

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

Writ Petition No. 4373 of 2013

IN THE MATTER OF:

An application under Article 102 (2) (i) and (ii)
of the Constitution of the People's Republic of
Bangladesh.

AND

IN THE MATTER OF:

Md. Abdul Khaleque and another
....Petitioners

Versus

Government of the People's Republic of
Bangladesh, represented by the Secretary,
Ministry of Home Affairs, Bangladesh
Secretariat, Dhaka, and others

....Respondents

No one appears

....For the Petitioners

Mr. Md. Abid Chowdhury, DAG

Mr. M Mohiuddin Yousuf, DAG

Mr. Monjur Elahi Porag, AAG

Mr. Ariful Alam, AAG

Mr. Nazmul Hasan Chowdhury, AAG and

Mr. Md. Shahidul Islam, AAG

.... For the respondents

Present:

Mr. Justice Md. Iqbal Kabir

And

Mr. Justice S M Saiful Islam

Judgment on 18.05.2026.

Md. Iqbal Kabir, J:

On an application under Article 102 of the Constitution, the Rule
Nisi was issued in the following terms:

"Let a Rule Nisi be issued calling upon the respondents to
show cause as to why Section 9(2) of the Public Servant
(Retirement) Act, 1974 (Annexure-C) should not be declared
ultra vires to Article 27, 29, and 31 of the Constitution and
as to why the Police Head Quarter Memo No. Niog/ 69-
2003/ (Part-2)/ 2005/ 1(5) dated 23.03.2003 of the
respondent No. 4, (Annexure-A) letter vide memo No. Niog/
158-2003/ 7188/ 1(6) dated 07.10.2003 (Annexure-A-1)
issued by the respondent No. 4, all contending the action
putting the petitioners to compulsory retirement from their
regular service of police under Section 9(2) of the Public
Servant (retirement) Act, 1974, should not be declared

illegal, without lawful authority and is of no legal effect and why the respondents should not be directed to accord full pension after adjustment of money received by the petitioner with service benefits, salaries and promotions fall due and/or pass such other or further order or orders as to this Court may seem fit and proper."

This matter has been listed for hearing at the instance of the respondents.

Mr. Md. Shahidul Islam, the learned AAG appearing on behalf of the respondents, submits that the instant matter relates to the service affairs of a Government employee and by this application, the petitioners have challenged the legality of the impugned Office Order issued vide Memo No. 1272/1(17)/R.O. (Bandar) C.M.P dated 17.04.2012 (Annexure-A). He further submits that since the petitioners are Government employee, the dispute arising out of the impugned memo cannot be adjudicated in the writ jurisdiction under Article 102 of the Constitution. Referring to the decision of the Apex Court in Civil Appeal No. 159 of 2010 in the case of Sontosh Kumar Saha (21 BLC (AD) 94), he contends that the writ petition is not maintainable and the grievances of the petitioners, if any, are to be ventilated before the Administrative Tribunal in accordance with the principles laid down in the said judgment.

This is a long-pending Rule; No one appears on behalf of the petitioners to press the Rule.

Admittedly, the present writ petitioners are government employee; the fate of the writ petitioners will be regulated by the judgment passed in Civil Appeal No. 159 of 2010 reported in 21 BLC (AD) 94. This Court finds no room to differ from the same. Therefore, we are of the view that the writ petition is not maintainable.

Accordingly, the Rule is discharged.

However, the petitioners may have liberty to approach the Administrative Tribunal within 30 (thirty) days from the date of receipt of this judgment passed today. If the petitioners approaches the Administrative Tribunal within 30(thirty) days from the date of receipt of

this judgment and order, and in that event, the limitation shall not stand in the way of filing a case before the Tribunal.

No order as to cost.

Communicate the order.

S M Saiful Islam, J:

I agree