

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

WRIT PETITION NO.12841 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:

Tariful Islam and others

.....Petitioners

-VERSUS-

Government of Bangladesh and others

..... Respondents

Mr. S. M. Shamim Hossain, Advocate

..... For the Petitioners

Mr. Waliul Islam Oli, DAG with

Mr. Abdul Jabbar Jewel, AAG and

Mr. Md. Joynul Hussain Rubel, AAG and

Ms. Sharmin Hamid, AAG

.....For the Respondents

**Heard on 19.08.2025, 31.08.2025, 23.10.2025
and 03.11.2025. Judgment on 04.11.2025**

Present:

Justice Md. Rezaul Hasan

&

Justice Urmee Rahman

Urmee Rahman, J:

In the instant writ petition Rule Nisi has been issued in the following terms:

“Let a rule Nisi be issued calling upon the respondents to show cause as to why the inaction of the

respondents to count the service period of the petitioners from the date of their appointments vide Memo No. ২য়/ইটি-৫(৮)/নিয়োগ/সিঃক়া়মিঃ/০৮(অংশ-১)/৩১৬২ dated 25.11.2015 (Annexure-C) including promotion, salary and other financial benefits should not be declared to have been done without any lawful authority and is of no legal effect and why the respondent No.7 should not be directed to dispose of the petitioners' representations dated 29.08.2024 (Annexure-J, J-1, J-2 & J-3) in accordance with law and/or pass such other of further orders or order as to this Court may seem fit and proper.”

The facts relevant for disposal of this Rule, in brief, are that, a recruitment advertisement dated 29.06.2015 (Annexure-A) was published for recruitment in different vacant posts in the office of Customs, Excise and VAT Commissionerate, Sylhet and according to that advertisement only the permanent residents of Sylhet Division were eligible to apply; however it was specifically mentioned in that notice that candidates from any districts of Bangladesh can apply in the freedom fighter, orphan and disable quota. The petitioners No.1-3 applied for the post of ‘Sepoy’ and the petitioner no. 4 applied for the post of ‘Driver’ in Freedom Fighter quota and they were from districts outside the Sylhet Division. Subsequently vide Memo No. ০৮.০১.০০০০.০১৮.০১.০০৮.০৬(অংশ-৫)/১২ dated 24.11.2015 (Annexure-B) names of 102 candidates were recommended including the petitioners for recruitment in their respective posts and accordingly appointment order was passed under the signature of the Respondent no. 5 on 25.11.2015 vide memo no. ২য়/ইটি-৫(৮)/নিয়োগ/সিঃক়া়মিঃ/০৮(অংশ-১)/৩১৬২ (Annexure-C). Finally appointment letters were also issued in the names of the petitioners and others on 02.12.2015 and they were asked to join before 15.12.2015.

Subsequently by the Memo No. 08.01.0000.014.24.001.15/03 dated 05.01.2016 (Annexure-E) issued by the National Revenue Board, the earlier memo dated 24.11.2025 was canceled by issuing appointment letters in the names of 88 candidates upon deleting names of 14 candidates who were appointed in freedom fighter quota including the petitioners.

Challenging that cancellation order the petitioners filed Writ Petition being No. 2957 of 2016 before the Hon'ble High Court Division of the Supreme Court of Bangladesh and obtained a Rule and an interim order of direction. Ultimately the Rule was made absolute on contest by both the parties vide judgment and order dated 13.03.2019 (Annexure-F). The copy of the judgment was forwarded to the concerned authorities, but they did not comply with the Hon'ble Court's order; hence the petitioners filed Contempt Petition No. 642 of 2019 on which a Rule was issued on 05.11.2019 (Annexure-G). Thereafter the respondents of the Writ Petition filed Civil Petition for leave to Appeal being No. 3590 of 2019 challenging the judgment and order dated 13.03.2019 passed by the High Court Division which was dismissed on 30.04.2023. Thereafter, they filed Civil Review Petition being No. 263 of 2023 against the order dated 30.04.2023, which was also dismissed on 14.12.2023.

Ultimately, in pursuant to the judgment and order passed by the High Court Division in Writ Petition No. 2957 of 2016, appointment letters were issued in the names of the petitioners on 29.05.2024 (Annexure M-M3) and they joined their respective posts on 09.06.2024 (Annexure N-N-3).

The petitioners now alleging that, after exhausting all the available legal forum they were appointed by the authority in their respective posts; however the appointing authority i.e. the respondent no. 5, is not inclined to give them seniority and other service benefits from their original date of appointment i.e. from 15.12.2015. The petitioners filed applications on

29.08.2024 before the respondent No. 5, the Commissioner, Customs, Excise and VAT Commissionerate, Sylhet praying for calculation of their service period from the original date of their appointment on 15.12.2015 and they also prayed for the arrear salary, seniority and other service related privileges taking into consideration of their original date of appointment (Annexure-K-K3). The respondent No. 5, though received the letters, have not taken any action till date in order to implement their prayer. Finding no other alternative, equal and efficacious remedy, the petitioners have filed this writ petition and obtained the Rule and an order of direction upon the respondents.

It appears from the Rule issuing order dated 04.11.2024 that, it has been stated therein, "... why the respondent No. 7 should not be directed to dispose of the petitioners' representations dated 29.08.2024 (Annexure-J, J-1, J-2 and J-3) in accordance with law...". However, petitioners' appointing authority is respondent No. 5 i.e. the Commissioner, Customs, Excise and VAT Commissionerate, Sylhet and there is no mention of serial no. 7 as respondent No. 7 in the writ petition and in the prayer portion of the writ petition a direction was sought for upon all the respondents. It is evident from the record that notice has also been served upon respondent No. 5. Therefore it appears to us that, in the Rule issuing order inadvertently respondent No. 7 was mentioned instead of respondent No. 5. This inadvertent error has not affected the merit of the Rule.

Learned Advocate Mr. S.M. Shamim Hossain appeared on behalf of the petitioners.

His main contention is that, originally the petitioners' joining date was 15.12.2015 and had the earlier order not been cancelled arbitrarily by the respondent No. 5, their service period would have started from that date. Owing to the arbitrary and whimsical act of the Respondents, the petitioners had to come before this court and finally the apex court of the country passed order in their favour and in pursuant to that order, the

respondent No. 5 had to issue appointment letters in their names. As such they are entitled to get their service period to be calculated from their original date of appointment, otherwise they would be deprived of their service benefits due to the result of an act of the respondents for which they have no fault or liability.

He further submits that, the other colleagues of the petitioners, who got appointed on 15.12.2015, have already made permanent in their posts and obtained seniority (Annexure-L). If the writ petitioners' service period is not counted from 15.12.2015, they will be highly discriminated in their service.

No one appeared on behalf of the respondents to contest the Rule.

We have heard the learned Advocate for the petitioners and perused the materials on record along with the annexures to the writ petition as well as the supplementary affidavit. Facts of the case are not disputed.

It is apparent from the materials on record that the petitioners were asked by the Respondent no. 5 to join their respective posts by 15.12.2015 but due to the arbitrary cancellation of the said order, the petitioners had to take recourse to the High Court Division in writ jurisdiction and after obtaining all the orders in their favour, the Respondent no. 5 was compelled to issue appointment letters in the names of the petitioners by virtue of the judgment and order passed by the High Court Division in Writ Petition no. 2957 of 2016. Had it not been for the Respondent No. 5, the petitioners would have joined their service on 15.12.2015. It also appears from the record that the Respondent No. 5 has miserably failed to comply with the interim direction given at the time of issuance of the Rule to dispose of the representations of the petitioners dated 29.08.2024.

In view of the facts and circumstances stated herein above, we are of the view that, the petitioners are very much entitled to get their service period to be calculated from their original joining date i.e. from

15.12.2015. They cannot be deprived of this benefit due to an act done for which they do not have any fault or liabilities on their behalf. It would amount to discrimination if their service period is not calculated from that date. The petitioners are entitled to be treated in accordance with law as per the provision enshrined in the Constitution.

Therefore wefind merit in this Rule. However, so far as their prayer for arrear salary is concerned, it is our view that, the period from the earlier date of joining till their actual joining shall be treated as leave without pay.

Hence, the Rule is made absolute-in-part.

The inaction of the respondents to count the service period of the petitioners from the date of their appointments on 15.12.2015 is hereby declared to have been done without any lawful authority and is of no legal effect.

The Respondent no. 5 i.e. the Commissioner, Customs, Excise and VAT Comissionerate, Sylhet is hereby directed to take necessary steps to calculate the service period of the petitioners from 15.12.2015 in order to consider their seniority and other service benefits in accordance with law with effect from that date i.e. 15.12.2015 within 30 (thirty) days of receiving this judgment and order. However, so far their arrear salary is concerned, the period from 15.12.2015 till their actual joining on 09.06.2024 shall be treated as leave without pay.

However, no order as to costs.

Communicate this judgment and order at once.

Md. Rezaul Hasan, J:

I agree.

Farida