

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

Present:
Ms. Justice Fahmida Quader
And
Mr. Justice Md. Ashif Hasan
Writ Petition No. 2823 of 2025

In the matter of:

An Application under Article 102(2)(a)(ii) of the
Constitution of the People's Republic of Bangladesh.

And

In the matter of:

Titas Gas Transmission and Distribution PLC
.....Petitioner

-Versus-

Government of Bangladesh, represented by the Secretary,
Ministry of Labour and Employment, Bangladesh
Secretariat, Ramna, Dhaka and others

...Respondents

Mr. Ashfaqur Rahman, Advocate with
Mr. Mohammad Miftaul Alam, Advocate with
Mr. Sumit Kumar Sarker, Advocate
...for the petitioner

Mr. Mohammed Enamul Hoque, Advocate with
Mr. Md. Harun ur Rashid, petitioner in person

...for the Respondent No. 4

Mr. Nur Muhammad Azami, DAG with

Mr. SM Younus Ali Robi, DAG with

Mr. Mohiuddin Md. Hanif, AAG with

Ms. Tanzima Tul Mowla, AAG with

Ms. Maria Tanjimath, AAG with

Mr. Chandan Chandra Sarker, AAG

.....for the respondents

Heard on: 07.05.2026 and 18.06.2026
Judgment on: 01.07.2026

Fahmida Quader, J.

In this application, filed under Article 102(2)(a)(ii) of the
Constitution of the People's Republic of Bangladesh, Rule Nisi was
issued in the following terms:-

“Let a Rule Nisi be issued calling upon the Respondents to
show cause as to why the judgment and order dated 06.01.2025

(Annexure-G) passed by respondent No.2 in Appeal No.200 of 2022 dismissing the appeal and thereby affirming the judgment and order dated 17.05.2022 (Annexure E-2) passed by respondent No.3 in B.L.L. (Complaint) Case No.9 of 2008 shall not be declared to have been made without lawful authority and is of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.”

The facts leading to disposal of the Rule, in a nutshell, is that, the respondent No. 4 was employed as an Inspector (Assistant Accountant) under the petitioner company. During the course of his service, allegation surfaced that he had misappropriated company funds by creating and posting forged gas bill payment receipts in the company's computerized billing system in respect of several consumers, thereby causing substantial financial loss to the petitioner company.

Initially, the respondent No. 4 was suspended and served with a show-cause notice. Subsequently, upon discovery of further irregularities, a detailed show-cause notice specifying the allegations was issued, to which he submitted reply denying the charges. As the explanation was found unsatisfactory, the petitioner constituted a departmental inquiry committee to investigate the matter. The respondent participated in the inquiry proceedings, was afforded an opportunity of personal hearing and the inquiry

committee, upon consideration of the materials and evidence on record, found his involvement in the alleged misconduct established. Based on the inquiry report, the petitioner company dismissed him from service by order dated 29.11.2007.

Thereafter, the respondent No. 4 submitted a grievance petition seeking re-consideration of the dismissal order, which was rejected by the petitioner company. Consequently, he instituted a complaint under section 33(3) of the Bangladesh Labour Act, 2006 before the 3rd Labour Court, Dhaka challenging the dismissal order and seeking reinstatement with back wages and other benefits.

The complaint was registered as B.L.A. (Complaint) Case No. 09 of 2008. By judgment and order dated 17.05.2022, the learned 3rd Labour Court, Dhaka allowed the complaint and directed re-instatement of the respondent No. 4 in his former post with all back wages and allowances.

Being aggrieved, the petitioner company preferred Appeal No. 200 of 2022 before the Labour Appellate Tribunal, Dhaka. As the appeal was filed beyond the prescribed period of limitation, an application for condonation of delay was also filed. The appeal was initially rejected on the ground of limitation. Challenging such rejection, the petitioner invoked the writ jurisdiction of the High Court Division, which, by judgment and order dated 28.02.2024,

directed the Labour Appellate Tribunal to hear and dispose of the appeal on merit.

Pursuant thereto, the Labour Appellate Tribunal heard the appeal on merit and by judgment and order dated 06.01.2025, dismissed the appeal and affirmed the judgment and order dated 17.05.2022 passed by the learned 3rd Labour Court, Dhaka.

Being aggrieved by and dissatisfied with the aforesaid judgment and order dated 06.01.2025 passed by the Labour Appellate Tribunal, Dhaka, affirming the judgment and order dated 17.05.2022 passed by the learned 3rd Labour Court, Dhaka, the petitioner has filed the instant writ petition.

Mr. Md. Harun or Rashid, petitioner appears in person submits that respondent No. 4 was dismissed from service only after completion of a departmental inquiry conducted in accordance with law. The inquiry committee afforded him adequate opportunity of hearing, examined the relevant material and evidence and ultimately found the allegations of misconduct proved. Despite such findings, both the Labour Court and the Labour Appellate Tribunal failed to properly appreciate the evidence on record and erroneously interfered with the order of dismissal.

He further submits that the allegations against the respondent No. 4 involved manipulation of the petitioner company's

computerized billing system through posting forged payment receipts, resulting in substantial financial loss to the company. Such conduct squarely falls within the ambit of misconduct under section 23(4)(kha) of Bangladesh Labour Act, 2006, warranting dismissal from service.

It is further contended that the respondent actively participated in the inquiry proceedings, cross-examined witnesses, availed himself of the opportunity of personal hearing and never raised any objection regarding the fairness or legality of the inquiry process. Having participated without protest, he cannot subsequently challenge the validity of the inquiry.

The learned Advocate also argues that even assuming, without admitting that any procedural irregularity existed in the inquiry proceedings, the proper course in law was to direct a fresh inquiry rather than order of re-instatement with consequential benefits. In support of this contention, reliance is placed upon the decisions reported in AIR 1993 SC 2155, 19 BLC(HCD) 49, and the judgment rendered in Writ Petition No. 3269 of 2019, wherein it has been held that a fresh departmental proceeding is not barred merely because an earlier proceeding suffers from technical defects.

It is lastly submitted that the show cause notice dated 01.10.2007 was merely a continuation of the earlier show-cause notice dated 07.08.2007 issued in compliance with the provisions of

the Labour Act and the courts below failed to appreciate the matter in its proper perspective. Accordingly, the impugned judgments and orders passed by the learned Labour Court and the Labour Appellate Tribunal suffer from errors of law and are liable to be set aside.

Respondent No. 4 filed Affidavit-in-opposition. Mr. Md. Harun or Rashid the Respondent No. 4 in person submits, in support of Affidavit-in-opposition that the impugned disciplinary proceeding was conducted in gross violation of the provisions of Bangladesh Labour Act, 2006 and the applicable Service Regulations of the petitioner-company.

He contends that the respondent was initially suspended without any written complaint and without being served with a lawful show-cause notice. Subsequently, although a show-cause notice was issued, only four days time was granted for submission of reply, contrary to the statutory requirement. Even before expiry of the stipulated period and before receipt of the reply, an inquiry committee was constituted, thereby demonstrating a predetermined and malafide approach.

It is further submitted that the inquiry committee was constituted and conducted its proceedings in violation of the applicable law and service regulations, without ensuring fair representation of the respondent. The inquiry was allegedly biased,

signatures were obtained irregularly, statements were not properly recorded and the committee failed to follow the prescribed procedure. The inquiry report itself did not establish any misconduct or guilt on the part of the respondent.

It is further argued that the respondent was neither supplied with the inquiry report nor served with any second show cause notice before the order of dismissal was passed, thereby depriving him a reasonable opportunity to defend himself and violating the principles of natural justice as well as the relevant service regulations.

The Respondent No. 4 submits that the allegations against the respondent were false, fabricated and motivated. The respondent had a long and unblemished service career marked by promotions, increments and commendations. No financial loss was caused to the petitioner company.

It is further contended that the disciplinary action was initiated after the respondent reported irregularities relating to certain customer bills and that the subsequent suspension, inquiry and dismissal were actuated by mala-fide considerations. The Labour and the Appellate Tribunal, upon proper assessment of the evidence and applicable law, rightly found the dismissal to be unlawful and passed reasoned judgments in favour of the respondent.

Accordingly, Respondent No. 4, prays for discharge of the Rule.

Having heard the learned Advocate, respondent No. 4, upon perusal of the writ petition, affidavit-in-opposition, Annexures, and judgments and orders passed by the Labour Court and the Labour Appellate Tribunal, it appears that the respondent No. 4 was an employee for a long period i.e. since 29.01.1989 and before the disputed disciplinary proceeding, he had received promotions, increments and other service benefits (Annexure-'2'). There is nothing on record to show that he had previously been subjected to any disciplinary proceeding.

The principal allegation against the respondent No. 4 was that he was involved in posting fake gas bill receipts in the computerized system of the petitioner's company. On the basis of such allegation he was first suspended on 02.08.2007 and thereafter served with a show cause notice dated 07.08.2007. Subsequently, the said suspension was withdrawn on 30.9.2007, but on the very next day i.e. on 01.10.2007, the petitioner again issued another show-cause notice along with suspension, directing the respondent No. 4 to submit reply within only four (4) days (Annexures- A, A-1 and A-2).

Section 24(1) of Bangladesh Labour Act, 2006 provides that no order of punishment under section 23 shall be passed against a

worker unless the allegation against him is made in writing, a copy of such allegation is supplied to him and he is given at least seven days time to explain. In the present case, no written allegation was provided to him; the show cause notice dated 01.10.2007 allowed only four day's time. Therefore, the mandatory requirement of law was not complied with. Such non-compliance goes to the root of the disciplinary proceeding and cannot be treated as a mere technical irregularity.

It further appears that the petitioner constituted the inquiry committee immediately after issuance of the show cause notice and before giving the respondent No. 4 a full and lawful opportunity to submit his explanation. This conduct indicates that the authority had proceeded with a predetermined mind. The argument of the petitioner that the subsequent notice dated 01.10.2007 was merely a continuation of the earlier notice dated 07.08.2007 is not acceptable, because the later notice contained separate and specific allegations and was followed by a fresh inquiry and punishment. In such circumstances, the petitioner was required to strictly comply with the statutory procedure, including the requirement of granting at least seven days time to reply.

It also appears from materials on record that the alleged complainant was not properly produced before the inquiry

committee and the respondent No. 4 was not afforded effective opportunity to cross-examine the complainant.

The inquiry report (Annexure-B) and connected papers also do not clearly disclose the source of the allegation or the written complaint upon which the proceeding was founded. Section 24 of the Labour Act provides that-

"২৪(১) ধারা ২৩ এর অধীন কোন শ্রমিকের বিরুদ্ধে শাস্তির আদেশ প্রদান করা যাইবে না, যদি না-

(ক) তাহার বিরুদ্ধে অভিযোগ লিখিতভাবে করা হয়"

Thus above provision requires a fair disciplinary process and a worker cannot be punished on vague or undisclosed allegations. The denial of opportunity to confront the complainant and to properly defend himself amounts to violation of the principles of natural justice.

Respondent No. 4 has also specifically alleged that no representative from the workers side was included in the inquiry and that his signature was taken irregularly during the inquiry proceeding. Though the petitioner asserts that the respondent participated in the inquiry and expressed satisfaction, mere participation cannot validate an inquiry which was initiated and conducted in breach of mandatory legal requirements. Waiver cannot be presumed in respect of a statutory protection given to a

worker, particularly where the proceeding results in dismissal from service.

Moreover, before passing the dismissal order dated 29.11.2007 (Annexure-C), the petitioner did not supply the inquiry report to the respondent No. 4 and did not serve any second show-cause notice upon him regarding the proposed punishment. The relevant service regulations referred to in the arguments, particularly clause 42(5) and 42(6), require the authority to consider the inquiry report and inform the accused employee of the decision, and where a major punishment is proposed, to give him an opportunity to show-cause against such punishment. Non-issuance of the second show-cause notice deprived the respondent No. 4 of a meaningful opportunity of defence.

The petitioner heavily relied upon section 23(4)(Kha) of the Labour Act, 2006 which reads as follows:-

"ধারা ২৩(৪) নিম্নলিখিত কাজ-কর্ম অসদাচরণ বলিয়া গণ্য হইবে, যথা:-

(খ) মালিকের ব্যবসা বা সম্পত্তি-সম্পর্কে চুরি, প্রতারণা বা অসাধুতা"

The learned Advocate for the petitioner argues that adoption of unfair means at the work place amounts to misconduct. There is no dispute that proven adoption of unfair means may constitute misconduct. However, before such misconduct can be acted upon, the employer must prove the allegation through a fair and lawful disciplinary process. In the present case, the process itself was

vitiated by violation of mandatory statutory provisions and natural justice. Therefore, the petitioner cannot take shelter under section 23(4)(kha) without first establishing that the disciplinary proceeding was legally conducted.

The petitioner also argued that even if there was procedural defect, the proper order, should have been remand for fresh inquiry, not reinstatement. In this connection learned Advocate refers a decision of a case namely Abdul Wahab and another –vs- Chairman, First Labour Court and others reported in 19BLC (2014) 59, Rattan Lal Sharma -vs- Managing Committee reported in AIR 1993 Supreme Court 2155 and judgment and order dated 11.08.2022 passed by High Court Division in Writ Petition No. 3269 of 2019 and argued that there remains no legal bar to initiate fresh proceedings against a delinquent employee where it is found that due to some technicalities the earlier proceedings was vitiated and since the allegations against the respondent No. 4 are serious in nature.

However, the submission regarding remand for fresh inquiry is not acceptable in the facts of the present case and the issue of the referred cases are quite different from the instant case. In the present case the dismissal was passed in 2007. The Labour Court decided the matter in 2022 after considering the evidence. The Labour Appellate Tribunal also heard the appeal on merit and

affirmed the Labour Court's judgment in 2025. At this stage, after such prolonged lapse of time, i.e. more than 18 years directing a fresh inquiry would cause serious prejudice to the respondent No. 4 and would amount to giving the employer a second chance to fill up the defects of an unlawful proceeding. The Labour Court and the Labour Appellate Tribunal were therefore justified in granting relief in favour of the respondent.

Moreover, the inquiry report (Annexure-B) reveals that the concerned Manager (Administration and Revenue), while deposing before the inquiry committee stated that the customers had repaid Tk. 03,12,695.76 out of the total alleged loss of Tk. 70,83,717.25.

Thus, we have no alternative but to accept the argument of respondent No. 4 that no financial loss was caused to the petitioner company, as the concerned customers ultimately paid the dues with interest, which fact was also admitted by the management witness.

This statement itself casts serious doubts on the allegation against respondent No. 4. Had the respondent actually misappropriated or embezzled the alleged amount, there would have been no occasion for customers to repay any portion thereof. Rather, the payment by customers prima facie indicates that outstanding amount was attributable to the customers and not to any misconduct or misappropriation on the part of respondent No. 4. This material aspect substantially weakens the petitioner's

allegation and lends support to the finding that the charge against respondent No. 4 was not established by reliable evidence.

It further appears that the petitioner failed to produce sufficient oral and documentary evidence to show that the inquiry proceeding was transparent, impartial and in strict compliance with law. The petitioner also failed to establish that the respondent No. 4 was supplied with the written complaint, given statutory time to reply, allowed effective cross-examination, supplied examination and served with a second show-cause notice before dismissal. These omissions are material and fatal.

The petitioner's contention that Bangladesh Labour Act, 2006 contains no provision requiring a second show-cause notice before imposing the penalty of dismissal. The materials on record reveal that the respondent No. 4 joined the petitioner's organization on 04.02.1989 and was regularized by memorandum dated 12.06.1989 with effect from 29.01.1989. Thereafter, he attained permanent status under the service rules of the petitioner's organization, namely The Workers Employment (Permanent Orders) Act. Under the said service rules, issuance of second show-cause notice before imposing the major penalty of dismissal was mandatory. Admittedly, no such final show-cause notice was issued prior to the order of dismissal. Such non-compliance amounts to a clear violation of the principles of natural justice, particularly in the

case of an employee having rendered long and uninterrupted service. Consequently, the Courts below committed no error in holding the dismissal to be legally unsustainable.

Moreover, the Labour Court did not interfere merely for want of a final show-cause notice, rather, it found that the entire departmental proceeding was conducted in violation of section 24 of the Bangladesh Labour Act, 2006 and the principles of natural justice. Therefore, the absence of an express statutory provision does not cure the procedural illegality committed during the inquiry.

The petitioner's submission that respondent No. 4 ought to have challenged the inquiry committee at the initial stage is of no consequence. The defects found by the Labour Court relate to fairness and legality of the inquiry itself, including denial of reasonable opportunity of defence and non-compliance with mandatory statutory requirements, which cannot be waived merely because no prior objection was raised.

The argument of the petitioner regarding participation in the inquiry cannot be construed as an admission that the proceeding was fair. The materials on record reveal that the complainant was not examined, the respondent was denied an effective opportunity to defend himself and the inquiry suffered from material procedural

defects. Hence, the Labour Court as well as Appellate Tribunal rightly held that the inquiry was neither fair nor lawful.

On the other hand, the submissions advanced on behalf of the respondent No. 4 are supported by the materials on record. The Labour Court and the Labour Appellate Tribunal considered the relevant facts, evidence and legal requirements and arrived at a reasoned conclusion that the dismissal order was illegal. We do not find any gross illegality, perversity or jurisdictional error in the impugned judgments warranting interference in writ jurisdiction.

Accordingly, we hold that the disciplinary proceeding against the respondent No. 4 was conducted in violation of section 24 of the Bangladesh Labour Act, 2006, the applicable service regulations, 1996 and the principles of natural justice. The dismissal order dated 29.11.2007 was therefore unlawful. The Labour Court rightly allowed the complaint and directed reinstatement with consequential benefits and the Labour Appellate Tribunal rightly affirmed the same.

In the result, the Rule is discharged.

The judgment and order dated 06.01.2025 passed by the Labour Appellate Tribunal, Dhaka in Appeal No. 200 of 2022 affirming the judgment and order dated 17.5.2022 passed by the

Third Labour Court, Dhaka in B.L.L. (Complaint) Case No. 69 of 2008 are hereby maintained.

There shall be no order as to costs.

Md. Ashif Hasan, J.

I agree.