

In the Supreme Court of Bangladesh
 High Court Division
 (Special Original Jurisdiction)
Present
Justice Md. Habibul Gani
And
Justice Sk. Tahsin Ali

Writ Petition No. 8699 of 2015

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. Golam Mostafa

..... Petitioner

Vs.

Govt. of Bangladesh represented by the Senior Secretary, Ministry of Public Administration, Bangladesh Secretariat, Ramna, Dhaka and others

..... Respondents

Mr. Md. Habibullah with

Mr. Md. Rezaul Karim, Advocates

..... petitioner

Mr. J.R. Khan Robin, DAG with

Mr. Kamrul Islam, AAG

Mr. Kamrunnahar Tamanna, AAG and

Mr. Ahmad Musanna Chowdhury, AAG

..... For the respondents.

Heard on: 11.11.2025, 17.11.2025 and
Judgment on: 24.11.2025

Sk. Tahsin Ali, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh filed by the petitioner, a Rule Nisi was issued calling upon the respondents to show cause as to why memo no. 05.00.0000.173.13. 006.11-163 dated 05.07.2015 issued by the Senior Assistant Secretary, Ministry of Public Administration informing that there is no statutory provision to correct the date of birth of the petitioner

as declared at the time of joining in the service as per the corrected S.S.C Certificate of the petitioner (Annexure-S) should not be declared to have been issued without lawful authority and is of no legal effect and as to why the respondent nos. 1-5 should not be directed to take steps to make correction of the date of birth of the petitioner in his Service Book as per his corrected S.S.C Certificate and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts relevant for disposal of the said Rule in short, are that on 22.12.1983 the petitioner got appointment in the service as a headmaster in the Government Primary School and at the time of joining he having no alternative declared his date of birth as per his original S.S.C Certificate since he had no opportunity to correct his date of birth in his original S.S.C Certificate within the very short time before joining. The petitioner in the year 2010 applied for correction of his date of birth in the S.S.C Certificate and on 22.12.2010 the School Inspector, Board of Intermediate and Secondary Education, Rajshahi vide memo dated 22.12.2010 informed the petitioner that his date of birth has been corrected as 07.02.1958 in place of wrong date of birth 07.02.1956. On 04.01.2011 the petitioner filed an application to the District Primary Education officer, Dinajpur, the respondent No. 4 to get his corrected date of birth recorded in his Service Book.

That on 20.08.2013 the Upazilla Education Officer, Nawabgonj, Dinajpur, the respondent no. 5 sent a letter to the District Primary

Education Officer, Dinajpur, the respondent no. 4, to take necessary steps to record the petitioner corrected date of birth in his Service Book.

On 20.01.2014 the District Primary Education Officer, Dinajpur, sent a letter to the Controller of Examination, Board Intermediate and Secondary Education, Rajshahi to verify the correction of petitioner's date of birth in the S.S.C Certificate. On 11.05.2014 the Controller of Examination, Board of Intermediate and Secondary Education, Rajshahi sent memo no R/S210 dated 11.05.2014 to the District Primary Education Officer, Dinajpur, endorsing correction to the petitioners date of birth in his S.S.C Certificate. On 19.05.2014 the respondent no. 4 sent a letter to the Director General, Directorate of Primary Education praying for direction in order to record the petitioner's corrected date of birth in his service book. On 22.07.2014 the District Primary Education Officer, Dinajpur sent attested copy of petitioner's application, service book and appointment letter to the Director General of the Directorate of Primary Education, the respondent no.3. On 15.09.2014 the Assistant Director (School) on behalf of the Director General of the Directorate of Primary Education, the respondent no. 3, issued a memo informing the District Primary Education Officer, Dinajpur that there is no scope for correction of date of birth in the service book of the petitioner.

Being aggrieved and dissatisfied with the letter dated 15.09.2014 the petitioner filed an application to the Secretary, Ministry of Primary and Mass Education praying for correcting his date of birth in his Service Book pursuant to the said application. On 11.03.2015 the Additional Director General of the Directorate of Primary Education sent

a letter to the Secretary of the Ministry of Primary and Mass Education, suggesting to take opinion from the Ministry of the Public Administration regarding correction of the date of birth in the service book of the petitioner. On 05.07.2015 the Senior Assistant Secretary, Ministry of Public Administration sent a letter of the Secretary of the Ministry of Primary and Mass Education stating that since the petitioner declared his date of birth as 07.02.1956 when joining in the service there is no statutory provision for recording his corrected date of birth in his service book. Being aggrieved and dissatisfied of the said impugned letter dated 05.07.2015 the petitioner filed the instant Writ Petition before this Hon'ble Court.

Learned Advocate Mr. Md. Habibullah along with Mr. Md. Rezaul Karim learned advocates appeared on behalf of the petitioner while learned Deputy Attorney General Mr. J.R. Khan Robin with Mr. Kamrul Islam, Assistant Attorney General with Mr. Kamrunnahar Tamanna, Assistant Attorney General with Mr. Ahmad Musanna Chowdhury, Assistant Attorney General appeared for the State.

Mr. Md. Rezaul Karim learned advocate for the petitioner submits that it appears from the registration card of the petitioner for his S.S.C. examination under the Board of Intermediate and Secondary Education, Rajshahi, the petitioner's date of birth is 07.02.1958 from which it becomes clear that the petitioner's date of birth in his S.S.C certificate was mistakenly mentioned as 07.02.1956 due to clerical error and as such there is a scope for correcting clerical errors as per Rule 124 of the General Financial Rules. He also submits that the respondent No. 1

issued the impugned memo dated 05.07.2015 staying that the petitioner corrected his date of birth following due process on the application to the Board of Intermediate and Secondary Education, Rajshahi and as per recommendation and decision of the Name and Date of Birth Correction Committee of the Board in its 112th meeting. He further submits that as per note 1 of Rule 9 of the B.S.R. when there is difference between the age mentioned in the S.S.C certificate and declared age in the Service Book the age or date of birth mentioned in the certificate will be treated as the correct age and as such where the petitioner's corrected S.S.C certificate shows his date of birth is 07.02.1958 the same should be recorded in his Service Book and the Rule bears merit and ought to be made absolute for ends of justice.

Mr. J.R. Khan Robin learned Deputy Attorney General filed an affidavit-in-opposition on behalf of the respondents stated that the petitioner was appointed as Head teacher of the Nawgaon Khathali Primary School, under Pachbibi Upazila, Bogura, vide memo No. 753/12 dated 22.12.1983 and accordingly on 28.12.1983 he joined in his service. At the time of joining his service his date of birth was inserted in his service book as 07.02.1956 following to his S.S.C certificate and that time the petitioner's age was 27 years, 10 months and 22 days and on 07.02.2015 the petitioner applied to the Upazila Education Officer, Gharagath, Dinajpur for getting P.R.L and others benefit and subsequently on 01.07.2015 the petitioner filed an application for retracting the said application dated 07.02.2015 and the petitioner received all salaries and others benefit. He further stated that the

petitioner joined in his service on 28.12.1983 and he signed all necessary document as well as registrars, applications and his service book-1 and 2 which was opened on 20.08.2013 by mentioning his date of birth as 07.02.1956 following his S.S.C certificate and then after long period time he was silent in respect of his date of birth and near about 31 years later the petitioner somehow manage to insert his date of birth as 07.02.1958 instead of 07.02.1956 and accordingly on 22.12.2010 he managed to correct his S.S.C certificate and since then he used to try to correct his date of birth in his service book with malafide intention for illegal gain. He further submits that according to the provision of Rule 9 of the Bangladesh service Rule part-I there is no scope to correct the same and in respect of that on 03.09.2025 the Additional Director General of Primary Education Directorate informed the Secretary of Ministry of Primary and Mass Education there was no scope to correct the date of birth of the petitioner in his service book. He further submits that the petitioner mentioned that on 04.01.2011 he applied to the respondent No. 4, District Primary Education officer for correcting his date of birth in his service book and the respondent No. 4 denied the same, so the same is matter of fact which can be decided by the competent court of civil jurisdiction not writ jurisdiction, so the instant writ petition is not maintainable. He further submits that the petitioner has full knowledge in respect of his date of birth from the very beginning but he did not take any step or raise any question in respect of that and according to law a fact not denied specially shall be deemed to be admitted and admitted fact need not be proved, more over on 07.02.2015

he applied to the Upazilla Education officer for getting L.P.R along with other facilities and accordingly he received all of his salaries and other benefits (except pension) till 04.02.2015 and the Rule bears no merit and ought to be discharged for ends of justice.

We have heard the learned advocate for the petitioner and the learned Deputy Attorney General for the State and perused the documents and also considered the affidavit in opposition. It appears from the registration card of the petitioner for his S.S.C. examination under the Board of Intermediate and Secondary Education, Rajshahi. That the petitioner's date of birth in his S.S.C. certificate mistakenly mentioned as 07.02.1956 and subsequently the petitioner however corrected his date of birth as 07.02.1958. It further appear that after long lapse of time the petitioner took initiative to correct the date of birth and submitted the same to the authority for correction of date of birth in the service book. The procedure of correction of date of birth has been laid down the BSR part I Rule 9 which runs as follows:

“বিধি- ১। সরকারী চাকরীতে প্রবেশের সময় বা প্রবেশের উদ্দেশে একজন আবেদনকারী যে বয়স ঘোষণা করেন, উহাই তাহার ক্ষেত্রে আবশ্যিক ভাবে প্রযোজ্য হইবে এবং পরবর্তী কালে কোন উদ্দেশ্যেই তাহার সংশোধনের অনুমতি দেওয়া যাইবেনা।

টীকা: (১) চাকরিতে প্রবেশ কালীন সময়ে ঘোষিত বয়সই চূড়ান্ত বলিয়া গণ্য হইবে। তবে জেনারেল ফিন্যান্সিয়াল রুলস এর ১২৪ নং বিধির আওতায় যে কোন করণিক ভুল

(Clerical error) সংশোধন যোগ্য। ইহা ছাড়া ঘোষিত বয়স এর সহিত ম্যাট্রিকুলেশন বা এস, এস, সি, সার্টিফিকেটে উল্লেখিত বয়সের যদি কোন গড় মিল পরিলক্ষিত হয়, তা হইলে সার্টিফিকেটে উল্লেখিত বয়সই সঠিক বলিয়া গন্য করিতে হইবে। সংস্থাপন মন্ত্রণালয়ের প্রজ্ঞাপন নং সম (বিধি ৪) ১৫-৪/৮৭-১৮ (৪০০), তারিখ ১ এপ্রিল, ১৯৮৭ মোতাবেক এফিডেভিটের মাধ্যমে বয়স পরিবর্তন গ্রহণ যোগ্য নয়।

টীকা-(২) জন্ম তারিখ সম্পর্কে জেনারেল ফিন্যান্সিয়াল রুলস এর ১২৪ বিধিতে উল্লেখ করা হইয়াছে যে, সরকারী কোন চাকরিতে কিংবা পদে নব নিয়োগ প্রাপ্ত কোন ব্যক্তি নিয়োগের সময় ম্যাট্রিকুলেশন সার্টিফিকেট, মাধ্যমিক স্কুল সার্টিফিকেট, মিউনিমিপাল বার্থ সার্টিফিকেট ইত্যাদি নিশ্চয়তা জ্ঞাপক দলিল সহ প্রদত্ত বৎসরে তাহার জন্ম তারিখ ঘোষণা করিবেন। জন্ম তারিখ চাকরির ইতিহাস সার্ভিস বুক অথবা সরকারী কর্মচারীর জন্য সংরক্ষিত অন্য কোন রেকর্ডে লিপিবদ্ধ করিতে হইবে। এই ভাবে একবার জন্ম তারিখ লিপি বন্ধ হইলে যোগ্য কর্তৃপক্ষের অনুমতি ব্যতীত করনিক ভুল ছাড়া তাহা আর পরিবর্তন করা যাইবেনা।”

It appears that as per BSR Rule 9 there is no scope to make any correction of the date of birth which the petitioner declared at the time of joining in the service. It further appears that there is a provision to correct any clerical mistake regarding date of birth but the petitioner's correction of date of birth is not clerical mistake, as such, the same

cannot be corrected, on the basis of the corrected certificate issued by the board after long lapse of time of joining in the service.

Considering the above facts and circumstances and on perusal of the BSR Rules stated above, we do not find any merit to succeed the Rule.

Accordingly, the Rule is Discharged without any order as to costs.

Communicate this judgment and order at once.

Md. Habibul Gani, J

I agree.