

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

Writ Petition No. 8701 of 2013

IN THE MATTER OF:

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

AND

IN THE MATTER OF:

Md. Aksatur Rahman

....Petitioner

Versus

Bangladesh, represented by the Secretary,
Ministry of Home Affairs, Bangladesh
Secretariat, Shahbag, Dhaka, and others

....Respondents

No one appears

....For the Petitioner

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 the order (Discipline) No. 67 dated
2.12.2012, passed by the Commissioner, Dhaka
Metropolitan Police, Ramna, Dhaka, respondent No. 3,
rejecting the petitioner's appeal and thereby upholding the
final order vide Letter No. Nathi/ 03-2012/ R.O.-3
(Discipline)/ Motijheel-06/ 12/ 437 dated 12.9.2012
imposing punishment to the petitioner in reduction in rank to
Constable from Assistant Sub-Inspector for three years as
the major punishment under the provision of Sub-Rule
4(Kha) (4) of Dhaka Metropolitan Police (Discipline and
Appeal of the Subordinate Officers) Rules, 2006 (Annexure-
J) 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."

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

Mr. Md. Abid Chowdhury, the learned Deputy Attorney General 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 petitioner has 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 petitioner is a 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 petitioner, 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 petitioner to press the Rule.

Admittedly, the present writ petitioner is a government employee; the fate of the writ petitioner 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 petitioner may have liberty to approach the Administrative Tribunal within 30 (thirty) days from the date of receipt of this judgment passed today. If the petitioner 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