

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

Writ Petition No. 16666 of 2025.

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. Matiur Rahman and others.

.....Petitioners

-Versus-

Government of Bangladesh, represented by the Secretary,
Ministry of Public Affairs, Bangladesh Secretariat, P.S-
Ramna, District-Dhaka and others.

.....Respondents

Mr. Md. Iqbal Kabir, Advocate

.....For the petitioners

Mr. Md. Idrish Molla, Advocate

.....For the Respondent No. 02

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 24.06.2026.

Judgment on 01.07.2026.

A.F.M. Saiful Karim , J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh Rule was issued on 07.12.2025 in following terms:-

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the virus of the Local Government Engineering Department (Officers and

Staffs) Recruitment Rules, 2009 as ultravires to the constitution being discriminatory to others employees, keeping no provision for promotion from the post of Laboratory Technician placed in serial No. 30 to the next higher posts as contained Annexure- C to petition should not in the be declared to have been made without lawful authority and is of no legal effect and be directed to allow the provision for promotion of the Laboratory Technicians to the next higher Posts consecutively in the Local Government Engineering Department (Officers and Staffs) Recruitment Rules, 2009. and to upgrade the post of the petitioners as 2nd Class Gazetted Officer with retrospective effect like Sub-Assistant Engineer holding the same post of Laboratory and/or such other or further order or orders passed as to this Court may seem fit and proper.”

The facts leading to the issuance of the Rule in brief is that:

All the petitioners except petitioner no. 9 joined in the Local Government and Engineering Department under the posts of "Store Keeper"/Monitoring Assistant/StenoTypist/Instructor/Clerk cum Typist/Work Assistant Office Assistant from 1990 on completion of their Graduation in Science. The petitioner no. 9 joined as Surveyor having Diploma in Civil Engineering.

The Local Government and Engineering Department (LGE.D.) is providing substantial contribution in the infrastructural development of the rural area since its inception. In order to ensure the quality of the service as to the implementation of the construction project and its duration as per the recruitment of the development partners and donor agencies, the Ministry of LGRD by its memo dated 17.01.1994 created one post of "Laboratory Technician" in each district.

After taking decision to create a total 64 posts of Laboratory Technician in 64 districts and before the decision was published officially, in order to meet up the exigencies considering the educational background of the petitioners being science graduates the authority had given them current charge to the post of Laboratory Technician in different years starting from 1993 and subsequently all the petitioners were given promotion to the post of Laboratory Technician from 1994 and after wards.

The post of Laboratory Technicians were created respectively in 1993 by an office order dated 17.01.1994. The government by publishing official gazette on 30.04.1995 amended the Local Government Engineering Bureau (Officers and Staff) Recruitment Rules, 1986 by providing provision for appointment of Laboratory Technician in serial No. 14 from B.Sc. graduates or from Diploma holders from any polytechnic Institute.

In pursuance of the gazette notification dated 30.04.1995 the petitioners being the Science Graduates and Diploma Degree holders from Polytechnic Institute were appointed as Laboratory Technician. Since then they have been discharging their functions as Laboratory Technicians.

While the petitioners were discharging their functions as Laboratory Technicians like others the Government i.e respondent no. 2 in exercise of the power conferred under Article 133 read with Article 142(2) of the Constitution of the People's Republic of Bangladesh framed Rules, namely, Local Government Engineering Department (Officers and Staffs) Recruitment Rules, 2009 keeping the provision for appointment of Laboratory Technician in serial No. 30 only from the Science Graduates with Physics or Chemistry, without keeping any provisions for their promotions in the next higher post.

As per amendment of the previous Rules i.e Local Government Engineering Bureau (Officers and Staffs) Recruitment Rules, 1986 by publishing official gazette dated 30.04.1995; the Laboratory Technicians were appointed on the basis of their qualification as B.Sc Degree holder or Diploma holders from the Polytechnic Institutes. The respondent no. 2 by publishing gazette notifications dated 14.03.1995 upgraded the post of sub-assistant engineer and equivalent post having diploma holders as 2nd Class gazetted officer. Accordingly, the Laboratory Technicians having Diploma holders are drawing their salaries as 2nd Class gazetted officer and the petitioners being Laboratory Technicians having Science

Graduation Degree have been discharging their functions as Laboratory Technicians as 3rd Class employees which is not only discriminatory but also highly derogatory. It is also pertinent to note that respondent no. 2 by an office order dated 05.06.2013 upgraded the scale of Accountants placing in serial No. 33 but remained silent about the petitioners.

Since the Laboratory Technicians, holding Diploma have been upgraded as 2nd class gazetted officer keeping the petitioners who are science graduates as 3rd Class employees although both the categories have been doing the same nature of job, the petitioners have been placed under discrimination inasmuch as, since there is no provisions in the Recruitment Rules, 2009 for their promotion to the next higher posts. The work Assistants who passed S.S.C. are getting to be promotion to the higher post even upto Upazilla Assistant Engineer. As such the petitioners filed successive petitions before the respondent no. 3 for upgrading their posts as 2nd class but in vain.

Finding no other alternative efficacious remedy, the petitioners have moved this Court and obtained the instant Rule Nisi.

On the similar issue Writ Petition No. 6048 of 2013 was filed challenging the *Vires* of the Local Government Engineering Department (Officers and stuffs) Recruitment Rules, 2009 as there was no provision of promotion of the Laboratory Technician to the next higher post and for direction upon the respondents to remove the impediment in the Local Government Engineering Department (officers and stuffs) Recruitment

Rules, 2009 for getting promotion to the next higher post consecutively and for direction to upgrade the post of the petitioners as 2nd Class Gazetted Officer with retrospective effect like the Sub Assistant Engineer, holding the same position of Laboratory Technician. The High Court Division initially issued Rule and after final hearing on 30.01.2018 the High Court Division disposed of the Rule directing the respondents to upgrade the post of the petitioners as 2nd Class Gazetted Officer within 60 (sixty) days from the date of receipt of a copy of the Judgment and Order. Against the Judgment and Order dated 30.01.2018 Civil Petition for Leave to Appeal No. 3542 of 2018 has been filed before the Hon'ble Appellate Division of the Supreme Court of Bangladesh which was dismissed. Against the Judgment and Order of the Hon'ble Appellate Division Civil Review Petition No. 351 of 2022 was filed before the Hon'ble Appellate Division which was dismissed for default and against the order of dismissal for default the respondents filed an application for restoration of the Review Petition which was also rejected is evident from the order dated 06.06.2024 passed by the Appellate Division (Annexure-I-1 to the writ petition).

Thereafter, the respondent authority by issuing memo no.46.02.0000.001.12.004.24-7554 dated 10.08.2025 upgraded the post of Laboratory Technician as 2nd class gazetted post as per the order of direction passed in Writ Petition No. 6048 of 2013 (Annexure-J to the writ petition).

Mr. Md. Iqbal Kabir, learned Advocate appearing on behalf of the petitioners at the outset submits that since the present petitioners are standing on the same footing of the writ petitioners of Writ Petition No. 6048 of 2013 they are entitled to get the same treatment like them and entitled to get upgradation their post of Laboratory Technician as 2nd class Gazetted officer.

Mr. Md. Idrish Molla, learned Advocate appearing on behalf of respondent No.2 submits that if the petitioners posts are upgraded as 2nd class Gazetted Officer disposing of the writ petition as has been done in case of the petitioners of Writ Petition No. 6048 of 2013, the authority will have no objection.

We have perused the writ petition, its annexures, affidavit-in-opposition filed by the respondent No.2 and other materials on record placed before us.

It transpires from the record that the posts of Laboratory Technicians were created in 1993 and by office order in 1994, the government by publishing official gazette on 30.04.1995 amended the Local Government Engineering Bureau (Officers and Staff) Recruitment

Rules, 1986 by providing provision for appointment of Laboratory Technician in serial No. 14 from B.Sc. graduates or from Diploma holders from any Polytechnic Institute.

While the petitioners were discharging their functions as Laboratory Technicians like others, the Government respondents no. 2 in exercise of the power conferred under Article 133 read with Article 142(2) of the Constitution of the People's Republic of Bangladesh framed Rules, namely, Local Government Engineering Department (Officers and Staffs) Recruitment Rules, 2009 keeping the provision for appointment of Laboratory Technician in serial No. 30 only from the Science Graduates with Physics or Chemistry, without keeping any provisions for their promotions in the next higher post.

As per amendment of the previous Rules, i.e., Local Government Engineering Bureau (Officers and Staffs) Recruitment Rules, 1986 by publishing official gazette dated 30.04.1995 (annexure-B to the writ petition) the Laboratory Technicians who were appointed on the basis of their qualification as Diploma holders from the Polytechnic Institutes are serving as Laboratory Technicians in the same post like those of the petitioners but the respondent no. 2 by publishing gazette notifications dated 14.03.1995 upgraded the post of diploma holders as 2nd Class gazette officer. Resultantly, the Laboratory Technicians from Diploma holders are drawing their salaries as 2nd Class gazette officers and the petitioners being Science Graduates discharging same functions as Laboratory Technicians as 3rd Class employees.

We have taken into account that pursuant to the judgment passed in writ petition no. 6048 of 2013 the respondents authority upgraded the post of Laboratory Technician into 2nd class Gazetted officer and the present petitioners are standing on the same footing of the writ petitioners of Writ Petition No. 6048 of 2013.

The respondents do not have any objection if similar order as of Writ Petition No. 6048 of 2013 is passed upgrading the post of the petitioners who are on the same footing of the writ petitioners of Writ Petition No. 6048 of 2013. Since the petitioners were appointed under the Recruitment Rules, 1986 before 2009 and the terms and conditions of service of the petitioners are regulated and controlled under the said Rules of 1986, the matter relating to promotion of the petitioners are to be considered under the provision of the Rules of 1986.

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. 6048 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 who are on the same footing of Writ Petition No. 6048 of 2013 under the provision of "The Local Government Engineering Bureau (Officers and Staffs) Recruitment Rules, 1986" on fulfillment of requisite conditions.

In view of the above discussions, made hereinbefore, we are inclined to dispose of the Rule with above observations.

Accordingly, the Rule is disposed of.

However, the respondents are directed to upgrade the post of the petitioners as 2nd Class Gazetted Officer within 60 (sixty) days from the date of receipt of a copy of this judgment and order.

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)