

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

Present:

Mr. Justice K.M. Hafizul Alam

And

Mr. Justice Abdur Rahman

[WRIT PETITION NO. 1354 of 2016](#)

IN THE MATTER OF:

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

-And-

IN THE MATTER OF:

Eastern Jute Mills Limited

.... Petitioner

-versus-

Labour Appellate Tribunal, Dhaka, and others

.... Respondents

Mr. Tufailur Rahman, with Ms. Afifa Afrose  
Advocates

...for the petitioner

Mr. S.M. Arif Mondol, Advocate

...For the Respondent No.3.

Date of Hearing: 18.02.2026 and 25.02.2026

Date of Judgment: 05.03.2026 A.D. Thursday,  
20 Falgun of 1432 B.S.

*Abdur Rahman, J:*

This *Rule Nisi*, at the instance of the petitioner, was issued on an application under Article 102 of the Constitution in the following terms:

*“Let the records be called for and a Rule Nisi be issued calling upon respondents to show cause as to why impugned Order No. 7 dated 20.08.2015, passed by the Chairman, Labour Appellate Tribunal in Appeal No. 171 of 2013, as evidenced by Annexure H, dismissing the Appeal, thereby affirming the judgment and order dated 21.04.2013 passed by the Chairman, Labour Court, Khulna in Case No. Srama 40 of 2009, as evidenced by Annexure F, shall not be declared to have been passed without any lawful authority and to be of no legal effect, and/or pass such other or further order or orders as to this Court may seem fit and proper.”*

In the same sitting, this Court was also pleased to stay the operation of the impugned Order No. 7, dated 20.08.2015, passed by the Chairman, Labour Appellate

Tribunal in Appeal No. 171 of 2013, as evidenced by Annexure H, dismissing the Appeal, thereby affirming the judgment and order dated 21.04.2013 passed by the Chairman, Labour Court, Khulna in Case No. Srama 40 of 2009, as evidenced by Annexure F, for a period of 6(six) months, which was extended subsequently.

The gravamen of facts leading to the issuance of this Rule Nisi, in brief are that: the respondent No.3 filed case No. Srama 40 of 2009 in the Labour Court, Khulna, under section 132 of Bangladesh Labour Law, 2006, contending amongst others that he was appointed in the petitioner's Mill on 4.12.1967 as a labour. Thereafter, he was transferred to the post of Senior Weaver (বড় তাঁতী). He retired as Senior Weaver (বড় তাঁতী) having LB No. 261, Weaving Department, Shift-Ka, Mill No. 2. The Respondent No. 3 had earlier filed BLL Case No. 18 of 2007 for correction of his date of birth, claiming that his date of birth is 22.03.1954. Still, the Court was pleased to direct the Petitioner Mill to keep him in service till 22.03.1954, when he will attain the age of 60

years, based on his date of birth to be 22.03.1954 as recorded in his service book. The Petitioner Mill, vide letter dated 29.05.2009, informed him that the period from 26.04.2007 to 29.05.2009, totaling 764 days, would be counted as leave without pay, which is an illegal order as per the judgment of the Labour Court in BLL. In Case No. 18 of 2007, the Respondent No. 3 is entitled to all service benefits until 29.05.2009, upon retirement at the age of 60 years. According to the calculation, he is entitled to receive, in total, an amount of Tk. 367064.12 only for the period of service between 26.04.2007 to 29.05.2009, totaling 764 days on account of wages and bonus. The Respondent No. 3 made several representations for payment of his legal dues. But since the Petitioner refused to pay the Respondent No. 3, he had no option but to file the case claiming Tk. 367064.12 as dues for wages for the period from 26.04.2007 to 29.05.2009, including a bonus with 25% as compensation, dues being Tk. 91766.03, thus the total amount of the claim stood at Tk. 458830.15. The Respondent No. 3 filed the

instant case No. Srama 40 of 2009 for the realization of the abovementioned claim amount.

Thereafter, the Petitioner contested the case filed by the Respondent No. 3 by filing a written statement denying the material allegations and contending, amongst others, that the case was bad for defect of parties for not impleading the Chairman, BJMC, being the controlling authority of the Petitioner. It was further stated that the Respondent No. 3 had filed BLL Case No. 18 of 2007 for the correction of the date of birth. In that case, the Labour Court passed an order of ad-interim injunction, and the Petitioner filed Writ Petition No. 3824 of 2007 and obtained an order of stay against the ad-interim order of injunction passed by the Labour Court. The Hon'ble High Court Division, while issuing the Rule in Writ Petition No. 3824 of 2007, passed the order of stay on condition that if the Respondent No. 3 wins the case in the Labour Court, then he will get full wages and benefits for the period he is out of employment. But the Respondent No. 3 did not succeed in the BLL case No. 18 of

2007. The Writ Petition was ultimately heard, and the Rule was discharged. However, as per judgment of the Labour Court in BLL Case No. 18 of 2007, though the Respondent No. 3 was allowed to work up to the age of 60 years but as per Hon'ble High Court Division's order passed in Writ Petition No. 3824 of 2007 at the time of Rule issuing order, the period between 26.04.2007 to 29.05.2009, total being 764 days, was considered as leave without pay. Accordingly, the respondent No. 3 was informed of the same. Thereafter, the respondent No.3 is not entitled to get any wages or bonus or any other service benefits for the said period of 764 days.

Thereafter, the learned Labour Court after examining all the evidence on record and analyzing the legal proposition allowed the said case with direction and observation vide judgment and order dated 21.04.2013, and the petitioner being aggrieved by and dissatisfied with the said judgment and order passed by the learned Labour Court, Khulna preferred an Appeal under Section 217 of

Bangladesh Labour Act, 2006 before the respondent No.1 and said Appeal was registered and numbered as Appeal No. 171 of 2013. After hearing, the learned Appellate Tribunal was pleased to summarily dismiss the said appeal; thereafter, the instant petitioner found no other alternative but to invoke this writ jurisdiction.

Ms. Afifa Afrose, the learned Counsel, appearing for the petitioner, submitted that the learned Chairman of the Labour Appellate Tribunal, as well as the Chairman, Labour Court, Khulna, acted illegally and without lawful authority in summarily dismissing the Appeal No. 171 of 2013, and allowing the Case No. Srama 40 of 2009, without applying their judicial mind in coming to the decision to dismiss the appeal and allowing the case of the Labour Court.

Learned Counsel has further submitted that the Hon'ble High Court Division at the time of issuance of Rule while granting the order of stay of operation of the order dated 27.02.2007 passed in BLL Case No. 18 of 2007 granted the ad-interim injunction in Writ Petition No. 3824 of 2007

on condition that the stay order is passed subject to the condition that in the event of success in the BLL Case No. 18 of 2007 the Petitioner (i.e. Respondent No. 3 in this Writ Petition) will get whole benefits for the period during which he is out of office and the Petitioner of the abovementioned BLL Case having not succeeded in the BLL Case No. 18 of 2007, the Labour Court in complete misreading and misappreciation of law and facts allowed the Case No. Srama 40 of 2009, thus acting contrary to the order passed by the Hon'ble High Court Division in Writ Petition No. 3824 of 2007.

Learned Counsel has further submitted that the Labour Appellate Tribunal acted illegally and without lawful authority in summarily dismissing the Appeal No. 171 of 2013 without proper appreciation of the law and facts involved in the case.

On the other hand, Mr. S.M. Arif Mondol, the learned Counsel appearing on behalf of the respondent No.3 filing an affidavit-in-opposition stated *inter alia* that the respondent

No 3 joined the petitioner's company on 04.12.1967 as a child labour and since then he has been working with diligence, he was a Trade Union activist and was elected as General Secretary of the Eastern Jute Mills Mesdure Union (Registration No.1) on several occasions and consequently developed bad relationship with the management in course of his such trade union activities, that although his date of birth is 22.03.1954 supported by medical evidence, the same was written in the service book of the petitioner's office as through clerical mistake, but when he approached the management on several occasion to get the same corrected his efforts ended up with futility prompting him to serve grievance notice on the petitioner company under section-23 of the Bangladesh Labour Act-2006. The petitioner refused to write the date of birth of the respondent No.3 as 22.03.1954, then the respondent No.3 filed the case before the Divisional Labour Court, Khulna being BLL No. 18 of 2007 under section 33(3) of the Bangladesh Labour Act-2006, upon accepting the above application, the Labour Court

concerned on 12.02.2007 passed an order of ad-interim injunction restraining the petitioner -company from retiring the respondent No.3 on the basis of the said wrong date of birth. Thereafter the respondent No.3 also filed a regular application under section 216 (২) of the Act seeking an interim order in the same terms, the Labour Court, vide impugned order dated 27.02.2007 confirmed the said ad-interim order of restraint and directed the petitioner to maintain the same till disposal of the BLL case. Being aggrieved, the petitioner-company filed the Writ Petition No.3824 of 2007 before the Hon'ble High Court Division, the Rule was issued calling upon the respondents as to why the order dated 27.02.2007 was passed by the Divisional Labour Court, Khulna, in Case No. BLL 18 of 2007 should not be declared to have been passed without lawful authority and is of no legal effect, and stayed the interim order dated 27.02.2007 of the Labour Court. The Rule was heard by their lordships, Mr. Justice Mohammad Bazlur Rahman and Mr. Justice Sheikh Hassan Arif, on 27.01.2013, and the Rule was

discharged by the Judgment dated 28.01.2013, and the earlier stay order was vacated.

Learned Counsel has further submitted that the Khulna Divisional Labour Court heard the BLL Case No. 18 of 2007 on 23.02.2009 and passed the Judgment on 09.04.2009 rejected the petition filed under section 33(3) of the Bangladesh Labour Act-2006, but declared the date of birth of the respondent No.3 as 22.03.1950, and he is entitled to continue his job till to 60 years which is up to 21.03.2010, and the petitioner tactically trying to deprived him of the dues about 764 days and filed this writ petition by misleading the Hon'ble Court and as such the Rule should be discharged.

Learned Counsel has further submitted that the respondent No.3 filed Srama Case No.40 of 2009 under section 132 of the Bangladesh Labour Act, 2006, against the petition for wages. The respondent No.3 is claiming from 26.04.2007 up to 29.05.2009, which is 764 days ' worth of dues. The dues are Tk. 3,67,064.12 and an additional 25%

compensation amounting Tk.91,766.03 total of Tk. 4,58830.15. After hearing both parties and perusal of the record, the Khulna Labour Court passed the judgment on 21.04.2013 and directed the petitioner to pay the respondent No.3 the wages amounting to Tk. 4,58830.15 for 764 days, which is from 26.04.2007 up to 29.05.2009, and the petitioner is tactically trying to deprive him of the dues for about 764 days, and as such, the Rule should be discharged.

Learned Counsel has finally submitted that the petitioner filed the Appeal No.171 of 2013 on 22.05.2013 before the Labour Appellate Tribunal, Dhaka, and after hearing, the appeal was dismissed summarily by the Judgment dated 20.08.2015, and the petitioner filed this writ petition by misleading the Hon'ble Court, and as such, the Rule should be discharged.

We have heard the learned Counsel for both sides, and the learned Deputy Attorney General for the respondents,

and also perused the writ petition along with all annexures thereto.

On sifting the records, it is found that the learned Labour Court, Khulna admittedly dismissed that case but giving any opportunity to the respondent No.3 that he will be entitle to get the benefit to serve till to appearing 60 years as per the provision 14A of the Public Corporation (Management Co-ordination) Ordinance-1986, which categorically fulfill the purpose of the respondent No. 3 in getting benefit to the date of birth on 22.03.1950 instead of on 22.03.1954.

Learned Court also mentioned that “(উক্ত ১৯৮৬ সালের The Public Corporation (Management Co-Ordination) Ordinance, এর বিধান মতে কোন Public Corporations এর শ্রমিক বয়স ৬০ বছর পূর্ণ হওয়ার পূর্বে তাকে অবসর দেওয়া যাবে না। যেহেতু দরখাস্তকারী বিজেএমসির আওতাধীন প্রতিপক্ষ মিলের শ্রমিক ছিলেন সেহেতু দরখাস্তকারীর চাকুরী নিয়ন্ত্রিত হবে; The Public Corporation (Management Co-Ordination) Ordinance, 1986 এর বিধান অনুযায়ী।”

For getting down to the brass tacks, we may now examine the provision of Section 14A of the Public Corporation (Management Co-ordination) Ordinance, 1986 as under-

“14A. (1) A worker of an enterprise shall, notwithstanding anything contained in the terms and conditions of his employment in any contract, rule, regulation, bye-law or other instrument, retire from employment on the completion of the sixtieth year of his age:

Provided that a worker who has completed the sixtieth year of his age on or before the date of commencement of the Public Corporations (Management Co-ordination) (Amendment) Act, 1994 (১৯৯৪ সনের ১৭ নং আইন) shall cease to be in the employment of the enterprise on such commencement.”

From plain reading of the said provision, it is apparently presumed that any worker under the terms and

conditions of his employment in any contract terminated, entitled him to serve this enterprise to attend 60 years of his age.

However, the learned Counsel for the petitioner vehemently pointed out that the Labour Court, in a complete misreading and misappreciation of law and facts, allowed the case No. Srama 40 of 2009, thus acting contrary to the order passed by the High Court Division in Writ Petition No. 3824 of 2007. In this context, Annexure-D revealed that the instant petitioner, earlier as petitioner of the said writ petition, challenged an ad-interim order of injunction dated 27.02.2007 passed by the Chairman, Divisional Labour Court, Khulna in Case No. B.L.L 18 of 2007, where a Division Bench comprising their Lordships Mr. Justice Mohammad Bazlur Rahman and Mr. Justice Sheikh Hassan Arif, after hearing the Rule was pleased to hold that as per Section 216 (Chha) of the Bangladesh Labour Act, 2006, the Labour Court has power to pass interim order on

any party to a proceeding of civil nature before it to prevent the frustration of the purpose of the proceeding.

In consonance with that order, the learned Labour Court, Khulna, in Case No. Srama 40/2009 (Annexure-F) opined that,

“তাছাড়া দরখাস্তকারী ৭৬৪ দিন কর্মহীন ছিল বিধায় উক্ত অনুপস্থিতকাল বিনা বেতনে ছুটি বলিয়া গন্য হইবে মর্মে প্রতিপক্ষে দাবী করা হইলেও দরখাস্তকারীর পদ ও পদবী উভয়ই বিদ্যমান থাকা সত্ত্বে দরখাস্তকারীকে কাজ করা হইতে বিরত রাখায় এবং বর্ণিত বিএলএল ১৮/২০০৭ নং মামলায় অন্তর্বর্তীকালীন নিষেধাজ্ঞার আদেশের বিরুদ্ধে মহামান্য হাইকোর্ট বিভাগ প্রতিপক্ষে ৩৮২৪/২০০৭ নং রীট পিটিশন দাখিল হইলে উহাতে বর্ণিত অন্তর্বর্তীকালীন নিষেধাজ্ঞার আদেশ নিম্নবর্ণিত শর্তে “that in the event of success, the petitioner will get the whole benefits for the period during which he is out of service”, প্রত্যাহারের আদেশ হওয়ায় এবং তৎবিরুদ্ধে মহামান্য আপীল বিভাগের স্মরণাপন্ন না হওয়ায় প্রতিপক্ষ উহা মানিয়া লইয়াছেন মর্মে গন্য হওয়ায় ৭৬৪ দিন দরখাস্তকারী কর্মহীন থাকার দায়ভার প্রতিপক্ষের উপর বর্তায় এবং যেকারনেও দরখাস্তকারী ইং ২৬/০৪/২০০৭ তারিখ হইতে ২৯/০৫/২০০৯

তারিখ পর্যন্ত ৭৬৪ দিনের দাবীকৃত পাওনাদি পাইতে কোন রকম প্রতিবন্ধকতা দেখা যায় না।”

Thereafter, the learned Labour Court, Khulna, after hearing both parties and perusal of the record, passed the judgment on 21.04.2013 and directed the opposite party (now petitioner) to pay the applicant (now respondent No.3) the wages claimed from 26.04.2007 up to 29.05.2009, which was 764 days ' worth of dues. The dues were Tk. 3,67,064.12 and an additional 25% compensation amounting Tk.91,766.03 total of Tk. 4,58830.15 within 40 days from the date.

On the other hand, the learned Labour Appellate Tribunal, Dhaka vide judgment and order dated 20.08.2015 in Appeal No. 171 of 2013 (Annexure-H) dismissed the appeal summarily, and thus affirmed the said judgment and order of the Labour Court, Khulna, holding that-

“Moreover, I do not find any reason to interfere with the findings of the learned Chairman of the Labour Court below. The learned Advocate appearing for the Appellant also failed to show any reason for setting

aside the impugned judgment and order. Hence, the appeal is dismissed summarily.”

Upon a careful consideration of the facts and circumstances of the case, the submissions of the learned Counsels appearing for the respective parties, and a thorough scrutiny of the materials on record including the annexures appended to the petition, it is manifest that the learned Labour Court committed no error in passing the impugned judgment and order upon proper appreciation of the evidence and relevant facts.

It further appears that the learned Labour Appellate Tribunal, on an independent and judicious assessment, has rightly affirmed the findings and decision of the Labour Court.

We find that the concurrent findings arrived at by the courts below are well-reasoned, based on evidence, and suffer from no illegality, impropriety, or misapplication of law warranting interference by this Division.

In essence, we might say, the petitioner retired on 22.03.2010 at the age of 60 and, now nearly 76, has long endured protracted litigation despite being a simple labourer with no misconduct in service.

In that view of the matter, we are of the considered opinion that the judgment and order impugned have been lawfully and correctly passed in favour of the respondent No.

3. The Rule, therefore, being devoid of any substance, is liable to be discharged.

Accordingly, the Rule is discharged without any order as to cost.

It is hereby ordered and directed that the petitioner shall forthwith comply with and implement the judgment and order dated 21.04.2013 passed in Case No. Srama 40 of 2009 (Annexure-F) by the learned Labour Court, Khulna, by paying to respondent No. 3 the outstanding wages and compensation amounting to BDT 4,58,830.15 (Taka four lakh fifty-eight thousand eight hundred thirty and fifteen paisa only) within a strict period of 60 (sixty) days from the date of

receipt of this judgment and order; failing which, the said amount shall carry interest at the prevailing bank loan rate, to be realized from the petitioner from the date of expiry of the aforesaid period until full and final realization, without further reference to this Court.

The order of stay granted earlier by this Court is hereby recalled and vacated.

The office is directed to send down the Subordinate Courts Record (SCR) along with a copy of this judgment and order forthwith.

( Abdur Rahman, J )

K.M. Hafizul Alam, J:

I agree.

(K.M. Hafizul Alam, J )