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

Writ Petition No. 1425 of 2012

IN THE MATTER OF:

An application under Article 102 of the Constitution of the People's Republic of Bangladesh.

AND

IN THE MATTER OF:

1. Maqbul Hossain Howlader
2. Md. Shajahan Chokider
3. Safar Ali
4. Md. Mebhaj Ali
5. Md. Jilan Miah
6. Md. Fazlul Haque Majhee
7. Md. Lokman Ali Howlader
8. Jarifa
9. K.M. Mosharef Hossain
10. Md. Fazlul Haque
11. Md. Amirul Islam Manik
12. Md. Nazrul Islam
13. Golam Mostafa
14. Amir Hossain
15. Prafuilla Chandra Roy
16. Md. Hossain
17. Abul Hossain Molla
18. Md. Fazlul Haque
19. Umme Kulsum
20. Shamsun Nahar
21. Md. Abdur Rashid
22. Manju Rani Bormon
23. Md. Joynal Abedin Gaji
24. Aklima Begum
25. Hajera Khatun
26. Md. Ibrahim Khan
27. Md. Abdul Jabbar
28. Md. Alauddin Mia
29. Md. Habibur Rahman
30. Anwara Begum
31. Sirajul Haque
32. Md. Atiqullah
33. Abdul Baten
34. Md. Nuruzzaman
35. Md. Nurul Islam
36. Syeda Hosneara
37. Manik Lal Das
38. Md. Nurul Islam
39. Md. Abdul Mannan
40. Aour Ali Kutub Uddin
41. Md. Abdur Rahman

42. Md. Farid Miah
43. Abdul Mannan Khan
44. Md. Nur Uddin
45. Md. Abdurs Shahid
46. Md. Shamsuddin
47. Md. Abdur Rahman
48. Abdul Kalam Azad
49. Md. Jalal Uddin Chowdhury
50. Abdus Samad
51. Solaiman
52. Md. Siddiqur Rahman
53. Sree Mira Nath Goswami
54. Md. Mostafa Kamal
55. Md. Habibur Rahman
56. Md. Abdul Bari son of late Tayeb Ali being dead his legal heirs namely-Mrs. Salma Begum, wife of late Abdul Bari
57. Md. Chakhai Mia
58. Pramendrdo Roy
59. Md. Zahir Ali
60. Bacchu Mia
61. Md. Abdul Mannan
62. Md. Johurul Islam
63. Md. Abul Hossain
64. Abul Hossain
65. Md. Abdul Mutalib
66. Md. Abdul Kuddus Sarkar
67. Md. Alauddin
68. Faruk Ahmed
69. Md. Altaf Hossain
70. Md. Fazlul Haq
71. Md. Isakhaq Ali
72. Md. Abdul Malek
73. Md. Showkat Ali
74. Md. Mohabbot Ali
75. Md. Abu Bakkar Siddique Malita
76. Md. Sanoar Hossain
77. Md. Billal Hossain
78. Md. Hamidul Haque
79. Md. Solaiman Ali
80. Md. Liakat Hosain
81. Md. Mojibor Rahman
82. Md. Jasim Uddin
83. Md. Ansar Ali being dead his legal hires namely-Most. Pinjira Khatun and mother Fatema Khatun
84. Md. Fazlul Haque
85. Md. Hashem Ali being dead his legal heirs namely-Most. Deljan Begum and Mother-Taraful Nessa

….Petitioners

Versus

Bangladesh, represented by the Secretary, Ministry of Liberation War Affairs, Paribahan Pool Bhaban, Bangladesh Secretariat Ring Road, P.S. Ramna, District-Dhaka and others
….Respondents

No one appears
….For the Petitioner Nos. 1-52

Mr. Sherder Abul Hossain, Advocate with
Ms. Sarker Tahmeena Begum Sandha
….For the Petitioner Nos. 53-85

Mr. J.K. Paul, Advocate
….For the Respondent Nos. 3-5

Present:
Mr. Justice Md. Iqbal Kabir
And
Mr. Justice S M Saiful Islam

Judgment on 10.09.2026.

Md. Iqbal Kabir, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, this Rule Nisi was issued in the following terms:

> "Let a Rule Nisi be issued calling upon the respondents to show cause as to why they should not be directed to pay State Honorarium benefits of monthly Taka 2004/- (two thousand four) instead of taka 600/- (six hundred) from 01.07.2003 to 30.06.2011 and Taka 8100/- instead of taka 3600/- from 01.07.2011 to the petitioner with other State Honorarium benefits and facilities and the actions of the respondents under decision of the letter Memo No. মুঃবিঃমঃ/ প্রঃ-১/ বিবিধ-৩৪/ ২০০২/ ৩৭১, ১৩ই কার্তিক, ১৪১০ বঙ্গাব্দ ২৮শে অক্টোবর ২০০৩ খ্রিঃ issued by the Ministry of Liberation War Affairs in respect of payment for honorarium with other benefits of the 5% disable freedom fighters (Annexure-G) should not be declared to have been passed 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."

Short facts are that the petitioners are wounded freedom fighters who took part in the Liberation War of 1971 after receiving training in different sectors. Some of the petitioners are also heirs of deceased freedom fighters. They were seriously injured during the war and became partially or fully disabled. Since 1999, the petitioners have applied to the Muktijoddha Kallayan Trust for recognition as war-wounded freedom fighters and for the Rastiyo Sammani Bhata (State Honorarium)**.** After verification and medical examination, the authorities recognized them as

genuine disabled freedom fighters and included them in the “F” category (1–19% disability). However, although other freedom fighters in the same category received the full State Honorarium and other benefits, the petitioners were paid a much lower amount. Initially, they received Tk. 600 per month instead of Tk. 2,004. Later, they received Tk. 3,000 per month, while similarly situated freedom fighters were receiving Tk. 6,750 per month along with other benefits from July 2010.

It was the claim of the petitioners that they were wrongly excluded when other “F” category disabled freedom fighters were upgraded to “E” category, even though they were similarly situated and entitled to the same benefits. Other disabled freedom fighters had earlier filed several writ petitions before the High Court Division seeking payment of their outstanding benefits and the applicable State Honorarium. The High Court Division directed the authorities to pay the benefits, and the Appellate Division upheld those judgments on 23.03.2008 in Civil Petition for Leave to Appeal Nos. 1157–1161 of 2007. The petitioners contend that, despite these judgments and despite repeated applications, the authorities have not paid them the same benefits as other similarly placed disabled freedom fighters. They therefore allege discrimination, denial of lawful benefits, violation of their fundamental rights, and denial of natural justice**.** The petitioners repeatedly requested the authorities to pay their outstanding dues and provide the same benefits available to other “F” category disabled freedom fighters, but their requests were not properly acted upon. Finally, through legal notice, the petitioners demanded that the authorities provide their lawful benefits and comply with the previous court judgments. They stated that, if the authorities failed to do so within 15 days, they would take appropriate legal action, including filing a writ petition.

Mr. Sherder Abul Hossain, the learned Advocate appearing on behalf of the petitioner Nos. 53-85 submits that Bangladesh Freedom Fighter Welfare Trust Welfare Regulation, 1984 defined the wounded freedom fighters in deferent category i.e. "Protibondhi", "Sompurna Protibondhi", "Angshik Protibondhi" and "Punorbashito Protibondhi" among these the petitioners are in the "Punorbashito Protibondhi" which has been defined as ৩। ঘ) "পুর্নবাসিত প্রতিবন্ধী বলিতে যুদ্ধাহত মুক্তিযোদ্ধা যাহাদের পংগুত্বের পরিমান চিকিৎসা বিশেষজ্ঞদের মতে শতকরা ২০% ভাগের কম এবং অথবা যাহারা চাকুরিতে অথবা ট্রাস্টের আর্থিক সহায়তায় ক্ষুদ্র ব্যবসায় পুনঠবাসিত হইয়াছেন এমন ব্যক্তিদের বুঝাইবে and as per aforesaid definition the freedom fighters under this category were given Tk. 2004/-

per month under the name of "যুদ্ধাহত মুক্তিযোদ্ধা" (আংশিক পংগু) and subsequently by the impugned memo No. mu:bi:m:/pro:-1/bibidho-34/2002-371 dated 20.10.2003 issued by the Respondent No. 2 decreased the monthly honorarium to Tk. 600/- instead of Tk. 2004 for the new applicants. The Respondent No. 2 had no legislative authority to decrease the Honorarium given following the aforesaid Regulation. In the aforesaid Regulations, there is no category 1% to 19%; there is a category below 20% protibondhi. The Respondents subsequently, from 01.07.2011, increased the Honorarium for old applicants from Tk. 2004/- to Tk. 8100/- and for new applicants from Tk. 600/- to Tk. 3600/-, which is clearly discriminatory behavior and a violation of the principle of natural justice.

He submits that the respondents, since 28.10.2003 till today, have continued the classification of disability set by the impugned memo No. mu:bi:m:/pro:-1/bibidho-34/2002-371 dated 20.10.2003 and, from time to time, increased the honorarium, keeping the petitioners in the same category 1% to 19% in deferent name some time as F category, some time as D category. The name of the category is not considerable matter, the criterion below 20% is a considerable matter, and there is no change in any law, particularly in the latest শহীদ, খেতাবপ্রাপ্ত এবং যুদ্ধাহত মুক্তিযোদ্ধা সম্মানি ভাতা বিতরন আদেশ, ২০২১.

He submits that the Honourable Appellate Division, by the Judgment and order dated 23rd March, 2008 passed in Civil Petition for leave to Appeal No. 1157-61 of 2007, declared the impugned memo No. mu:bi:m:/pro:-1/bibidho-34/2002-371 dated 28.10.2003 declared without lawful authority and is of no legal effect in affirming the judgment and order passed in Writ Petition Nos. 955 of 2005, 3136 of 2004, 2183 of 2004 and 4339 of 2004 (Annexure-J), which is binding upon the respondents as a judgment in rem, yet the respondents, without following the verdict of the Apex Court, continued with their unauthorized action.

Mr. J.K. Paul, the learned Advocate appearing on behalf of the respondent Nos. 3 and 5, by filing an affidavit-in-opposition, brought to the notice of this Court that in the year 2000, a dispute arose among different categories of disabled freedom fighters regarding their benefits. However, he claims some wheelchair-using disabled freedom fighters met the Army Chief of Staff, who directed the Managing Director of the Muktijoddha Kalyan Trust to investigate the matter. Later, the Government formed a new Ministry of Liberation War Affairs and created a five-member committee called the "Juddhahat Muktijuddha Bachhai Committee",

headed by Brig. General Ali Akbor. The Committee examined the claims of disabled freedom fighters and submitted a detailed report on 31.03.2003**.** According to the respondents, various government documents/annexures fixed different rates of freedom fighter remuneration.

He further contended that the Court did not set aside the Gazette Notification dated 31.03.2002, published on 30.05.2002, as the petitioners had not challenged the same. Therefore, notwithstanding the cancellation of the relevant Probidhan/Regulation, the said Gazette Notification remains valid and operative. Therefore, the present petitioners are not entitled to claim honorarium at the higher rate.

However, he admitted that some other writ petitioners are receiving honorarium at a higher rate pursuant to judgments of the High Court Division, which were subsequently affirmed by the Appellate Division. However, it is submitted that, under section 9(3) of the Muktijoddha Kalyan Trust Act, 2021, a beneficiary may claim unpaid honorarium only within the relevant financial year and cannot claim honorarium for any previous financial year.

We have heard the learned Advocate for both the sides, perused the writ petition, affidavit-in-opposition, affidavit-in-reply and considered their submissions and other materials on record.

Upon hearing the parties, it appears that the Government introduced a memo which was challenged and that was set aside by a decision passed judgment in writ petition No. 5069 of 08, wherein the High Court Division declared the committee formed to reassess the extent of disability 32 years after liberation as illegal and hence the reassessment of the extent of the disability of the writ-petitioners was also illegal, and that decision was affirmed by our Apex Court, where Mr. J K. Paul defend the Muktijoddha Kalyan Trust

However, it appears that the respondents increased the honorarium for old applicants from Tk. 2,004/- to Tk. 8,100/-, whereas the honorarium for new applicants was increased from Tk. 600/- to Tk. 3,600/-. Such differential treatment between similarly situated persons and positions is discriminatory, unreasonable and contrary to the principles of equality and natural justice.

In the cited decision, our Apex Court observed that we must not forget the fact that every one of those freedom fighters put his life at risk to liberate our country. It would be a travesty to deny them the benefit

which they were given after due assessment at the relevant time. The fact that they may have recovered from their disability to some extent cannot take away their courage, fortitude and patriotism which they demonstrated by facing the enemy against all odds, at the risk of their lives.

However, It appears the respondent No. 2 had no legislative or statutory authority to reduce the honorarium payable to the petitioners under the aforesaid Regulations. The said Regulations do not create any separate category of “1% to 19%” disability; rather, they provide for a category of persons having disability below 20%. Therefore, any reduction of the honorarium on the basis of such an alleged category is without lawful authority.

On our scrutiny, it appears the Regulations do not create any separate category of disability ranging from “1% to 19%”. Rather, it provides for a category of persons having disability “below 20%”. Therefore, the petitioners are eligible to receive honorarium under the category of persons having disability below 20%. Further, the memo by which the authority determined the injuries and fixed the honorarium has been set aside by the Apex Court; there is no scope to give the honorarium following the memo which was already set aside.

In view of the above, we find merit, substance and force in the submissions made by the learned Advocate Mr. Sherder Abul Hossain.

Accordingly, the Rule is made absolute.

However, the respondents are directed to make payment of the honorarium to the petitioner(s) at the rate applicable to the said category with effect from the date of this judgment upon scrutiny of the basic necessary documents relates with Freedom Fighter.

There will be no order as to costs.

Communicate the order.

S M Saiful Islam, J:

I agree.