

IN THE SUPREME COURT OF BANGLADESH
APPELLATE DIVISION

PRESENT:

Mr. Justice Md. Ashfaquul Islam
Mr. Justice S. M. Emdadul Hoque
Mr. Justice A.K.M. Asaduzzaman

CIVIL PETITION FOR LEAVE TO APPEAL NO.1982 OF 2024
(From the Judgment and Order dated 19.02.2024
passed by the High Court Division in Writ
Petition No.2105 of 2019)

Luna Sharmin and others ... Petitioners
=VERSUS=

Tamanna Kabir and others Respondents
For the Petitioners :Mr. Md. Asaduzzaman,
Senior Advocate with Mr.
Sheikh Zakir Hossain,
Senior Advocate and Mr.
K.S. Salahuddin, Senior
Advocate instructed by
Mr. Md. Nurul Islam
Chowdhury, Advocate-on-
Record.

For the Respondent No.1 :Mr. Probir Neogi, Senior
Advocate, instructed by
Mr. Md. Helal Amin,
Advocate-on-Record

For the Respondent No.3 :Mr. Probir Neogi, Senior
Advocate instructed by
Mrs. Nahid Sultana,
Advocate-on-Record

For the Respondent Nos.2,4-6 :Not represented


Date of hearing and order :The 30th November, 2025

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ORDER

Md. Ashfaqul Islam, J:

This Civil Petition for Leave to Appeal is directed against the Judgment and Order dated 19.02.2024, passed by the High Court Division in Writ Petition No.2105 of 2019, making the Rule absolute.

The facts relevant for disposal of the instant civil petition for leave to appeal are that the respondent No.1, as writ petitioner, filed the above-mentioned writ petition before the High Court Division, challenging the absorption of writ respondent Nos.5-12 as Assistant Directors under the revenue budget in the service of the Rural Electrification Board (REB) and, thereafter, their promotion to the post of Deputy Director, as evidenced by the office orders for absorption dated 19.05.1997

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and 22.12.2002 respectively, and also the "Draft Gradation List" dated 19.07.2017, the same have been done illegally in an arbitrary and discriminatory manner in violation of the seniority of the writ petitioner in service, and also being violative of the Rules of 1995 and 2005, being "উন্নয়ন প্রকল্প হইতে রাজস্ব বাজেটে স্থানান্তরিত পদের পদধারীদের নিয়মিতকরণ ও জ্যেষ্ঠতা নির্ধারণ বিধিমালা are without lawful authority and of no legal effect and direction upon the writ respondents to amend and finalize the "Draft Gradation List" dated 19.07.2017, restoring her seniority in service by placing her name over the writ respondent Nos.5-12 in the said list stating that pursuant to the regular direct recruitment process, the writ petitioner was appointed as Assistant Director (Administration) of REB vide appointment letter

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dated 10.04.2000 and joined the service on 11.04.2000. Subsequently, she was promoted to the post of Deputy Director (Administration) on 02.08.2016. In the meantime, writ respondent Nos.5-12 were absorbed in the revenue budget under REB on different dates as Assistant Directors, and some of them were given retrospective effect in respect of their joining. The said absorption, as well as the retrospective effect of joining, ultimately placed the writ petitioner in a junior position vis-à-vis writ respondent Nos.5-12, prompting her to approach the High Court Division. The writ petitioner stated that said writ respondent Nos.5-12 were not appointed in the service of REB against the vacant posts at the relevant time, and no vacant posts had yet been

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created in accordance with the applicable procedure. That the said writ respondents were initially appointed in different projects on different dates solely on a contractual basis, and they had no contractual right to be regularized in the revenue budget and obtained Rule.

The writ respondent Nos.2, 5-7, 8, 10, 11 and 12 contested the Rule by filing separate affidavits-in-opposition.

A Division Bench of the High Court Division upon hearing the parties made the Rule absolute. Accordingly, the impugned gradation list of 2017 showing the writ petitioner as junior to respondent Nos.5-12 was declared illegal and without lawful authority. Respondent-REB was directed to amend the said

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gradation list as well as subsequent gradation list of 2021 showing the writ petitioner's position in terms of seniority above the writ respondent Nos.5-12 within a period of 30 (thirty) days from the receipt of the copy of the order. After restoration of such seniority in the gradation list, the writ petitioner shall be entitled to get all others ancillary service benefits which may be practically given as per such gradation list with effect from her joining as Assistant Director through regular recruitment in 2000 by the impugned Judgment and Order dated 19.02.2024.

Feeling aggrieved by and dissatisfied with impugned Judgment and Order of the High Court Division, the writ respondent Nos.5-7 as leave-petitioners herein filed the instant civil

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Petition for leave to appeal before this Division.

Mr. Md. Asaduzzaman, the learned Senior Advocate for the leave-petitioners submits that Rule 14 of the Rural Electrification Board "কর্মচারী চাকুরী প্রবিধানমালা, ১৯৯০", read with Rule 12 of the Rural Electrification Board "কর্মচারী চাকুরী প্রবিধানমালা, ২০১৮", clearly states that the seniority of any particular post is to be determined on the basis of joining/promoting to that specific post; whereas the High Court Division, vide its judgment dated 19.02.2024, most illegally overlooked such prescribed provisions of law in making the Rule absolute by giving seniority to the writ petitioner over the writ-respondent Nos.5-12, which cannot be sustained in the eye of law and, as such, the impugned Judgment and

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Order dated 19.02.2024 passed by the High Court Division is liable to be set aside for ends of justice.

Next he submits that the writ-respondent Nos.5-12 were appointed in service as Assistant Secretary/Assistant Director (Administration Cadre) under various projects based on revenue criteria, and were subsequently absorbed under the revenue budget with seniority in light of the resolution adopted by the BREB in its 349th Board Meeting dated 02.12.2002 as well as Rule 14 of the Employee Service Code, 1990. By ignoring such material facts apparent on the face of the record, the High Court Division erred in both law and facts and most illegally reached the wrong conclusion in terming the writ-respondent Nos.5-12 as "back-door

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appointees" vide the impugned Judgment and Order dated 19.02.2024 passed in Writ Petition No.2105 of 2019, which cannot be sustained in the eye of law and, therefore, the same is liable to be set aside.

Further he submits that it is well-known legal maxim that "delay defeats equity," and in the instant case, the writ petitioner joined her service on 10.04.2000 and filed the instant writ petition on 24.02.2019, nearly 19 years after her joining. In the meantime, all the writ-respondents as well as the writ petitioner herself entered the second stage by receiving promotions to their respective posts. Following the settled proposition of our Apex Court in various cases, such as *Abdul Hashem vs. The State*, reported in 52 DLR (AD) 116; *Delwar*

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Hossain vs. Bangladesh, reported in 54 DLR 494;
Sarower Bhuiyan vs. Bangladesh, reported in 44
DLR (AD) 144; *Fazlur Rahman and others vs.*
Bangladesh, reported in 52 DLR (AD) 116; *Saifur*
Rahman vs. Certificate Officer, Dhaka, reported
in 29 DLR (SC) 32; *Yunus Miah and others vs.*
Ministry of Works, reported in 45 DLR 498; *K.M.*
Mahmudur Rahman vs. State, reported in 48 DLR
92, and so on, wherein this Division confirmed
that an aggrieved person cannot wait for an
indefinite period for the result of their
representations but must approach the writ
jurisdiction as expeditiously as possible, the
writ petition should be rejected on the ground
of inordinate delay in filing the same.

Also he submits that the writ-respondent
No.10 was the supervisory officer of the writ-

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petitioner during the years 2012-2013, and the said writ-respondent, namely Md. Arshad Hossain, prepared the ACR (Annual Confidential Report) of the writ-petitioner, on the basis of which she was promoted from Assistant Director to Deputy Director on 02.08.2016. She is now claiming seniority over her former supervising officer, which cannot be sustained in a service matter. Hence, the impugned Judgment and Order dated 19.02.2024 is bad in law as well as on facts and, as such, the same is liable to be set aside.

Finally he submits that the findings of the High Court Division to the effect that "the writ-respondent Nos.5-12 were not recruited and absorbed as per Service Law and that those were back-door appointments and no Public Notice

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seeking recruitment for the said post was published" are absolutely wrong, because the leave petitioners were appointed following the regular process through various examinations after a Public Notice in the daily newspaper, as is evident from Annexure 1(c) of the affidavit-in-opposition filed by writ-respondent No.2. Therefore, the impugned Judgment and Order dated 19.02.2024, passed in Writ Petition No.2105 of 2019, is tainted with material irregularity and, hence, the same is liable to be set aside.

Mr. Probir Neogi, the learned Senior Advocate for the respondent Nos.1 and 3, made submissions in support of the impugned Judgment and Order of the High Court Division.

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We have considered the submissions of the learned Senior Counsels of both parties. Perused the impugned Judgment and Order of the High Court Division and connecting papers on record.

We find merit in the submissions of the learned Senior Counsel for the leave-petitioners.

Accordingly, leave is granted on the following grounds:

I. Because, Rule 14 of the Rural Electrification Board "কর্মচারী চাকুরী প্রবিধানমালা, ১৯৯০", read with Rule 12 of the Rural Electrification Board "কর্মচারী চাকুরী প্রবিধানমালা, ২০১৮", clearly states that the seniority of any particular post is to be determined

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on the basis of joining/promoting to that specific post; whereas the High Court Division, vide its Judgment dated 19.02.2024, most illegally overlooked such prescribed provisions of law in making the Rule absolute by giving seniority to the writ petitioner over the writ-respondent Nos.5-12, which cannot be sustained in the eye of law and, as such, the impugned Judgment and Order dated 19.02.2024 passed by the High Court Division is liable to be set aside for ends of justice.

II. Because, the writ-respondent Nos. 5-12 were appointed in service as Assistant Secretary/Assistant

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Director (Administration Cadre)
under various projects based on
revenue criteria, and were
subsequently absorbed under the
revenue budget with seniority in
light of the resolution adopted by
the BREB in its 349th Board Meeting
dated 02.12.2002 as well as Rule 14
of the Employee Service Code, 1990.
By ignoring such material facts
apparent on the face of the record,
the High Court Division erred in
both law and facts and most
illegally reached the wrong
conclusion in terming the writ-
respondent Nos.5-12 as "back-door
appointees" vide the impugned

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Judgment and Order dated 19.02.2024 passed in Writ Petition No.2105 of 2019, which cannot be sustained in the eye of law and, therefore, the same is liable to be set aside.

III. Because, it is well-known legal maxim that "delay defeats equity," and in the instant case, the writ petitioner joined her service on 10.04.2000 and filed the instant writ petition on 24.02.2019, nearly 19 years after her joining. In the meantime, all the writ-respondents as well as the writ petitioner herself entered the second stage by receiving promotions to their respective posts. Following the

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settled proposition of our Apex Court in various cases, such as *Abdul Hashem vs. The State*, reported in 52 DLR (AD) 116; *Delwar Hossain vs. Bangladesh*, reported in 54 DLR 494; *Sarower Bhuiyan vs. Bangladesh*, reported in 44 DLR (AD) 144; *Fazlur Rahman and others vs. Bangladesh*, reported in 52 DLR (AD) 116; *Saifur Rahman vs. Certificate Officer, Dhaka*, reported in 29 DLR (SC) 32; *Yunus Miah and others vs. Ministry of Works*, reported in 45 DLR 498; *K.M. Mahmudur Rahman vs. State*, reported in 48 DLR 92, and so on, wherein this Division confirmed that an aggrieved person cannot wait for

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an indefinite period for the result of their representations but must approach the writ jurisdiction as expeditiously as possible. The writ petition should be rejected on the ground of inordinate delay in filing the same.

IV. . Because, the writ-respondent No.10 was the supervisory officer of the writ-petitioner during the years 2012-2013, and the said writ-respondent, namely Md. Arshad Hossain, prepared the ACR (Annual Confidential Report) of the writ-petitioner, on the basis of which she was promoted from Assistant Director to Deputy Director on 02.08.2016. She

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is now claiming seniority over her former supervising officer, which cannot be sustained in a service matter. Hence, the impugned Judgment and Order dated 19.02.2024 is bad in law as well as on facts and, as such, the same is liable to be set aside.

V. Because, the findings of the High Court Division to the effect that "the writ-respondent Nos.5-12 were not recruited and absorbed as per Service Law and that those were back-door appointments and no Public Notice seeking recruitment for the said post was published" are absolutely wrong, because the leave petitioners were appointed following the regular

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process through various examinations after a Public Notice in the daily newspaper, as is evident from Annexure 1(c) of the affidavit-in-opposition filed by writ-respondent No.2. Therefore, the impugned Judgment and Order dated 19.02.2024, passed in Writ Petition No.2105 of 2019, is tainted with material irregularity and, hence, the same is liable to be set aside.

Security of Tk.1,000/- is to be deposited within 1 (one) month.

Preparation of the paper book is dispensed with as prayed for.

Let the Civil Petition for Leave to Appeal No.1963 of 2024 be tagged with Civil Petition No.1982 of 2024.

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The order of status quo granted earlier by the learned Judge-in-Chamber shall continue till disposal of the appeal.

The appellants are directed to file the concise statement within 01 (one) month and the respondents are also directed to file the same within 01(one) month thereafter.

Let the appeal be fixed for hearing in the list on 20.01.2026 before this Division.

Sd/- Md. Ashfaqul Islam, J.
Sd/- S.M. Emdadul Hoque, J.
Sd/- A.K.M. Asaduzzaman, J.

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The 30th November, 2025

Hamid/B.R/*Words 2,251*

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Case No..... C.P-1982/24
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