

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

Writ Petition No. 4233 of 2015

IN THE MATTER OF:

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

AND

IN THE MATTER OF:

1. Md. Salim Shaikh
2. Md. Musfikul Islam Shikdar

....Petitioners

Versus

Government of the People's Republic of
Bangladesh, represented by the Secretary, Ministry
of Local Government, Rural Development and Co-
operative, Local Government Division, Bangladesh
Secretariat, Ramna, Dhaka and others

....Respondents

Mr. K. M. Hafizur Rahman, Advocate

....For the Petitioners

Md. Md. Abid Chowdhury, DAG with
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 24.06.2026.

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 the impugned Circular issued by the Deputy
Secretary (Respondent No. 2), Ministry of Local Government and
Rural Development, Government of Bangladesh vide memo No.
46. 046. 011. 00. 00. 004. 2014-751 dated 14.08.2014 being
(Annexure-G) and why the Advertisement for appointment of
Office Sahayak (M.L.S.S.) dated 17.11.2014 published in Daily
Vorer Kagoj (Annexure-H) issued under the signature of Upazila
Chairman, Mollahat Upazila Parishad (Respondent No. 11) should
not be declared to have been made without lawful authority and is

of no legal effect and also direct the respondents to show cause as to why the respondents should not be directed to absorb the petitioner to revenue budget as it appear from the Annexure-D to the post of M.L.S.S. (Office Sahayak) with continuing his service with all benefit and/or pass such other or further order or orders as to this Court may seem fit and proper.”

The facts leading to the filing of the instant writ petition are that the petitioner is a permanent and law-abiding citizen of Bangladesh. He joined the service as M.L.S.S. of Mollahat Upazila Parishad, Bagerhat on 31.05.2011. Prior to his appointment, the respondent No. 3, Senior Assistant Secretary, issued a circular vide Memo No. স্থাসবি/ উপ-১/ গাভী (২)-১/৯/৪১৬ dated 31.10.2010 for temporary appointment of M.L.S.S. on daily-basis payment in the Upazila Parishads. Pursuant to the said circular, the Upazila Chairman, Mollahat Upazila Parishad and Convenor of the Appointment Committee invited applications for the post of M.L.S.S. The petitioner applied and was subsequently appointed by a letter dated 31.05.2011. Upon receiving the appointment letter, he joined his duties accordingly. Subsequently, by letter dated 29.07.2013, the respondent No. 5 informed that, pursuant to the decision of the Administrative Development Committee of the Cabinet held on 28.07.2013, the temporarily appointed M.L.S.S. of the Upazila Parishads would be regularized in accordance with the Government Rules instead of being appointed through an outsourcing process. Thereafter, the Ministry of Public Administration accorded its consent for the appointment of 962 M.L.S.S. in 481 Upazila Parishads under the revenue budget. Consequentially, the Ministry of Finance granted the necessary financial sanction and fixed the salary structure of the said posts. Thereafter, the Ministry of Local Government and Rural Development issued a circular dated 14.08.2014 releasing temporary allotment for the said 962 posts on certain terms and conditions. However, despite the petitioner's continued service, the respondent No. 11, Upazila Chairman, Mollahat Upazila Parishad, pursuant to Memo No. 46.046.011.00.00.004.2014-751 dated 14.08.2014, published an advertisement in the daily newspaper “Vorer Kagoj” on 17.11.2014 for fresh recruitment to the post of Office Sahayak (M.L.S.S.), treating the petitioner's post as vacant.

Being aggrieved by the impugned memo and the process of fresh recruitment in respect of the post occupied by him, the petitioner filed the present writ petition and obtained the present Rule Nisi.

It is pertinent to note that Md. Musfikul Islam Shikdar added as co-petitioner vide order dated 11.03.2025. Record shows, Mollahat Upazila

Parishad appointed the petitioner as MLSS (Office Sahayak) vide its memo no. 31.05.2011 (Annexure-B and 2)

Mr. K. M. Hafizur Rahman, the learned Advocate appearing for the petitioners, submits that the petitioners were duly appointed as "Office Sahayok" (M.L.S.S.) by the Mollahat Upazila Parishad vide appointment letters dated 31.05.2011 (Annexure-B and Annexure-2) and joined their respective posts on 01.06.2011 (Annexures-3 and 4). He further submits that since their joining, the petitioners have been serving continuously in the said posts and have been receiving their monthly salaries through cheques issued by the competent authority of the Mollahat Upazila Parishad.

He further submits that from the date of their joining on 01.06.2011 till date, no other person has been appointed to the posts of "Office Sahayok" (M.L.S.S.) in place of or in substitution of the petitioners, nor has any initiative ever been undertaken by the authorities to replace them.

He further submits that the Secretary, Ministry of Local Government, Rural Development and Co-operatives, filed Civil Review Petition Nos. 129 and 131 of 2017 against the judgment and order dated 21.07.2016 passed in Civil Petition Nos. 3205 and 3207 of 2015, but Apex Court dismissed review petitions on 23.10.2017 as barred by limitation.

He further contends that the petitioners stand on the same footing and possess identical status as the petitioners in Writ Petition Nos. 8221 of 2014, 1381 of 2015, 1382 of 2015 and 1370 of 2015. In those cases, division bench of this Court granted relief to similarly situated employees, and the said judgments were subsequently affirmed by the Appellate Division with certain modifications (Annexure-K). Therefore, the present petitioners are also entitled to the same treatment and relief.

Lastly, he submits that the impugned Circular bearing Memo No. 46.046.011.00.00.004.2014.751 dated 14.08.2014 (Annexure-H), being the very same circular that was challenged by the petitioners in the aforesaid writ petitions, has already been declared ineffective in respect of those similarly situated employees. Pursuant to the judgments rendered therein, the colleagues of the present petitioners have already been absorbed, regularized and confirmed in their respective posts under the revenue budget of the Ministry of Local Government, Rural Development and Co-operatives, Local Government Division, and have been serving in their respective posts since their joining. Accordingly, on the principle of equal treatment and non-discrimination, the present petitioners are equally entitled to the same relief from this Court.

Upon perusal of the documents on record, Mr. Md. Abid Chowdhury, the learned Deputy Attorney General, could not effectively controvert the petitioners' case.

We have perused the writ petitions, its annexures, affidavit-in-opposition filed by respondent No. 6 in Writ Petition 8221 of 2014 and others materials on record placed before us.

On perusal, it appears that the petitioners have been serving in the Upazila Parishad since 2010 with an expectation that their service would be regularized under the revenue set up. There is no allegation of misconduct against the petitioners rather the petitioners have been serving satisfactorily without any blemish from any quarter.

Instead of that no effective steps have been taken to absorb the petitioners in the revenue set up although the petitioners have worked in the respective posts since long. By working for a reasonable period of time, the petitioners have all acquired skills and expertise and can legitimately expect that they will be absorbed. Thereby have acquired legitimate expectation and vested right which cannot be taken away arbitrarily. Such alleged inaction cannot be expected from the public authority inasmuch as the respondents cannot play with the lives of the petitioners who admittedly have crossed the age limit to apply for any other Government job. The inaction of the respondents has put the lives of the petitioners in serious uncertainty.

It is pertinent to note that the Ministry of Public Administration, by its letter dated 31.10.2013 (Annexure-D) communicated to the Secretary, Ministry of Local Government, Rural Development and Co-operatives, its approval for the release of temporary allotment of 962 posts of M.L.S.S. for 481 Upazila Parishads, subject to certain terms and conditions. For the purpose of proper adjudication of the case, the said letter dated 31.10.2013 is reproduced below:

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

জনপ্রশাসন মন্ত্রণালয়

স. ও. ব্য-৫ শাখা।

নং-০৫.১৫৪.০১৫.০২.০০.০০৫.২০০০ (খন্ড-১)-৩০১ তারিখ ১৬ কার্তিক, ১৪২০ বঙ্গাব্দ,
৩১শে অক্টোবর, ২০১৩ খ্রিঃ

বিষয়ঃ ৪৮১ টি উপজেলা পরিষদের জন্য আউট সোর্সিং হিসেবে সৃজিত ৯৬২ টি এম,এল,এস,এস এর পদ আউট সোর্সিং এর পরিবর্তে রাজস্বখাতে নিয়োগে সম্মতি প্রদান।

সূত্রঃ স্থানীয় সরকার বিভাগের স্মারক নং ৪৬.০৪৬.০১১.০০.০০.০০২.২০১২-৯৯৫ তারিখঃ ০৮/৯/২০১৩ খ্রিঃ।

উপর্যুক্ত বিষয় ও সূত্রোক্ত স্মারকের পরিপ্রেক্ষিতে স্থানীয় সরকার বিভাগের আওতায় ৪৮১ টি উপজেলা পরিষদের জন্য আউট সোর্সিং হিসেবে সৃজিত ৯৬২ টি এম,এল,এস,এস, এর পদ

আউট সোর্সিং এর পরিবর্তে রাজস্বখাতে নিয়োগে নিম্নোক্ত শর্তে জনপ্রশাসন মন্ত্রণালয়ের সম্মতি নির্দেশক্রমে প্রদান করা হলঃ

শর্তঃ

অর্থ বিভাগের সম্মতি গ্রহণসহ সকল আনুষ্ঠানিকতা অবশ্যই পালন করতে হবে।

(তানিয়া ইসলাম)
সিনিয়র এসাইনমেন্ট অফিসার
ফোনঃ ৯৫৭৭১১০
(emphasis supplied)

It is pertinent to note that pursuant to the above noted memo, ministry of finance given approval and there after vide memo dated 29.04.2014 fixed salary. Thereafter Ministry of local government vides its circular dated 14.08.2014 release the temporary allotment of 962 of MLSS of Upzila Parishad on certain conditions (Annexure- D, E, F and G).

This Court notes that, without implementing the content of the letter dated 31.10.2013, the respondents issued a advertisement in order to proceed for the fresh appointment of M.L.S.S. (Office Sahayak). Having already acquired the requisite skills and experience in the discharge of their duties, the petitioners had a legitimate expectation that they would be absorbed against the permanent posts. In the circumstances, such expectation cannot be said to be unfounded or unreasonable. In this connection we may refer the case of **Bangladesh Biman Corporation -vs- Rabeya Bashri Irene and others reported in 55 DLR (AD) 132**. In the case referred to above, the Appellate Division has held as under:

"In the background of the existing practice of absorbing the employee of the petitioner's category on satisfactory completion of the initial period of employment under a contract, it can be said that there was a reasonable ground for the writ petitioners to expect for being absorbed permanently in the service of the corporation."

By annexing documents it has brought our notice that petitioners since their joining till date are serving as Office Sahayok (MLSS) in Mollahat Upazila Parishad. Further it appears another division bench of this Court granted relief to similarly situated employees, and the said judgments passed in writ petition No. 8221 of 2014, 1381 of 2015, , 1382 of 2015 and 1370 of 2015 against which CPLA No. 3205-3208 of 2015 is filed which were subsequently affirmed by the Appellate Division with certain modifications (Annexure-K). Our Apex Court as held as under:

"In view of the above, operative part of the judgment of the High Court Division is modified to the extent that the writ respondents shall regularize the service of the writ petitioners except the writ

petitioner No. 95- Md. Monjur Hossain in the revenue set up as per terms and conditions mentioned by the Ministry of Finance. However, the regularization of the writ petitioners except writ petitioner No. 95 shall be effective from the day of their absorption.”

It appears (Annexure-P) that petitioners are working since their date of joining i.e., on 01.06.2011 till date against the vacant post. The petitioners are stand on the same footing and possess identical status as the petitioners in those writ petitions.

Record shows, the government has already created 962 posts under the revenue set up. Further, there is no dispute about the created post. There cannot be any reason not to absorb the petitioners in the posts against which they have been working and have certainly acquired skills and expertise.

Considering all the facts and circumstances made hereinbefore and after scrutinizing all the material facts on record, we are inclined to dispose of the Rule.

Accordingly, the Rule is disposed of.

The respondents are directed to absorb/regularize/confirm the petitioners in their respective/equivalent posts in the revenue budget with continuity of service in accordance with law under the Ministry of Local Government Rural Development and Co-operative, Local Government Division within 02(two) months from the date of receipt of a copy of this judgment on being satisfied that they are otherwise not disqualified.

The order of stay and status-quo both granted at the time of issuance of the Rule are hereby recalled and vacated.

There will be no order as to cost.

Communicate the order.

S M Saiful Islam, J:

I agree.