

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

WRIT PETITION NO. 8539 OF 2013

IN THE MATTER OF

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

-AND-

IN THE MATTER OF:

Mohammed Pervhez

... Petitioner

-Versus-

Bangladesh and others

... Respondents

Mr. M. Belayet Hossain, Advocate

.....For the petitioner

Mr. Md. Sabbir Ibne Azam, Advocate

..... For the respondent No. 11

Heard on 31.10.2023

Judgment on 01.11.2023

Present:

Mr. Justice J.B.M. Hassan

and

Mr. Justice Razik-Al-Jalil

J.B.M. Hassan, J:

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 the office order
No. 1325 dated 18.8.2013 issued by the Director,
Agriculture Information Service (i.e. the respondent
No. 5) reverting the petitioner back to the post of

Assistant Information Officer (Forests) from his current substantive post of Assistant Utilization Officer (Annexure-A) shall not be declared to have been made and issued without lawful authority and is of no legal effect and further why the respondents shall not be directed to grant the petition promotion to the post of Training and Utilization Officer of the Agriculture Information Service and/or pass such other or further order or orders as to this Court may seem fit and proper.”

It is undisputed that the petitioner is a Government Servant and pointing out his status. learned Advocate for the respondent No. 11, at the very outset submits that it is a misconceived writ petition in view of the established principles of law settled by our Appellate Division in the case of Bangladesh, represented by the Secretary, Ministry of Home Affairs, and others v. Sontosh Kumar Saha and 24 others, reported in 21 BLC (AD) 94.

On the other hand, Mr. M. Belayet Hossain, learned Advocate for the petitioner submits that the petitioner was recommended by the Bangladesh Public Service Commission (BPSC) for promotion and his fundamental rights are involved with the remedy as sought for. Therefore, the writ petition is maintainable as in many other cases, the High Court Division

issued the Rule Nisi and passed the judgment entertaining the writ petition although those are now pending before the Appellate Division and that some of them are at the stage of Civil Petition and in some other civil petitions, leave was granted.

The case of Bangladesh, represented by the Secretary, Ministry of Home Affairs, and others v. Sontosh Kumar Saha and 24 others, reported in 21 BLC (AD) 94 is the landmark case drawing out the guidelines not to entertain the service matter of the Government Servant under the writ petition.

We are of the view that it is a misconceived writ petition and as such, **the Rule Nisi is discharged as not maintainable. However, without any order as to cost.**

Communicate a copy of the judgment and order to the respondents at once.

Razik-Al-Jalil, J:

I agree.