

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(SPECIAL ORIGINAL JURISDICTION)  
**Writ Petition No. 10725 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:**

Md. Nur Hossain Khan and another  
.....Petitioners

-Versus-

The Government of Bangladesh and others.  
.....Respondents

Mr. Md. Abdullah Al Mamun, Advocate  
.....For the petitioners

Mr. Mirza Al Mahmood, DAG with  
Mr. Akhtar Hossain Md. Abdul Wahab, DAG with  
Ms. Khandaker Asma Hamid, AAG with  
Mr. S.M. Emamul Musfiqur, AAG with  
Mr. Md. Mashiur Rahman (Riad), AAG with  
Mr. Md. Mehebab Hossain, AAG  
..... For the respondents

**Present**

**Justice Fatema Najib**

**And**

**Justice A.F.M. Saiful Karim**

**Heard on 23.04. 2026.**

**Judgment on 05.05.2026.**

**A.F.M. Saiful Karim , J :**

In this application under Article 102 of the Constitution of the  
People's Republic of Bangladesh, a Rule Nisi was issued on  
23.10.2024 in the following terms:-

*“Let a Rule Nisi be issued calling upon the respondents to show cause as to Why the impugned Recruitment Rules, 2012 (bearing SRO No. 372-Ain/2012 Published in the additional Issue of Bangladesh Gazette on 08.11.2012) without incorporating the post of Steno-Typists now held by the petitioners and without providing an promotional opportunities to them and thus providing differential promotional opportunities to the two classes of employees of Youth Development Department, one class being the absorbed surplus employees of erstwhile abolished Youth Training Centers and the other class being petitioners, original employees under the revenue budget and causing prejudice to the Petitioners by way of providing discriminatory promotional opportunities to them should not be declared to have been made without lawful authority and is of no legal effect and/or such other or further order or orders passed as to this Court may seem fit and proper.”*

The facts necessary for disposal of the Rule, in brief, are that:

The petitioners completed their academic courses and obtained graduation degree in different disciplines and joined in Government

service in the respective posts such as Steno-Typists and Upper Division Assistants and they have been rendering their service holding their respective posts.

The Youth Development Adhidaptar (Karmakarta and Karmachari) Recruitment Rules, 1993 (hereinafter referred to as the Recruitment Rules, 1993) bearing SRO No.57-Ain/1993 dated 07-04-1993 was framed and finally published on 7h April, 1993 in Bangladesh Gazette, Additional Issue. The Recruitment Rules, 1993 provided provisions for filling up 1/3 posts of Assistant Director through direct recruitment and 2/3 posts of Assistant Directors by way of promoting Accountants and Stenographers who have completed 12 years' service and Upper Division Assistants and the Steno- Typists who have completed 13 years of service.

Thereafter, Youth Development Adhidaptar (Karmakarta and Karmachari) Recruitment Rules, 2004 (hereinafter referred to as the Recruitment Rules, 2004) bearing SRO No. 122-Ain/2004 dated 05-05-2004 was framed and finally published in Bangladesh Gazette, Additional Issue on 11-05-2004. The said Recruitment Rules, 2004 provided provisions for filling up 50% posts of Assistant Director through direct recruitment and 50% posts of Assistant Directors by way of promoting Jubo Unnyan Karmakarta who have completed 5 years of service. The said Recruitment Rules, 2004 also provided provisions for filling up 67% posts of Jubo Unnyan Karmakarta

through direct recruitment and 33% posts by way of promoting Group Animator Computer Operator who have completed 5 years of service or Accountant who have completed 7 years of service or Assistant Accountant who have completed 10 years of service or Stenographer who have completed 8 years of service or Upper Division Assistant or Steno Typist or store keeper who have completed 10 years of service.

One Abul Kashem, Senior Instructor (Fisheries), Morsheduddin Ahmed, Deputy Coordinator, Md Jalaluddin Instructor (Livestock) and Md. Korshed Alam Coordinator filed Writ Petition No.968 of 2007 challenging the legality and validity of the Recruitment Rules, 2004 on ground of non- incorporation of the posts held by them in the Recruitment Rules, 2004 causing discrimination and prejudice to them.

The Hon'ble High Court Division after hearing both parties disposed of the said writ petition vide judgment dated 25.06.2009 and directed the concerned respondents to frame consolidated Recruitment Rules within 6(six) months from the date of receipt of the copy of the judgment and in the event of any default, all promotions in the department of Youth Development shall stand stopped as soon as 6(six) months time from the date of receipt of the judgment expires.

Long after passing the judgment in writ petition No.968 of 2007. Government framed consolidated Recruitment Rules, 2012 and finally published the same in the additional issue of Bangladesh Gazette on 08-11-2012 for the purpose of regulating the services of the staffs and employees of the Youth Development Department.

The said Rules of 2012 do not provide any provisions for filling up any post by the way of promoting Steno-Typists and thus after absorption of surplus staffs and employees of development projects in the Youth Development Department, scope for promotion of original employees of Youth Development Department under the revenue budget had decreased and scope of promotion of the surplus absorbed staff and employees had increased.

We have perused the Writ Petition and the application for disposing the writ petition in light of the judgment and order passed in Writ Petition No. 1984 of 2013 and the annexures thereto.

On perusal of the record it appears that the petitioners completed the academic courses and obtained graduation degree in different disciplines and joined this government service in the respective post as Steno-Typist and Upper Division Assistant. The Youth Development Adhidaptor (Karmakartha and Karmachari) Recruitment Rules, 1993 was framed and have finally been published on 7th April, 1993 in Bangladesh Gazette, Additional Issue. The Recruitment Rules, 1993 provided provisions for filling up 1/3 posts

of Assistant Director through direct recruitment and 2/3 posts of Assistant Directors by way of promoting Accountants and Stenographers who have completed 12 years of service and the Upper Division Assistants and the Steno-Typists who also have completed 13 years of service. Youth Development Adhidaptar (Karmakarta and Karmachari) Recruitment Rules, 2004 (hereinafter referred to as the Recruitment Rules, 2004) bearing SRO No. 122-Ain/2004 dated 05-05-2004 was framed and finally published in Bangladesh Gazette, Additional Issue on 11-05-2004. The said Recruitment Rules, 2004 provided provisions for filling up 50% posts of Assistant Director through direct recruitment and 50% posts of Assistant Directors by way of promoting Jubo Unnyan Karmakarta who have completed 5 years of service. The said Recruitment Rules, 2004 also provided provisions for filling up 67% posts of Jubo Unnayan Karmakarta through direct recruitment and 33% posts by way of promoting Group Animator Computer Operator who have completed 5 years of service or Accountant who have completed 7 years of service or Assistant Accountant who have completed 10 years of service or Stenographer who have completed 8 years of service or Upper Division Assistant or Steno Typist or store keeper who have completed 10 years of service.

The contention of the petitioners is that, since the petitioners have completed the required years of service for promotion prior to

the framing of the Recruitment Rules, 2004 and were eligible for promotion, the service condition as to the eligibility for promotion to the post Jubo Unnayan Karmakarta as per the Recruitment Rules, 2004 were altered and amended by the Recruitment Rules, 2012 and had caused disadvantage and prejudice to petitioners service condition.

We find that the Recruitment Rules, 2004 was replaced by the Recruitment Rules, 2012 in which Rules eliminated the provisions of filling up 33% post of Jubo Unnayan Karmakarta by way of promoting Upper Divisions Assistant and Steno-Typists and have provided provisions for filling up the posts of Head Assistant by way promoting Upper Division Assistant. The said Rules of 2012 do not provide any provisions for filling up any post by the way of promoting Steno-Typists and thus after absorption of surplus staffs and employees of development projects in the Youth Development Department, scope for promotion of original employees of Youth Development Department under the revenue budget had decreased and scope of promotion of the surplus absorbed staff and employees had increased.

It is vital to put on record that the Recruitment Rules, 2012 had created 2 (two) classes of employees, some with better promotional opportunities and some with no promotional opportunities and that too within the same Department. It further appears that the

petitioners have completed required length of service in the post of feeder posts. The post of Steno-Typist and Upper Division Assistant has legal right to be considered for their promotion in view of the provisions of *Jubo Unnyan Adhidaptor* (Karmakarta and Karmachari) Recruitment Rules, 1993 wherein, the Rules provided provisions for filling up 1/3 post of Assistant Directors by direct recruitment and 2/3 post of Assistant Directors by way of promotions amongst the employees working as Upper Division Assistants and Steno-Typist who have completed 12/13 years of service as Steno-Typists and as Upper Division Assistant.

Mr. Md. Abdullah Al Mamun, learned Advocate appearing for the petitioners submits that the petitioners challenging the above mentioned Service Rule, 2012 filed the instant writ petition with the identical prayer of Writ Petition No. 1984 of 2013 in which Rule was made absolute-in-part with certain observations and directions and referring the judgment and order passed in Writ Petition No. 1984 of 2013 (Annexure-E to the application for disposing of the writ petition) and judgment and order passed in the Civil Petition for Leave to Appeal No. 968 of 2023 on 02.06.2024 as well as in the Civil Review Petition No. 206 of 2024 (Annexures-F and G to the application for disposing of the writ petition) prays that this writ petition may kindly be disposed of in the light of the direction given in Judgment and Order passed in Writ Petition No. 1984 of 2013.

The learned Advocate for the petitioners also argues that such difference in promotional opportunities in between the original employees and the subsequently absorbed employees of the Youth Development Department is discriminatory.

We find that earlier Md. Mojibul Haque along with others filed Writ Petition No.1984 of 2013 challenging the Recruitment Rules, 2012 which was disposed on merit with the following finding and direction.

Mr. Mirza Al Mahmood, the learned Deputy Attorney General opposes the prayer without showing any cogent ground.

“We find that the impugned Recruitment Rules, 2012 published in the Additional issue of Bangladesh Gazette on 08.11.2012 without incorporating the provisions for the post of Steno Typist and now held by the petitioners 6,7,9,10,12 and without providing any promotional opportunities to them gave rise to differential treatment and opportunities to the two classes of the employees of Youth Development Department.

In this connection, we may take into consideration the facts of the case of Pachimanchol Gas Company Ltd vs. Nuruzzaman & ors, 3 SCOB (AD) 2015, 27, wherein the Apex Court held that:

*"There is no dispute that the petitioner got appointment in 1997, that is, long before the promulgation of the Service Rules of 2005. So he*

*is entitled to get benefit of the Service Rules under which he got his appointment, that is, he is entitled to get the benefits as provided in Service Rules of 1988 and his service would be regulated under the said provision of law. The High Court Division rightly held that the provision of Service Rules of 2005 are to be effective in respect of the appointment of the employees who have been appointed on 21.01.2005 or onward."*

The principle laid down in the case referred to above is also applicable in the instant case in hand. So, there is no earthly reason that the petitioners should be deprived of their legitimate claim of promotion. The Respondents are further directed to consider the matter relating to promotion of the petitioners under the provision of "The Youth Development Adhidaptar (Karmakarta and Karmachari) Recruitment Rules, 1993" on fulfillment of requisite conditions."

We also note that earlier being aggrieved and dissatisfied with the Judgment and Order passed in Writ Petition No. 1984 of 2013 the Secretary, Ministry of Youth and Sports, Bangladesh Secretariat, Dhaka and others filed a Civil Petition for Leave to Appeal No. 968

of 2023 before the Hon'ble Appellate Division which was dismissed on 02.06.2024 with the following finding:

***"Considering the facts and circumstances of the case, we find no legal infirmity in the impugned judgment and order factually and legally calling for interference by this Court."***

And thereafter, being aggrieved the judgment and order of C.P No. 968 of 2023, the Secretary of the Ministry of Youth and Sports, Bangladesh Secretariat, Dhaka and others filed Civil Review Petition No. 206 of 2024 which was also dismissed on 15.04.2025.

Considering the above facts and circumstances we are of the view that the present petitioners standing on same footing of the writ petitioners of writ petition No. 1984 of 2013 should not be deprived of their legitimate claim of promotion and thus we are inclined to direct the respondents to consider the matter relating to promotion of the petitioners under the provision of "The Youth Development Adhidaptar (Karmakarta and Karmachari) Recruitment Rules, 1993" on fulfillment of requisite conditions.

Therefore, the Respondents are directed to consider the matter relating to promotion of the petitioners under the provision of "The Youth Development Adhidaptar (Karmakarta and Karmachari) Recruitment Rules, 1993" on fulfillment of requisite conditions.

Resultantly, the Rule Nisi is disposed of with above direction.

No order as to costs.

Communicate the Judgment and Order at once.

A.F.M. Saiful Karim, J:

Fatema Najib, J:

I agree.

Fatema Najib, J:

AZOM(BO)