

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

Writ Petition No. 2536 of 2024

IN THE MATTER OF:

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

-AND-

IN THE MATTER OF:

Sylhet Gas Fields Limited, represented by
its Managing Director, Md. Mijanur
Rahman

.....Petitioner

-Versus-

The Chairman, Labour Appellate
Tribunal, Dhaka and others

..... Respondents

Present:

Mr. Justice Sashanka Shekhar Sarkar
And
Justice Urmee Rahman

Md. Nazmul Hassan Rakib, Advocate

...For the petitioner

Mr. Fida M. Kamal, Senior Advocate with

Mr. Intekhab Ul Alam, Advocate

....For the respondent Nos. 3, 6 and 7.

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. Moshiur Rahman (Rahat), A.A.G,

Mr. Md. MotasinBillah Parvez, A.A.G and

Mr. Md. Faridul Islam, A.A.G

....Forthe respondents

Heard on 19.02.2026, 24.02.2026

Judgment on 03.03.2026

Urmee 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 judgment and order dated 21.07.2022 passed by the Chairman of the Labour Appellate Tribunal, Dhaka in BLA (IR) Appeal No. 13 of 2020 dismissing the appeal (Annexure-H) affirming the judgment and order dated 17.12.2019 passed by the learned Chairman, 2nd Labour Court, Chattogram in the IR (Srama) Case No. 19 of 2019 allowing the case on contest setting aside the Notification No. 539 dated 09.01.2019, directing the petitioner for payment of wages of the workers as per gazette notification dated 18.03.2012 and further directing the petitioner to determine the terms of service of the workers as per section 209 of the Bangladesh Labour Act, 2006 within 60 (sixty) days (Annexure-G) should not be declared illegal and without any lawful authority and/or such other or further order or orders passed as to this Court may seem fit and proper.”

The fact necessary for disposal of the instant Rule is that, সিলেট গ্যাস ফিল্ডস লিঃ কর্মচারী অবসর ভাতা ও সাধারণ ভবিষ্য তহবিল বিধিমালা-২০০৮ was introduced by office order No. 11.21.36/Pension/430 dated 28-12-2011 and Gazette Notification was published on 18.03.2012 with retrospective effect from 14.12.2011 introducing a pension scheme for the employees of Sylhet Gas Field Limited (in short SGFL) to secure their financial security throughout their retirement period. Rule 21.0 of the Pension Rules provides option to the employees either to collect 100% gross pension benefits at one go or

alternatively to collect 50% and keep the rest 50% for collecting as monthly pension benefits at the appropriate rate as referred to in Rules 17.0 of the Pension Rules. This pension scheme was introduced upon obtaining prior approval from the Government with the condition that the company shall arrange the scheme independently without any involvement of the Government. Preceding the introduction of the pension scheme, the SGFL, by an office Memo No. 11.21.36/Pension/436 dated 29.12.2011, asked the employees to tender their individual options in writing specifying if they wanted to be included into the pension scheme instead of the then prevailing gratuity scheme at that time, all the workers including the respondents assented to it and thereby made them included into the pension scheme with the other employees.

The Ministry of Finance brought a change in the Government Pension Rules by a circular No. 07.00.0000.171.13.005.16-06 dated 09.01.2017 putting all the Government employees under compulsion to surrender 50% of their gross pension instead of 100%, and for the rest 50% government employees will get pension every month.

As required by the Rule 34 of the Pension Rules, the SGFL Board of Directors in its 539th meeting, held on 09.01.2019, took a resolution approving the amendment of Rule 21.0 by substituting the earlier provisions of the Pension Rules in this regard with the provision of Government circular dated 09.01.2017. SGFL by the

Order dated 12.02.2019 implemented the aforesaid revised pension rules in the company with retrospective effect from 01 July 2017.

The respondents No. 3-7 as First Parties jointly filed the aforesaid IR (Srama) Case No. 19/2019 in the 2nd Labour Court, Chattogram challenging the legal propriety of the resolution No. 3.0, unanimously adopted by SGFL's Board of Directors on 09.01.2019. Petitioner company contested the case by filing written statement on 07.08.2019 as second party. The Labour Court below after hearing both the parties allowed the case by the judgment and order dated 17.12.2019 allowing the case. Being aggrieved thereby the petitioner filed appeal under Section 217 of the Bangladesh Labour Act, 2006 before the Labour Appellate Tribunal, Dhaka being BLA (IR) Appeal No. 13 of 2020, who was pleased to dismiss the appeal vide judgment and order dated 21.07.2022. Hence the writ petition.

Mr. Nazmul Hassan Rakib, learned Advocate appearing on behalf of the petitioner submits that, the Labour Court as well as the Labour Appellate Tribunal failed to realize that the revised provisions of the pension scheme is adopted in absolute adherence to Rule 34 of the সিলেট গ্যাস ফিল্ডস লিঃ কর্মচারী অবসর ভাতা ও সাধারণ ভবিষ্য তহবিল বিধিমালা-২০০৮ which provides that, any rules and regulations issued by the Government regarding the pension shall form part of it and accordingly the amendment was made to Rule 21.0 adopting the Government directive which is absolutely legal and binding on the respondent-employees.

Learned Advocate for the petitioner next submits that, the Labour Appellate Tribunal has failed to appreciate the fact that the Sylhet Gas Field Limited, whose 100% shares are owned by the Government and all the members of its Board are being nominated by the Government, was duty bound to amend the Pension as per Rule 34 of the সিলেট গ্যাস ফিল্ডস লিঃ কর্মচারী অবসর ভাতা ও সাধারণ ভবিষ্যতহবিল বিধিমালা-২০০৮. Rule 34 plainly dictates that, the rules and regulations that might be issued by the government from time to time shall be deemed to be the part of the সিলেট গ্যাস ফিল্ডস লিঃ কর্মচারী অবসর ভাতা ও সাধারণ ভবিষ্যতহবিল-২০০৮. Therefore, the government circular dated 09.01.2017 imposes a burden upon the petitioner company to comply with the government decision.

He finally argued that, the judgments passed by both the courts below have not been delivered in accordance with law and therefore are liable to be declared to have been passed without any lawful authority and the Rule may be made absolute.

Per contra, learned Senior Advocate Mr. Fida M. Kamal with learned Advocate Mr. Intekhab Ul Alam appears on behalf of Respondent Nos. 3, 6 and 7 and opposed the Rule by filing an affidavit in opposition.

Learned Senior Counsel submits that, the learned judges of the Labour Court and the Labour Appellate Tribunal below rightly and correctly passed the impugned judgment and orders upon due discussion and proper consideration of evidence and materials on record.

He next submits that, the সিলেট গ্যাস ফিল্ডস লিঃ কর্মচারী অবসর ভাতা ও সাধারণ ভবিষ্য তহবিল বিধিমালা, ২০০৮ dated 18.03.2012 was approved and implemented; which became a part of the service condition of the employees of the petitioner company including the respondents. The Board of Directors of the company arbitrarily made a resolution which altered the provision of the earlier pension scheme without consulting the CBA/Respondents/beneficiaries of the scheme and also without following the procedures laid down in the Bangladesh Srama Ain, 2006, as such both the courts below rightly allowed the case in favour of the respondents.

Mr. Kamal then submits that, the service condition of the employees cannot be altered to their disadvantage without following the procedures laid down in Sections 209 and 210 of Bangladesh Labour Act, 2006. In the present case the said procedure has not been followed by the Respondent company which is violation of the statutory provision.

His further submission is that, the privilege of enjoying pension benefit is a right, guaranteed and secured to the individual workers, as such the case was filed by the individual workers for them and also for their colleagues for enforcement of their right and no illegality has been committed by both the courts below in allowing the case.

Learned Senior Counsel referred to the case of *AHM Abdul Hai Vs. Bangladesh and others* reported in *31 DLR, page 88* where it was held that:

"When an order has taken effect and in pursuance of that order certain right has been created in favour of any person that order cannot be withdrawn or rescinded to the detriment of that person. When a right has accrued to a person by virtue of an order that order cannot be rescinded by the person who made it."

He finally submits that, in the instant case the Respondents are entitled to the pension benefit in exchange of the gratuity benefit and the petitioner company does not impose any liability upon the government for its pension scheme. Both the courts below upon considering all the relevant aspects rightly allowed the case, which is immune from any interference by this court. In the end he prays that the Rule having no merit is liable to be discharged.

We have heard the learned Advocates of both the sides and perused the writ petition, affidavit in opposition and all the annexures annexed therewith.

It transpires from the record that, Sylhet Gas Field Limited Employees' Pension and General Provident Fund Rules-2008 was promulgated on 18.03.2012 with retrospective effect from 14.12.2011 and with the prior approval of Ministry of Finance. Government gave approval to this Rule subject to the condition that the pension benefit shall be given from the Company's own fund and there shall be no financial involvement of the government in this regard.

Rule 34 of the said Rules of 2008 provides that:

“৩৪.০ বিধিমালা সংশোধনঃ

এই বিধিমালার সংশোধন, পরিবর্তন, সংযোজন কোম্পানী পরিচালক-পর্যদের অনুমোদনক্রমে করা যেতে পারে, যদি উহা সরকারি অবসর ভাতা বিধিমালার সাথে সংগতিহীন না হয়। যদি কোন সংশোধন, পরিবর্তন, সংযোজন সরকারি অবসর ভাতা বিধিমালার এবং সাধারণ ভবিষ্য তহবিল বিধিমালার সাথে সংগতিপূর্ণ না হয়, তবে উহা যথাযথ কর্তৃপক্ষ কর্তৃক অনুমোদন করিয়ে নিতে হবে। সময়ে সময়ে সরকার কর্তৃক জারীকৃত পেনশন সংক্রান্ত বিধি-বিধান এ বিধিমালার অন্তর্ভুক্ত হিসেবে গণ্য হবে।”

Ministry of Finance by its notification dated 09.01.2017 (Annexure-B) introduced a rule for government pensioners. This notification was communicated to the petitioner company through the Petro Bangla Limited on 08.02.2017. After two years on 09.01.2019 the petitioner company in its 539th Board meeting adopted the rules made by the said notification with a retrospective effect from 09.01.2017.

The notification issued by the Ministry of Finance is quoted below:

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার
অর্থ মন্ত্রণালয়, অর্থ বিভাগ
প্রবিধি অনুবিভাগ
প্রবিধি শাখা-১

www.mof.gov.bd

নং-০৭.০০.০০০০.১৭১.১৩.০০৫.১৬-০৬

তারিখঃ ০৯-০১-২০১৭ খ্রিষ্টাব্দ
২৬-০৯-১৪২৩ বঙ্গাব্দ

প্রজ্ঞাপন

সরকার পেনশনারগণের (বেসামরিক/সামরিক) আর্থিক এবং সামাজিক সুরক্ষা নিশ্চিত করার স্বার্থে

নিম্নরূপ বিধান প্রবর্তন করিলঃ

(ক) সরকারি কর্মচারীগণের (বেসামরিক/সামরিক) গ্রস পেনশনের শতকরা ১০০ ভাগ সমর্পণের সুবিধা বাতিল করিয়া শতকরা ৫০ ভাগ বাধ্যতামূলক সমর্পণ এবং অবশিষ্ট শতকরা ৫০ ভাগের জন্য নির্ধারিত হারে মাসিক পেনশন গ্রহণের বিধান প্রবর্তন করা হইল। এই বিধান ০১ জুলাই ২০১৭ খ্রিঃ তারিখ হইতে কার্যকর হইবে।

[ব্যাখ্যাঃ ৩০ জুন, ২০১৭ খ্রিঃ তারিখ বা তাহার পর যাহাদের অবসর-উত্তর ছুটি শেষ হইবে তাহারা এই সুবিধার আওতায় আসিবেন।]

(খ) পেনশনারগণ/পারিবারিক পেনশনারগণ মাসিক পেনশনের উপর ৫% হারে বার্ষিক ইনক্রিমেন্ট প্রাপ্য হইবেন যাহা ০১লা জুলাই ২০১৭ খ্রিঃ তারিখ হইতে কার্যকর হইবে।

২। অর্থ বিভাগ কর্তৃক জারীকৃত বেসামরিক সরকারি চাকুরেদের পেনশন মঞ্জুরি ও পরিশোধ সংক্রান্ত বিধি/পদ্ধতি অধিকতর সহজীকরণ বিষয়ক স্মারক নং- অম/অবি/বিধি/পেনশন/৩-পি-২৬/৯৪/১৭ তারিখঃ ০১-০৬-১৯৯৪ খ্রিঃ এর 'পেনশন সমর্পণ' সংক্রান্ত ২.১৩ নং অনুচ্ছেদটি ০১-০৭-২০১৭ খ্রিঃ তারিখ হইতে বাতিল বলিয়া গণ্য হইবে।

৩। প্রতিরক্ষা মন্ত্রণালয় কর্তৃক ০৪-১২-২০০৩ খ্রিঃ তারিখে জারীকৃত সশস্ত্র বাহিনীর সদস্যদের শতভাগ পেনশন কম্যুটেশন সুবিধা প্রদান সংক্রান্ত প্রম/ডি-১৯/১পেন-৩/৯৭/অংশ-২/৩০৫ নং স্মারকটি এই প্রজ্ঞাপনের আলোকে সংশোধন করিবে।

রাষ্ট্রপতির আদেশক্রমে

স্বাক্ষরিত
(মোঃ মনিরউদ্দিন)
অতিরিক্ত সচিব
ফোনঃ ৯৫৭৬৫৫৪

It appears from this notification that, it is applicable to government pensioners only, both civil and military. Clause 1 (ka) and (kha) provides the amendment, Clause 2 declares the earlier provision in this regard to be cancelled and clause 3 makes a clear direction to Ministry of Defense to amend their memo by giving 100% pension commutation benefit in the light of this amendment. From this notification we find that there is no such direction to any autonomous body or government owned institution like the

petitioner company to make amendment to their provision in the light of this amendment. Thus, we are of the view that this amendment has no manner of application in case of non-government employees, who are guided by their own statutes.

Furthermore, while Rule 34 of the Company's pension Rules provides that, any pension related rules promulgated by the government from time to time shall be considered to be included in this Rules, the aforesaid amendment shall not come under the ambit of this particular Rule inasmuch as the amendment is concerned about the financial status of the particular department and the petitioner company, being independent of the government in running its pension scheme, is not bound by the said amendment automatically.

As such we find that, the opinion given by the Board of Directors in clause 2.2 of the impugned resolution is not proper and the impugned decision in clause 3.0 and the implementation order thereto dated 12.02.2019 on the basis of such opinion is without any lawful basis.

Both the courts below arrived at the concurrent finding that, the company has failed to follow the procedure provided in Section 209 of the Bangladesh Srama Ain 2006 while adopting the impugned resolution and as a result set aside the resolution.

It has been argued by the petitioner-company that, Sections 209 and 210 provide procedure when a charter of demand is raised

by the employer or by the CBA (Collective Bargaining Agent). In the present case no such charter of demand has been made either by the employer or by the CBA and the I.R. case was filed by individual employees, not as representatives of the CBA, as such there is no applicability of Sections 209 and 210 in the present case and both the courts below erred in law on this point.

It appears from the witness statement annexed as Annexure-F that, P.W. 1 in his deposition clearly stated that:

“তৎ বিরুদ্ধে ইউনিয়নের পক্ষ হতে ২২.০৪.১৯ইং এর পত্রমূলে ১নং প্রতিপক্ষের বরাবরে আপত্তি দিয়েছি পেনশন স্কীম সংক্রান্ত গ্যাজেটের বিধান চালু রাখার জন্য এবং ১নং প্রতিপক্ষের পরিপত্রের কার্যকারিতা বাতিলের জন্য আবেদন করেছি।”

It is thus apparent that, though a demand was raised by the CBA but the petitioner-Company failed to deal with the matter following the procedure mentioned in Section 210 of the Bangladesh Srama Ain, 2006.

We find that, since the privilege of enjoying pension benefit is a right guaranteed and secured to the individual workers applicable by the pension Rules of 2008 and since no action has been taken by the company by following the procedure of Section 210 of the Bangladesh Srama Ain, 2006, the individual workers have lawful right to file the case under Section 213 of the Act for enforcement of their vested right. Both the courts below rightly allowed the I.R. Case No. 19 of 2019 setting aside the resolution taken by the Board in its 539th meeting.

With the aforesaid finding and discussion, we have arrived at the conclusion that there is no illegality in the judgments passed by the 2nd Labour Court as well as by the Labour Appellate Tribunal. The Rule issued in the instant matter is devoid of any substance.

In the result the Rule is discharged.

However, without any order as to cost.

Let a copy of this judgment and order be communicated to the concerned authorities at once.

Sashanka Shekhar Sarkar, J:

I agree.