upon hearing, the Rule issued in that writ petition was made absolute and the respondents were directed to upgrade the petitioners' pay scale from Grade XI, third class officers to Grade X, second class officers. This judgment passed in Writ Petition No. 9399 of 2015 was also upheld by the Appellate Division in Civil Review Petition 398 of 2017 dated 11.02.2018. Accordingly, the judgment was complied with by the respondents.

Now the instant writ petitioners have come before us praying for upgrading their pay scale grade from XI to X on the ground of equality. We have meticulously gone through the judgment passed in Writ Petition No. 4762 of 2015 as well as the judgment passed in Writ Petition No. 9399 of 2015. From the earlier judgment passed in Writ Petition No. 4762 of 2015 it appears that the writ petitioners prayed for upgrading their pay scale claiming themselves in equal footing with the other Auditors working in different Government institutions and their claim was upheld on the basis of that ground. In the instant case it appears from Annexure F, F-1, F-2 and F-3 that different government institutions e.g. Dhaka WASA, Bangladesh Chemical Industries Corporation, Bangladesh Export Processing Zone Authority, Civil Aviation Authority of Bangladesh has by this time upgraded the pay scale of their Assistant Officer/Auditor at Grade X.

Considering these documents as well as the principle let down in Writ Petition No. 4762 of 2015, we hold that the instant petitioners, who are the Auditors of Bangladesh Rural Electrification Board, being in similar footing as that of the other Auditors working in different Government institutions of this country, are lawfully entitled to be treated equally. Any discrimination in this regard would be in violation of their constitutional right to be treated equally in accordance with law.

In view of the fact and circumstances discussed hereinabove and with the foregoing discussions and findings we find substance in the Rule.

In the result, the Rule is made absolute.

However, without any order as to costs.

The concerned respondent, particularly respondent no. 3 and 4, is hereby directed to take positive steps to grant pay scale at Grade X to the petitioners i.e. the Auditors of Rural Electrification Board, Dhaka within 30 (thirty) days from the date of receipt of this order. However, the petitioners shall be entitled to enjoy the new pay scale prospectively i.e. from the date of issuance of the order.

Let a copy of this judgment and order be communicated to the concerned authorities at once.

Justice Sashanka Shekhar Sarkar, J:

I agree.