

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

Writ Petition No. 11298 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:

Md. Abdur Rakib

.....Petitioner

-Versus-

Present:

Mr. Justice Sashanka Shekhar Sarkar
And
Justice Urmeem Rahman

Rural Electrification Board, represented
by its Chairman and others

..... Respondents

Mr. Mohammad Ali Khan, Advocate with
Ms. Zinat Parvin, Advocate
...For the petitioner

Mr. Hasibul Huq, Advocate

... For the respondent No. 4

Mr. Mohammad Waliul Islam Oli, D.A.G with
Mr. Md. Ershadul Bari Khandakar, D.A.G,
Ms. Nilufar Yesmin, A.A.G,
Mr. Md. Moshir Rahman (Rahat), A.A.G,
Mr. Md. Motasin Billah Parvez, A.A.G and
Mr. Md. Faridul Islam, A.A.G

.... For the respondents

Heard on 06.01.2026, 10.02.2026 and

Judgment on 17.02.2026

Urmeem Rahman, J:

In the instant matter a Rule Nisi was issued on an application
under Article 102 of the Constitution of the People's Republic of
Bangladesh in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the impugned Memo No. পবিস/তশ্প/ফাঃনং- ১৭০.৬০৩/২০১৩(১৪২০) ১২০০ dated 19.05.2013 issued by the Respondent no. 2 dismissing the petitioner from his service (Annexure-F) should not be declared to have been issued without lawful authority and of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.

Thereafter on 26.05.2025 a supplementary Rule was issued in the following terms:

“Let a Rule be issued calling upon the respondents to show cause as to why the appeal dismissal order passed by the respondent no. 1, the Chairman, BREB vide Memo No. 2251 dated 15.09.2013 (Annexure-I) should not be declared to have been issued without lawful authority and is of no legal effect and/or such other or further order or orders passed as to this Court may seem fit and proper.”

Subsequently the petitioner filed an application for issuance of another Supplementary Rule. Accordingly, another Supplementary Rule was issued on 21.01.2026 in the following terms:

“Let a Supplementary Rule Nisi be issued calling upon the respondents to show cause as to why the Memo No. Cumilla PBS-1/100.25/2013/2514 dated 27.05.2013 (Annexure-G) issued by the respondent No. 4 dismissing the petitioner shall not be declared to have been issued without lawful authority and is of no legal effect and why the respondents shall not be directed to reinstate the petitioner to the post of Store Keeper with all other attendance benefits reinstate the petitioner to arrear attending salary and all other benefits and/or pass such other or further order or orders as to this Court may seem fit and proper.”

Necessary facts for disposal of the instant Rule, in short, are that, the petitioner on 01.09.1990 joined as Store Assistant at Natore Pally Biddut Samity-1 (hereinafter referred to as PBS), Thereafter, the authority being satisfied promoted him to the post of Store Keeper on 18.7.1997. On 20.01.1998 he was transferred to Chandpur Pally Biddut Samity; thereafter he, on transfer, joined at Cumilla PBS on 30.4.2011 and till 19.5.2013 he served there. The respondent No. 2 on 09.5.2012 issued Memo No. পবিস/তশ্প/ফাঃ নং- ১৭০.৬০৩/ ২০১২ (১৪১৯) ৩০৯ framing charge against the petitioner and

formed a three members inquiry committee for inquire into the matter and on the same date issued a show cause notice upon the petitioner asking him to reply within next 10 working days. On 22.05.2012 the petitioner replied the show cause notice denying the allegation brought against him stating that it is false and has been brought with malafide intention for harassment only. The respondent No. 2 on 04.04.2013 issued final show cause notice along with inquiry report asking the petitioner to reply in writing within next 7 working days as to why he would not be dismissed from service. On 14.4.2013 the petitioner very categorically and clearly replied to the same praying for withdrawal of the charge leveled against him. The respondent No. 2 being not satisfied with the reply of the petitioner issued Memo No. পবিবো/তশূপ/ফাঃ নং- ১৭০.৬০৩/২০১৩ (১৪২০)১২০০ dated 19.5.2013 dismissing the petitioner from his service. Subsequently the respondent No. 4 communicated the impugned order of dismissal to the petitioner on 27.5.2013. The petitioner being aggrieved by the order of dismissal dated 19.5.2013 preferred an appeal on 04.06.2013 in terms of Article 44 of Cumilla P.B.S Service Code, 1992 before the Cumilla Pally Biddut Samity Board i.e. the respondent No. 3, praying for withdrawal of the order of dismissal. The respondent no. 3 recommended to reduce the punishment of the petitioner by giving demotion to the post Assistant store keeper from the punishment of dismissal and forwarded the recommendation for final decision to

be taken by the Chairman BREB, who by the order dated 18.09.2013 upheld the punishment of dismissal from service.

Being aggrieved by the order of dismissal and there having no other alternative and efficacious remedy available, the petitioner filed the instant writ petition and obtained the Rule and the supplementary Rules.

At the time of issuance of the Rule, it was further ordered by this Division that pending hearing of the Rule, the operation of the impugned memo dated 19.05.2013 issued by the respondent No.2 dismissing the petitioner from his service be stayed for a period of 04(four) months from date. The respondents were further directed to allow the petitioner to join his service and give him regular salary and all other attending benefits in accordance with law.

In pursuance of this order by this Division the petitioner joined his post and has been working in the said post and receiving his regular salaries and all other benefits in accordance with law till date.

Mr. Mohammad Ali Khan, learned Advocate appeared on behalf of the petitioner and submitted that the inquiry committee did not find any allegation of misappropriation, they leveled a charge of negligence against the petitioner, for which major penalty is not applicable and in the Board meeting 4 (four) officials i.e. Assistant Director, Deputy Director, Director of Inquiry and Discipline Directorate and Joint Secretary, Member Administration

while disposing of the appeal opined that, "বর্তমান আপীলকারী কর্মচারী আপীল আবেদনে যে সকল যুক্তি উপস্থাপন করেছেন, তাহা গ্রহনযোগ্য। তাহা ছাড়া আলামত ঘাটতির জন্য তাকে এককভাবে এরূপ দন্ড আরোপ ন্যায় বিচারের স্বার্থে যুক্তিযুক্তি নয়।"

Mr. Khan further submits that the relevant work order of Rural Electrification Board Form No. 552-A/B was filled up by Sub-Assistant Engineer Mr. Shafiqul Islam by the order of Store Officer in which he dropped (not included) an item namely G-6 in preparation of close out store statements Rural Electrification Board Form No. 350-A; the same item was dropped as it was prepared on the basis of earlier form No. 552-A for which the petitioner is not liable. At the order of Store Officer Mr. Anisur Rahman, Store Assistant filled up/ prepared the Form No. 552-A/B of Chandpur Pally Biddut Samity Mini work order in which he also dropped a single item, subsequently in preparation of the close out Store statements Rural Electrification Board Form No. 350-A/B of the Samity the same item was dropped. For this bona fide mistake of others officials, the Respondent No. 2 charged and dismissed the petitioner only very harshly and unjustly, which is not maintainable in the eye of law.

He next submits that the authority in consideration of appeal opined that there is no loss of the *samity* and in the meantime 75% of double of principal amount has been recovered. The respondent no. 3 authority also opined that the petitioner did not misappropriate the amount of money rather it was the bona fide

mistake for which the highest punishment cannot be imposed upon him.

He finally submits that the inquiry committee and appellate authority did not find any irregularity or any illegal personal gain by the petitioner. Hence, the order of dismissal from service was unjust and unreasonably harsh and therefore is liable to be declared to have been passed without any lawful authority.

On the other hand, Mr. Hasibul Huq, entered appearance on behalf of respondent No.4 which is the Cumilla Palli Biddut Samity represented by its General Manager.

Mr. Huq opposed the Rule by filing an affidavit in opposition and submits that the allegation has been raised against the writ petitioner relating to his failure in performing his duties and negligence, including failing to mention goods in the relevant office forms, losing vouchers, causing error in store statements thereby resulting in deficit of goods amounting to Tk. 20,55,507,73 (twenty lac fifty five thousand five hundred seven taka and seventy three paisa) causing financial loss for the relevant period. Accordingly, the respondent no. 1 authority framed charge against the petitioner and formed an enquiry committee. The petitioner submitted a reply against the same, in which he has, while denying a number of allegations against him, has also admitted some error on his part.

Learned Advocate submits that the said enquiry committee has considered all relevant documents and statements, including the

reply by the petitioner and also his answers to questions asked to him during departmental proceeding, and thereupon prepared enquiry report, in which the allegations against him has been found to be proved. In fact, as will be evident from perusal of the enquiry report, the petitioner has admitted giving incorrect replies during the departmental proceeding and he has also prayed for apology on numerous occasions.

Learned Advocate next submits that the petitioner is a habitual offender; earlier he was punished for several allegations vide memo dated 27.06.1998 and 13.05.2009.

He further submits that the petitioner has admitted his fault in his replies during the departmental proceeding on numerous occasions and also in his appeal application and for this reason alone the authority was legally justified in carrying out the proceeding against him and deciding to dismiss him from service in accordance with law. In support of his submission learned advocate refers to the case of *Director (Establishment and Administration) T and T Board Vs. Hasan Ahmed Bhuiya and another* reported in 4 *BLT (AD) 1996, page 25*. In that matter leave was granted to consider whether the Appellate tribunal exceeded its jurisdiction in setting aside the result of the departmental enquiry when the respondent no. 1 himself admitted at least one of the charges levelled against him and when the enquiry officer found him guilty of misconduct and breach of office discipline and in the end the appeal was allowed.

Finally, learned Advocate prayed that the instant Rule having no merit, is liable to be discharged.

We have heard the learned advocates for the petitioner as well as for the respondents and perused the writ petition, supplementary affidavits, the affidavit in opposition and the documents annexed therewith.

It appears from the record (Annexure-A) that a complaint was brought against the petitioner on 09.05.2012 in which allegations of breach of discipline, negligence, misconduct and corruption were raised and on 28.05.2012 an amendment was made into the complaint by omitting the allegation of corruption.

The amended complaint against the petitioner is quoted below:

বিষয়ঃ অভিযোগনামা সংশোধনী প্রসঙ্গে।

আপনার বিরুদ্ধে স্মারক নং-পবিস/তশূপ/ফাঃ নং-১৭০.৬০৩/২০১২ (১৪১৯)/৩০৯, তারিখঃ ০৯/০৫/২০১২ এ জারীকৃত অভিযোগ নামার "যেহেতু আপনার উল্লিখিত আচরণ অফিস শৃঙ্খলা পরিপন্থী, দায়িত্ব পালনে অবহেলা, অসদাচরণ ও যুক্তিসংগতভাবে দুর্নীতিপরায়ণ বলে বিবেচনার সামিল"

এর স্থলে

"যেহেতু আপনার উল্লিখিত আচরণ অফিস শৃঙ্খলা পরিপন্থী, দায়িত্ব পালনে অবহেলা ও অসদাচরণের সামিল" পড়তে হবে।

উক্ত অভিযোগ নামার অন্যান্য বিষয় অপরিবর্তিত থাকবে।

(এ.আই.এম, লতিফুল আজম)
পরিচালক

From Annexure-C, which is the final show cause notice dated 04.04.2013, it appears that it was based on the allegations of breach of discipline, negligence, misconduct and corruption. Although the allegation of corruption was dropped by the amended complaint, this particular allegation was inserted in the final show cause notice. The inquiry report dated 05.07.2012, as has been annexed as Annexure-D, is also based on the first complaint where the allegation of corruption was made. The petitioner was dismissed from service by the order dated 19.05.2013 (Annexure-F). In the dismissal order also the allegation of corruption was mentioned in total disregard to the amended complaint by which the allegation of corruption was specifically deleted by the concerned authority.

Besides, on 08.05.2013 the Cumilla Palli Biddut Samity Board in its Board meeting in Clause Nos. 99 and 100 opined that:

“৯৯।আলোচ্য পর্যালোচনা অনুযায়ী স্টোর কীপার জনাব মোঃ রকিব উদ্দিনের বক্তব্য, প্রধান প্রকৌশলী (প্রকল্প) মহোদয় এর দপ্তরের মতামত ও পবি বোর্ডের হিসাব পরিদপ্তর এবং পবিসের যৌথ উদ্যোগে চাঁদপুর পবিসের স্টোরের ঘাটতি মালামালের বিপরীতে পাওনা বাবদ সমুদয় অর্থ আদায়ের কার্যকরী উদ্যোগ গ্রহন করা হয়েছে এবং ইতিমধ্যেই মূল টাকার ৭০% আদায় হয়েছে এবং অবশিষ্ট অর্থ যথা সময়ে আদায় হবে।
১০০। সে প্রেক্ষিতে স্টোরকীপার জনাব মোঃ রকিব উদ্দিন কে পবিস সার্ভিস কোড ১৯৯২ এর ৩৮ (১) (খ) (৪) ধারা অনুযায়ী প্রস্তাবিত দণ্ড প্রদান না করে তাকে একই সার্ভিস কোডের ৩৮ (১) (খ) (১) ধারা অনুযায়ী পদাবনত অর্থাৎ স্টোর কীপার হতে স্টোর সহকারী পদে পদাবনত করনের দণ্ড আরোপ করা যেতে পারে।”

With this proposal the matter was forwarded to the Chairman, BREB, the respondent No. 1, to take final decision, who

by the order dated 09.05.2013 directed to impose punishment as per the proposal, yet the petitioner was dismissed from service.

In these circumstances we find that, the order of dismissal based on a defective complaint and not being in accordance with the direction of the respondent no. 1, was not made in accordance with law.

Challenging the order of dismissal, the petitioner filed a departmental appeal before the concerned authority stating inter alia that the alleged act was not done by him intentionally, rather it was committed by mistake; that the persons who were also responsible in this process were not brought under any departmental proceeding and that by now 75% of the total deficit amount has already been recovered by the office and therefore prayed for reinstatement in the service.

While disposing of the appeal the respondent no. 3 Board considered the fact that, he was not the only person to be held responsible for the allegation and that most of the deficit amount has been recovered by this time and as such the Board again proposed to reduce the punishment in the line with their earlier proposal. The matter was forwarded to the Chairman, BREB since he is the final decision making authority on any proposal made by the PBS Board. The Chairman, BREB i.e. the respondent no. 1 by the order dated 18.09.2013 rejected the appeal upon disregarding the proposal made by the Palli Biddut Samity Board and upheld the earlier order of dismissal in a mechanical manner.

As we have already found that the initial order of dismissal was not in accordance with law, the decision of the respondent no. 1 in upholding the same has no lawful basis either.

Therefore, in view of the above facts and circumstances we hold that justice would be better served if the authority is directed to take action in the line of the proposal made by the respondent no. 3 i.e. the Cumilla Palli Biddut Samity Board.

It has been submitted by the learned Advocate for the petitioner that he has joined the service in pursuance of the ad-interim order of stay and direction given by the Court and has been working since then for all these years.

In the result, the impugned order of dismissal dated 19.05.2013 and rejection of appeal dated 18.09.2013 are hereby set aside. The respondents are directed to allow the petitioner to continue his service with a demotion to the post of Assistant Store Keeper. Since the petitioner has been working in the previous post for all these years, we order that the action of demotion to the lower post shall be effective prospectively, that is, from the date of implementation of this order and accordingly, his salaries other entitlements shall be paid.

With the direction made hereinabove the Rule is disposed of.

The order of stay granted at the time of issuance of the Rule is hereby vacated.

However, there is no order as to costs.

Communicate the judgment and order at once.

Justice Sashanka Shekhar Sarkar, J:

I agree.

Helal/ABO