

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

WRIT PETITION NO. 655 OF 2025

IN THE MATTER OF:

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

AND

IN THE MATTER OF:

A.B.M. Ziaul Karim

.....Petitioner

-VERSUS-

Government of Bangladesh, represented by the Senior Secretary, Public Administration Division, Ministry of Home Affairs and others

..... Respondents

Mr. Md. Kamrul Alam (Kamal), Advocate

..... For the Petitioner

Mr. Mohammad Waliul Islam Oli, D.A.G with

Mr. Md. Ershadul Bari Khandakar, D.A.G with

Ms. Nilufar Yesmin, A.A.G with

Mr. Md. Moshiur Rahman (Rahat), A.A.G with

Mr. Md. Motasin Billah Parvez, A.A.G with

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

.....For the Respondents

Present:

Mr. Justice Sashanka Shekhar Sarkar

And

Justice Urmee Rahman

Heard on 24.02.2026, 08.03.2026

Judgment on 12.03.2026

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 Memo No. 44.00.0000.094.13.035.21.897 dated 27.07.2022 issued by the respondent No. 1 rejecting the application of the petitioner praying for allowing him Post Retirement Leave (PRL) who has already completed his service as Freedom Fighter in the post of Additional Special Superintendent of Police (Addl. SSP) in Criminal Investigation Department (CID) (Annexure-H) should not be declared to have been taken without any lawful authority and is of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.”

Necessary facts for disposal of the instant Rule, as narrated in the Writ Petition, in short, are that, the petitioner is an inhabitant of Upazilla-Boalmari under District-Faridpur and during the Liberation War in 1971 he played very important role by taking part in the War and his name has been enlisted in the list of genuine Freedom Fighters of his area and he was granted different certificates by different government authorities acknowledging him as Freedom Fighter. Being a genuine Freedom Fighter the petitioner filed an application on 02.11.1986 before the Deputy Inspector General of Police (DIG), Dhaka Range for getting appointment in the post of Sub-Inspector of Police and after facing interview he was selected as a competent candidate and the authority after scrutinizing his documents was pleased to give him appointment in the post of Sub-Inspector of Police and he successfully completed training

from Police Academic, Sarda, Rajshahi on 10.02.1988; then he was promoted as Additional Superintended of Police (ASP). In the year 1994 the Ministry of Defense published a Thana based list of actual Freedom Fighters (2nd phase) and the concerned authority after examining the documents included the petitioner's name in the said list in serial No. 35 under Upazilla-Boalmari, District-Faridpur. In the year 2005 by the order of the Government the Freedom Fighters of all over the country were again brought under scrutinization by a six members high power committee headed by the Deputy Commissioner of the concerned Districts and accordingly the petitioner was placed before the said Board and after completion of the scrutiny, a list of genuine Freedom Fighters of District-Faridpur was published on 22.06.2005 and the name of the petitioner appeared in the said list. The Deputy Commissioner, Faridpur vide memo No. 416 dated 23.06.2005 forwarded the said list to the Secretary, Ministry of Freedom Fighters for publishing Gazette. The Gazette Notification was published on 19.04.2022 and the petitioner's name appeared in serial no. 6930. Thereafter he obtained Freedom Fighter MIS No. 0129005602 and started receiving monthly allowance. The petitioner was promoted in the post of Additional Superintendent of Police and he was posted to CID, Headquarter as Special Additional Superintendent of Police (Addl. SSP) (Dhaka Metro North) vide Memo dated 20.03.2019, where he had performed his duty till attainment of 60 years of age.

The petitioner attained 60 years of age on 14.12.2020 and his Post Retirement Leave (PRL) was supposed to start from 15.12.2020 till 14.12.2021 and accordingly the petitioner filed application before the respondent No. 5 for granting his PRL with full salary benefit and the office of the respondent No. 5 forwarded the said application to the respondent No. 1 vide memo dated 09.06.2022 with observation that: "উল্লেখ্য যে, উক্ত কর্মকর্তার বিরুদ্ধে অত্র হেড কোয়ার্টার্স এ কোন বিভাগীয় মামলা রুজু/মূলতর্কিত/তদন্তাধীন নাই।" On receipt of the said Memo dated 09.06.2022 the respondent No. 1 issued a memo on 27.07.2022 to the respondent No. 5 stating that there is an appeal pending before the Hon'ble Appellate Division regarding minimum age of Freedom Fighters, therefore they have nothing to do with regard to granting PRL to the petitioner and the office of the respondent No. 5 forwarded the opinion of the respondent No. 1 to the concerned authority vide memo dated 31.07.2022 and a copy of the said memo was furnished to the petitioner. The petitioner made several representations before the authority and lastly on 18.12.2024 he made application to the respondent No. 1 praying for granting PRL to him as he duly completed his service as a Freedom Fighter and there is no departmental proceeding pending against him but the respondent No. 1 kept the said representation pending till date.

Being aggrieved thereby and there having no other alternative equally efficacious remedy available, the petitioner has filed the instant writ petition and obtain the Rule.

Learned Advocate Mr. Md. Kamrul Alam (Kamal) appeared on behalf of the petitioner and submits that, Section 7(1) of Public Servants (Retirement) (Amendment) Act, 2010 provides that: "*A Public Servant who is required to retire from or, as the case may be, ceased to be in service under any provision of this act shall be entitled to such Post-retirement Leave as is admissible to him and the period of such leave may extend up to one year from the date of his retirement or ceasing to be in service*". In the instant case the concerned authority allowed the petitioner one year extra service considering him a Freedom Fighter and accordingly after successful completion of the said period he applied for PRL but the respondent No. 1 showing some immaterial reasons refused the petitioner's PRL by violating the existing Rules, which has curtailed the legal rights of the petitioner and as such the inaction of the respondents in allowing Post Retirement Leave (PRL) to the petitioner is liable to be declared to have been done without any lawful authority.

He next submits that, the petitioner is a genuine Freedom Fighter and his name has been published in the Gazette Notification as a Freedom Fighter in Gazette No. 6930 and he obtained Freedom Fighter MIS No. 01290005602 and the respondents allowed the petitioner to complete his service as a Freedom Fighter till attainment of 60 years of age, in this situation the petitioner is legally entitled to the PRL but this legal right has been restrained by the inaction of the respondents which prejudiced him and as such the respondents need to be directed to grant PRL to the petitioner.

Finally the learned Advocate for the petitioner submits that, the concerned authority after perusing and finding genuineness of the documents of the petitioner published his name in the Government Gazette Notification and he completed his service period as a freedom fighter with salary benefits, in this situation the respondents No. 1 is not in a position to deny PRL of the petitioner, which is contrary to the provision of existing Rules and as such the inaction of the respondents in allowing Post Retirement Leave (PRL) to the petitioner may be declared to have been done without any lawful authority. In the end learned Advocate prayed for the Rule to be made absolute.

No one appeared to oppose the Rule.

We have heard the learned Advocate for the petitioner and perused the writ petition, supplementary affidavit and all the documents annexed as annexures therewith.

It appears from the record that the petitioner joined his service in the post of Sub Inspector in the year 1986 declaring himself as a freedom fighter upon providing relevant documents in support thereof. Thereafter during the course of service, his name was published in the official Gazette dated 19.04.2022 as a freedom fighter and he started receiving monthly allowance as a freedom fighter and has been receiving the same till date.

As per his date of birth his usual date of retirement would be 14.12.2019 but as a freedom fighter he is lawfully entitled to continue his

service for one year more i.e. till attainment of 60 years of age and accordingly he completed his service upon attainment of 60 years on 14.12.2020 and he was supposed to go on Post of Retirement Leave (PRL) for one year from that date. But the authority did not grant PRL to him. He made several representations to the authority raising his concern and prayed for granting PRL to him but without any result.

It appears from Annexure G-1 to the writ petition that, earlier the petitioner filed another Writ Petition No. 3551 of 2020 for inclusion of his name as a freedom fighter in the official gazette. When the petitioner applied for PRL, the concerned Ministry by the memo dated 16.05.2021 communicated him that his application for continuing his service up to the age of 60 years and granting PRL cannot be considered until the said writ petition is disposed of. Subsequently, the petitioner's name has been published in the gazette notification dated 19.04.2022 (Annexure-E). Since the purpose was served, the Rule issued in the aforesaid Writ Petition No. 3551 of 2020 was discharged for non-prosecution at the instance of the petitioner on 25.04.2022. Thereafter, he again prayed for granting PRL and service benefits to him.

By the impugned memo dated 27.07.2022 (Annexure-H) it was informed by the Secretary to the Respondent no. 5 (Inspector General of Police) that; “উপর্যুক্ত বিষয় ও সূত্রে বর্ণিত পত্রের পরিপ্রেক্ষিতে নির্দেশক্রমে জানানো যাচ্ছে যে, মুক্তিযোদ্ধার সর্বনিম্ন বয়স সংক্রান্ত মাননীয় হাইকোর্ট বিভাগের রায়ের বিরুদ্ধে দায়েরকৃত লীভ টু আপীল মামলা নিষ্পত্তি না হওয়া পর্যন্ত জনাব এবিএম জিয়াউল করিম, বিপি-৬০৮৮২০৩৩৫১, অতিরিক্ত পুলিশ সুপার, অপরাধ তদন্ত বিভাগ, বাংলাদেশ পুলিশ, ঢাকা-এর অবসর ও অবসরোত্তর ছুটি

মঞ্জুরের আবেদনের বিষয়ে করণীয় কিছু নেই।” and it was communicated to the petitioner by the memo dated 31.07.2022 (Annexure H-1).

It transpires from the impugned memo that there is no specific information as to the number or names of parties of the Civil Appeal; however, it is apparent that this Civil Appeal is not in relation to the present writ petition filed by the instant petitioner nor he is a party to that Civil Appeal.

Section 4A of the Public Servants (Retirement) (Amendment) Act, 2010, which deals with 'Retirement of a freedom fighter' in sub section 3 provides that, "The Government may require a public servant, in order to be entitled to any benefit under this section, to have his certificate or identity, as a Freedom Fighter, to be verified by the Ministry of Liberation War Affairs: provided that a public servant, who entered the service of the Republic as a freedom fighter, shall be exempted from such verification."

It is an admitted fact that the petitioner entered his service declaring himself a freedom fighter upon presenting relevant documents. Although his name was not published in the official gazette at that time but subsequently it was published in the gazette notification on 19.04.2022 and the petitioner communicated the same to the concerned authority. Earlier his application for granting PRL was refused on the ground of pendency of the Writ Petition No. 3551 of 2020 filed by him but subsequently that writ petition was non-prosecuted. As such we find that there remained no bar to grant PRL to the petitioner. The authority allowed him to continue his service for one year more as a freedom fighter and he has already completed his tenure of service on

attaining 60 years of age, hence a vested right has been created in his favour in this regard, which cannot be taken away by the authority by giving reference to an unconnected pending case, the subject matter of which is not relevant in the case of the present petitioner. No age-related issue about the petitioner as a freedom fighter was ever raised by the concerned authority. The petitioner has been enlisted as a gazetted freedom fighter and receiving his monthly allowance as freedom fighter regularly. Until that gazette is cancelled by a subsequent gazette, no adverse action can be taken against him by disputing his status as a freedom fighter.

In view of the facts and circumstances of the case and with the foregoing finding and observations, we find substance in the Rule.

Accordingly, the Rule is made absolute.

However, without any order as to costs.

The impugned memo dated 27.07.2022 contained in Annexure-H to the writ petition issued under the signature of the Deputy Secretary of Ministry of Home Affairs, Public Safety Department, Police-1 Division is hereby declared illegal and without any lawful authority. The Respondents are directed to grant PRL to the petitioner with the service benefits which he is entitled to get within 15 days of receipt of this judgment and order.

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

Justice Sashanka Shekhar Sarkar, J:

I agree.