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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH
MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

NOTIFICATION

Dacca, the 1st April, 1976.

No. 303-Pub.—The following Ordinance made by the President of the People's Republic of Bangladesh, on the 30th March, 1976 is hereby published for general information:—

**THE BANGLADESH PUBLIC SERVICE COMMISSIONS (AMENDMENT)
ORDINANCE, 1976**

Ordinance No. XX of 1976

AN

ORDINANCE

to amend the Bangladesh Public Service Commissions Order, 1973.

WHEREAS it is expedient to amend the Bangladesh Public Service Commissions Order, 1973 (P.O. No. 25 of 1973), for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamations of the 20th August, 1975, and the 8th November, 1975, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

1. **Short title.**—This Ordinance may be called the Bangladesh Public Service Commissions (Amendment) Ordinance, 1976.

(1099)

Price: 2.75 Paisa.

2. **Substitution of Article 2, P.O. No. 25 of 1973.**—In the Bangladesh Public Service Commissions Order, 1973 (P.O. No. 25 of 1973), hereinafter referred to as the said Order, for Article 2 the following shall be substituted, namely:—

“2. In this Order, unless there is anything repugnant in the subject or context, “Commission” means the Bangladesh Public Service (First) Commission or the Bangladesh Public Service (Second) Commission established by this Order.”.

3. **Substitution of Articles 5 and 6, P.O. No. 25 of 1973.**—In the said Order, for Articles 5 and 6 the following shall be substituted, namely:—

“5. The functions of the Bangladesh Public Service (First) Commission shall be—

- (a) to conduct tests and examinations for the selection of suitable persons for appointment to the gazetted civil services and civil posts of the Republic; and
- (b) to advise the President on any matter in relation to the services and posts mentioned in clause (a) on which the Commission is consulted under clause (2) of article 140 of the Constitution.

6. The functions of the Bangladesh Public Service (Second) Commission shall be—

- (a) to conduct tests and examinations for the selection of suitable persons for appointment to the non-gazetted civil services and civil posts excepting the posts—
 - (i) in the divisional office under all departments; and
 - (ii) in the district offices and subordinate offices,
 to which appointment are made by the divisional, district or subordinate office;
- (b) to advise the President on any matter in relation to the services and posts mentioned in clause (a) on which the Commission is consulted under clause (2) of article 140 of the Constitution.

Explanation.—In this Article,—

(a) non-gazetted civil services and civil posts do not include lower subordinate services and posts; and

(b) divisional office, district office or subordinate office means such office as the Government may, by order, specify in this behalf.”.

4. **Amendment of Article 7, P.O. No. 25 of 1973.**—In the said Order, in Article 7, clause (c) shall be omitted.

DACCA;
The 30th March, 1976.

ABUSADAT MOHAMMED SAYEM
President.

A. K. TALUKDAR
Deputy Secretary.

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

NOTIFICATION

Dacca, the 1st April 1976.

No. 304-Pub.—The following Ordinance made by the President of the People's Republic of Bangladesh, on the 28th March, 1976, is hereby published for general information :—

THE MEDICAL COUNCIL (AMENDMENT) ORDINANCE, 1976

ORDINANCE NO. XXI OF 1976.

AN

ORDINANCE

to amend the Medical Council Act, 1973.

WHEREAS it is expedient to amend the Medical Council Act, 1973 (XXX of 1973), for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamations of the 20th August, 1975, and 8th November, 1975, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

1. **Short title.**—This Ordinance may be called the Medical Council (Amendment) Ordinance, 1976.

2. **Insertion of a new section 13A, Act XXX of 1973.**—In the Medical Council Act, 1973 (XXX of 1973), hereinafter referred to as the said Act, after section 13, the following new section 13A shall be inserted, namely:—

“13A. **Power of the Council to certify certain persons to be possessed of sufficient medical qualifications.**—If the Council is satisfied that a person is, by reason of qualifications granted by a medical institution outside Bangladesh, not included in any of the Schedule, and of experience gained in any part of Bangladesh, possessed of qualifications which entitle him to be recognised as possessed of sufficient medical qualifications for the purposes of this Act, it may, certify that the person was possessed of such qualifications; and, on such certification by the Council, the person shall be deemed to be possessed of qualifications which are recognised medical qualifications for the purposes of this Act for such period and upon such condition as may be specified by the Council in this behalf.”

3. **Amendment of section 14, Act XXX of 1973.**—In the said Act, in section 14,—

(a) in sub-section (1), for the words “in Bangladesh” the words “in or outside Bangladesh” shall be *substituted*; and

(b) after sub-section (1) amended as aforesaid, the following new sub-section (1A) shall be *inserted*, namely:—

“(1A) The Council may, by notification in the official Gazette, amend the Third Schedule so as to include therein any additional medical qualification in respect of which the Council is satisfied that it is of sufficient standing to warrant its being included therein”.

4. **Amendment of section 25, Act XXX of 1973.**—In the said Act, in section 25, sub-section (3) shall be *omitted*.

5. **Insertion of a new section 27A, Act XXX of 1973.**—In the said Act, after section 27, the following new section 27A shall be *inserted*, namely:—

“27A. **Persons not registered under the Act not to practise.**—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, no one, other than a registered medical practitioner or a registered dentist, shall practise, or hold himself out as practising, the allopathy system of medicine or dentistry.

(2) Whoever, after the date fixed by notification in the official Gazette, by Medical Council, in this behalf, contravenes the provision of sub-section (1) shall be punishable with fine which may extend to Taka two thousand or with imprisonment for a term which may extend to six months or with both.”.

ABUSADAT MOHAMMAD SAYEM

President.

DACCA;

The 28th March, 1976.

A. K. TALUKDAR

Deputy Secretary.

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

Justice Branch

Section IV

NOTIFICATIONS

Dacca, the 31st March 1976.

No. 230-JIV/2T-11/76.—In exercise of the powers conferred by clause (2) of Regulation 3 of the Martial Law Regulations, 1975, the Government is pleased

to transfer the cases mentioned in column I of the schedule below and pending in the Courts shown in column II thereof to the Special/Summary Martial Law Courts specified in column III of the schedule:

Schedule

Case No.	Courts where cases are pending.	Special/Summary Martial Law Court.
I	II	III
1. Sessions Case No. 105/70, arising out of Galachipa (Patuakhali) P. S. Case No. 11, dated 29-12-68, u/s. 19A and 19(f) Arms Act.	Asstt. Sessions Judge, Patuakhali.	Special Martial Law Court No. VI, Jessore.
2. Special Powers Act Case No. 37/75, arising out of Patuakhali P. S. Case No. 31, dated 28-2-74, u/s. 19A Arms Act, read with Special Powers Act 1974.	Special Tribunal, No. 2, Patuakhali.	Summary Martial Law Court, Patuakhali.
3. Special Powers Act Case No. 38/75 arising out of Bauphal (Patuakhali) P. S. Case No. 2, dated 12-4-74, u/s. 19A and 19(f) Arms Act read with Special Powers Act, 1974.	Ditto	Ditto.
4. Special Powers Act Case No. 36/75, arising out of Mirjaganj (Patuakhali) P. S. Case No. 1, dated 5-12-74 u/s. 19A and 19(f) Arms Act, read with Special Powers Act, 1974.	Ditto	Ditto.
5. Special Powers Act Case No. 33/75, arising out of Mirjaganj (Patuakhali) P. S. Case No. 3, dated 12-12-74, u/s. 19A Arms Act read with Special Powers Act, 1974.	Special Tribunal No. 1, Patuakhali.	Ditto.

Dacca, the 1st April 1976.

No. 232-JIV/Sec-1/75.—In exercise of the powers conferred by clause (2) of Regulation 3 of the Martial Law Regulations, 1975, the Government is pleased to transfer the case mentioned in column I of the schedule below and pending in the court shown in column II thereof to the Special Martial Law Court specified in column III of the schedule:

Schedule

Case No.	Court where case is pending.	Special Martial Law Court.
I	II	III
1. Martial Law Case No. 2 of 1976 arising out of Daulatpur (Khulna) P.S. Case No. 9, dated 4-3-1974, u/s. 120B/409, B. P. C.	Special Martial Law Court No. II, Dacca.	Special Martial Law Court No. VI, Jessore.

By order of the President
A. R. CHOWDHURY
Secretary.

MINISTRY OF HEALTH, POPULATION CONTROL AND LABOUR
(Labour and Social Welfare Division)

Section VI

NOTIFICATION

Dacca, the 16th March 1976.

No. S.R.O. 109-L/76/S-VI/1(9)/75/95.—In pursuance of the provisions of sub-section (2) of section 37 of the Industrial Relations Ordinance, 1969 (XXIII of 1969), the Government is pleased to publish the award of the Labour Court, Khulna, in respect of the Complaint Case No. 113 of 1975:

By order of the President
MUHAMMAD KHADEM ALI
Deputy Secretary.

IN THE COURT OF THE CHAIRMAN, LABOUR COURT

92, Rupsa Strand Road, Khulna.

Complaint Case No. 113 of 1975.

Aynal Hogue, s/o. late Mvi. Kudratullah Mollah, Security Guard, Afil Jute Mills Ltd., Atra, Khulna—*1st Party,*

versus

1. Project-in-charge, Afil Jute Mills Ltd., Atra Industrial Area, Khulna.
2. Chairman, B.J.L.C., Amin Court. Motijheel Commercial Area, Dacca—*2nd Parties.*

PRESENT:

Mr. D. N. Chowdhury—*Chairman.*

Begum Moonnujan Sufian

• Mr. Delwar Hossain

} *Members.*

This is an application under section 25(1)(d) of the Bangladesh Employment of Labour Standing Orders Act, 1965. Briefly stated case of the petitioner is that he was one of the Security Guard under the 2nd party. That on 14-3-1975, he received a charge-sheet from the 2nd party that on 7-3-1975 he replaced a fused bulb for a new bulb at the place of duty. That petitioner denying the charge submitted his explanation which was not found satisfactory and that on a sham enquiry where petitioner's signature was obtained on a blank paper, the petitioner was dismissed from service on 16-4-1975 to which petitioner submitted grievance petition on 24-4-1975 to which the 2nd party gave reply regretting their inability to revise the decision on 15-5-1975 and hence the case for reinstatement in service with back wages.

2nd party by filing W.S. denies all the allegations made in the petition. Their contention is that petitioner was charge-sheeted on the report of the Jamadar and that on a proper enquiry he was found guilty of misconduct for theft of bulb and was rightly dismissed from service. Accordingly 2nd party contends that the petition be dismissed.

Petitioner has examined 1 witness and 2nd party also has examined 1 witness.

Following are the points for determination:—

- (1) Is there any ground of interference with the order of dismissal framed against the petitioner ?
- (2) To what relief, if any, is the petitioner entitled ?

FINDINGS

For the sake of convenience both the points are taken up together.

Ext. A is the instruction book where petitioner put his signature admitting that it was his duty to check bulb at the time of start of the duty. Ext. C is the charge-sheet against the petitioner alleging that he replaced a bulb with a fused bulb and Ext. B is the reply. Ext. D would show that the matter was initiated at the report of Security Subadar. Ext. F is the order of appointment of Inquiry Committee and the personnel of the committee. Ext. G is the notice of enquiry to be held on 28-3-1975. Ext. H are the papers of the proceedings where it is seen that all the persons concerned with the matter were examined. It is the contention of the petitioner that at the enquiry he was asked to put one signature on a blank paper but from the papers it is seen that there are two signatures of the petitioner on the deposition sheet. Petitioner naturally denies his signature at the top but this is not at all substantiated. Accordingly it is seen that enquiry was held as per provisions of

section 18 of Standing Order Act and petitioner on the report of the enquiry committee (Ext. 1) was dismissed *vide* order (Ext. A) on 16-4-1975. The grievance petition (Ext. 5) was submitted on 24-4-1975 and the reply (Ext. 6) was given on 15-5-1975. Accordingly it is seen that petitioner was rightly found guilty of misconduct. It is further seen that Petitioner was earlier punished for misconduct on 24-1-1974 *vide* Ext. C and as such taking the past conduct of the petitioner into consideration I find that there is no extenuating circumstances in favour of the petitioner and petitioner was rightly dismissed from service. It is to be noted that if the personnel of the security department are not men of integrity then it would be unsafe to keep them in charge of guarding the properties of the company and as such I find that petitioner should not be allowed to continue his service with the company.

Considered the written opinion of the learned members.

Petitioner is not entitled to any relief.

Hence it is—

Ordered

That the Case be dismissed on contest but without any costs.

D. N. CHOWDHURY

*Chairman,
Labour Court, Khulna.*

26-1-1976.

Typed by Mr. A. K. M. Moinuddin, Bench
Asstt., Labour Court, Khulna at my dic-
tation and corrected by me.

D. N. CHOWDHURY

Chairman.

NOTIFICATION

Dacca, the 16th March 1976.

No. S.R.O. 110-L/76/S-VI/1(50)/75/94.—In pursuance of sub-section (2) of section 37 of the Industrial Relations Ordinance, 1969 (XXIII of 1969), the Government is pleased to publish the awards and decisions of the Labour Court-II, Dacca, in respect of the following cases, namely:—

- (1) Complaint Case No. 166 of 1975.
- (2) Complaint Case No. 175 of 1975.
- (3) Complaint Case No. 202 of 1975.
- (4) Complaint Case No. 203 of 1975.
- (5) Complaint Case No. 204 of 1975.
- (6) Complaint Case No. 205 of 1975.

- (7) Complaint Case No. 215 of 1975.
- (8) Complaint Case No. 225 of 1975.
- (9) Complaint Case No. 226 of 1975.
- (10) I.R.O. Case No. 121 of 1975.
- (11) I.R.O. Case No. 164 of 1975.
- (12) I. R. O. Case No. 196 of 1975.
- (13) Misc. Case No. 17 of 1975.

By order of the President
 M. KHADEM ALI
Deputy Secretary.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

25/26, Purana Paltan Lane, Dacca.

Complaint Case No. 166 of 1975.

Hajrat Ali, Ex.-Mechanical Helper, Vill. Char Bagla, P.O. Balijuri, Dist. Mymensingh—*First Party,*

versus

The Manager, Solitech International Ltd., 52, Motijheel Commercial Area, Dacca-2—*Second Party.*

PRESENT :

Mr. Ameen Uddin Ahmed—*Chairman.*

Mr. Md. Mahbubul Alam }
 Mr. S.M. Alfazuddin } *Members.*

Representation—Mr. Md. Mahbubul Hoque, Advocate for the First party and Mr. Mohd. Asaduzzaman, Advocate for the second party.

Dated the 24th January 1967 :

By this application under section 25(1)(b) of the Employment of Labour (Standing Orders) Act, 1965, the first party Hajrat Ali seeks direction on the second party to reinstate him in his former post with back wages mainly on the ground that he was dismissed from service for the alleged misconduct *vide* letter dated 12-7-1975 without duly following the provision of section 17/18 of the Standing Orders Act. It is further alleged that he (first party) received the dismissal order on 21-7-1975. Having been aggrieved and dissatisfied with the illegal order of dismissal, the first party served a grievance petition under section 25(1)(a) of the Standing Orders Act upon the Second party on 1-8-1975. The second party replied the grievance petition in the negative. Hence this case.

The second party appeared and contested the case by filing a written statement mainly alleging that the first party's case is hopelessly time barred as he has not submitted his grievance petition under section 17(1)(a) of the Standing Orders Act within time. It is further alleged that the first party was legally dismissed from service with effect from 12th June, 1975 after following the provisions of the Employment of Labour (Standing Orders) Act and not from 12-7-1975. The first party is not entitled to get any relief.

At the time of hearing of this case both parties agreed that the question of limitation as alleged by the second party should be decided first in this case. So I am to see whether the first party's case is time barred as alleged.

DECISION

P.W. 1 Hajrat Ali (first party) is only examined in support of his case. On the other hand D.W. 1 Mansur Ahmed, Additional Administrative Officer of the second party establishment was examined on behalf of the second party. It is not disputed that the first party was serving under the second party as Mechanical Helper since 1971 and he became a permanent worker. Admittedly the first party was dismissed from service *vide* dismissal order dated 12th June, 1975 Ex-C. It is stated in paragraph 5 of the case petition that the first party was dismissed from service *vide* second party's letter dated 12-7-1975 which was received by him (first party) on 21-7-1975 and thereafter he submitted grievance petition under section 25(1)(a) of the Standing Orders Act on 1st August, 1975. It is stated by P.W. 1 in his cross that he set the letter dated 1-8-1975 along with a copy of grievance petition exhibit B to the second party. The said exhibit-"B" will show that the first party sent a grievance petition under section 25(1)(a) of the Standing Orders Act *vide* A/C Registration No. 200 by 28-7-1975. The very evidence of the first party will show that he received the dismissal order exhibit-"C" by signing the same below. The first party's signature below the dismissal order exhibit "C" is marked exhibit "A". The case introduced by the first party in his evidence concerning date of submission of the grievance petition to the second party is contradicted by his own case given in the case petition. It is clear that the first party has neither brought his grievance in writing to the second party within 15 (fifteen) days from the date of dismissal (Exhibit "C") not within 15 days from his knowledge about the date of dismissal of his service. I, therefore, find that this case is clearly barred by time and consequently the first party is not entitled to get any relief.

The learned Members are consulted over the matter.

Ordered

That the case be dismissed on contest as time barred.

AMEEN UDDIN AHMED
Chairman,
Second Labour Court, Dacca.

Typed on my dictation and corrected by me.

AMEEN UDDIN AHMED
Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

25/26, Purana Paltan Lane, Dacca—2.

Complaint Case No. 175 of 1975.

Abdul Awal, Vill. Baila, P.O. Kuthi, district Comilla, C/o. 108, B.C.C. Road,
1st Floor, Room No. 16—*First Party*,

versus

The Project Manager, Dockyard and Engineering Works Ltd., Narayanganj,
Dacca—*Second Party*.

PRESENT:

Mr. Ameen Uddin Ahmed—*Chairman*.

Mr. Md. Mahbubul Alam ..

Mr. S. M. Alfazuddin ..

} *Members*.

Representation—Mr. Akkas Ali, Labour Consultant for the first party and
Mr Khalilur Rahman, Advocate for the second party.

Dated the 21-1-1976 :

By this application under section 25(1)(b) of the Employment of Labour (Standing Orders) Act, 1965 the first party Abdul Awal, Darwan under the second party seeks a direction on the latter to reinstate him in his former post with other benefit including back wages upon the alleges that he was dismissed from service illegally *vide* dismissal order dated 27-6-1975 without holding fair and impartial enquiry and without giving him reasonable opportunity to interrogation any prosecution witness and as such they violated the provision of sections 17 and 18 of the Employment of Labour (Standing Orders) Act in the mater of such illegal dismissal. It is further alleged that the allegations in the charge dated 3-5-1975 constituted no misconduct as referred to in the Standing Orders Act and that after the dismissal, the first party submitted grievance petition dated 10-7-1975 to the second party but the second party neither enquired the matter nor gave any decision. Hence this case.

The second party contested the case by filing written statement alleging *inter alia* that the first party was charge-sheeted for misconduct and thereafter the first party submitted grievance petition dated 7-5-1975 which was found unsatisfactory and as such the second party held enquiry on 16-5-1975 where the first party duly participated and defended himself in the enquiry by examining witnesses. The second party on the basis of enquiry report and other materials found the first party guilty of misconduct and thereafter dismissed the first party from service after complying the Labour Laws duly. The first party is not entitled to get any relief in this case.

It is to be seen whether the first party is to be reinstated in his service with back wages as prayed for.

DECISION

The first party Abdul Awal as P.W. 1 has examined himself in support of his case. On the other hand D.W. 1 A. K. M. Hossain Rahman Chowdhury, Senior Administrative Officer of the Second Party has examined on behalf of the second party. It is not disputed that the first party was serving under the second party as Darwan since 1-11-1961 and his last pay wages was at Taka 210.00 per month. The first party in his evidence stated that he received the charge-sheet dated 3-5-1975 Exhibit 1 from the second party and thereafter he submitted explanation dated 7-5-1975 denying the charges. The copy of the said explanation has been marked as Exhibit 2. According to P.W. 1, he was examined by the enquiry officers during the enquiry and his statements during the enquiry has been marked as Exhibit A. P.W. 1 also stated in his evidence that his witness Mr. Riasat Ali was examined and his statement recorded during the enquiry has been marked Exhibit A(1). It is in evidence that the first party after receipt of the letter of dismissal Ex. 3, submitted his grievance petition dated 10-7-1975 to the second party who neither gave any reply nor decision to the same. D.W. 1 simply proves the signature of the 3 enquiry officers given in the enquiry report dated 24-6-1975, Ex-B.

It will appear from the charge Ex-1 that on the basis of written report dated 22-4-1975 submitted by Lady Nurse Mrs. Mac Donald, there was a preliminary enquiry over the assault on her by the first party and thereafter on the basis of preliminary report, the second party framed the same charge Ex-1 for misconduct against the first party. P.W. 1 has clearly stated in his evidence as well as in the case petition that Mrs. Mac Donald, the complainant was neither present nor examined in the enquiry and he was not given any chance to interrogate the same complainant. It is also curious to find that neither the written complaint of the said Nurse dated 22-4-1975 against the first party nor the preliminary report against the first party referred to in the charge Exhibit 1 is not produced before the court. No explanation whatsoever is given for non-production of those important documents. The complainant Mrs. Mac Donald is the most competent and material witness to be examined during the enquiry. Had the same Nurse been examined during the enquiry, the first party could have cross examined the Nurse over the alleged charges. The reason is not far to seek as to why those material documents referred to in the charge was produced during hearing in this court and why the said Nurse was not examined in order to prove the charges against the first party during enquiry. It is also appears from the enquiry report Exhibit B that one Dr. Habibur Rahman examined the said Nurse and he was also examined by the enquiry committee. Nothing is produced before this court nor to show that the statement of the said Dr. Habibur Rahman was recorded in the enquiry. The rule of natural justice required that the party should have the opportunity to interrogate or cross examine the prosecution witnesses. In this case, the prosecution (second party), withheld material witnesses as well as the material documents without any explanation. It can be safely said that the principle of natural justice has not been observed in this case.

From the evidence and materials on record it is found that there was a scuffle between Mrs. Mac Donald and the first party on the night of 21-4-1975, So both were equally liable. Moreover, the dismissal order Exhibit 3 does not specify the nature of misconduct as defined in section 17(3) of the Standing Orders Act. From the discussion above I have reason to say that the said

enquiry is not fair and impartial. Consequently I cannot but interfere with the order complained of. Having regards to the above facts and circumstances, I find that the first party was not guilty for the alleged misconduct and that the said order of dismissal is not legal and as such liable to be set aside. I therefore, find that the first party is entitled to be reinstated in his service with back wages.

Ordered

That the case be allowed on contest without cost. The second party is directed to reinstate the first party in his former post with back wages within 30 (thirty) days from this day.

Members consulted.

AMEEN UDDIN AHMED
Chairman,
Second Labour Court, Dacca,
21-1-1976.

Typed on my dictation and corrected
by me.

AMEEN UDDIN AHMED
Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

25/26, Purana Paltan Lane, Dacca.

Complaint Case No. 202 of 1975.

Md. Danesh Miah, Vill. Gazipura, P.O. Mannu Nagor, Tongi, Dacca—*First Party*,

versus

The Managing Director, Matsy Enterprise Ltd., 94/95, Tongi Industrial Area
Dacca—*Second Party*.

PRESENT :

Mr. Ameen Uddin Ahmed—*Chairman*.

Mr. Md. Mahbubul Alam	} <i>Members.</i>
Mr. S.M. Alfazuddin	

Representation: Mr. A.R. Sonnamat, Labour Advisor for the first party and
Mr. M. H. Rahman and Mr. A.K. Khan, Advocate for the second party.

Dated the 31st January 1976 :

By this application under section 25(I)(b) of the Employment of Labour (Standing Orders) Act, 1965 the first party Md. Danesh Miah seeks direction upon the second party to reinstate him in his former post with back wages together with all other benefits mainly on the ground that the second party has

discharged him (first party) on 27-9-1975 with *malafide* intention in violation of the provisions of the Employment of Labour (Standing Orders) Act as the first party is the Vice-President of the Matsy Enterprise Sramik Union.

The second party contested the case by filing written statement alleging mainly that termination of the services of the first party is a termination simplicitor and the second party offered the termination benefits to the first party in due time but the second party refused to accept the termination benefits. The first party is not the Vice-President of the alleged Sramik Union and that the second party has not violated any provision of the Employment of Labour (Standing Orders) Act. The first party is not entitled to get any relief.

It is to be seen whether the first party is entitled to be reinstated in his service with back wages as prayed for.

DECISION

P.W. 1 Md. Danesh Miah the first party has only examined in support of his case. None was examined on behalf of the second party. It is not disputed that the first party was a permanent Security guard under second party since 12-5-1972 on a monthly salary of Taka 304.00. It is proved from the evidence on record that the first party is the Vice-President of the worker's union since 1972. Exhibit-1 is the order dated 27-9-1975 by which the first party was discharged from service. It is also in evidence that after exhibit-1 the first party submitted grievance petition dated 1-10-1975 and the second party replied the said grievance petition *vide* letter dated 17-10-1975 exhibit-3. It is not the case of the first party that he was dismissed from service by the second party for his (first party) trade union activities. P.W. 1 nowhere in his evidence has stated that the second party discharged or dismissed him from service by way of victimisation for his trade union activities. Rather P.W. 1 in his evidence in chief has stated that he cannot say as to why the second party discharged him from service. In cross P.W. 1 has clearly stated that after the order of dismissal *vide* exhibit 1, the second party offered termination benefit to him but he refused to accept. The facts and circumstances go to prove that the termination of services of the first party *vide* Exhibit 1 is termination simplicitor. So the first party is only entitled to get termination benefits under section 19 of the Employment of Labour (Standing Orders) Act, 1965. It appears that the second party ready to pay termination benefits to the first party. The first party has hopelessly fail to prove that his service was terminated by way of victimisation for his trade union activities. Consequently I must hold that the first party is not entitled to get reinstatement with back wages as prayed for. Accordingly,

Ordered

That the case be dismissed on contest without costs.

Members consulted over the matter.

AMEENUDDIN AHMED
Chairman,
Second Labour Court, Dacca.

Typed my dictation and corrected by me.

AMEENUDDIN AHMED
Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

25/26, Purana Paltan Lane, Dacca—2.

Complaint Case No. 203 of 1976.

Anwar Hossain, vill. Dattapara, P.O. Mannunagor, Tongi, Dacca—*First party*,*versus*The Managing Director, Matsy Enterprise Limited, 94/95, Tongi Industrial Area,
Dacca—*Second Party*.

PRESENT:

Mr. Ameen Uddin Ahmed—*Chairman*.

Mr. Md. Mahbulul Alam

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} *Members*.

Mr. S. M. Alfazuddin

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Representation—Mr. A.R. Sonnamat, Labour Advisor, for the first party and
Mr M. H. Khan and Mr. A.K. Khan, Advocates for the second party.

Dated the 31st January 1976 :

By this application under section 25(1)(b) of the Employment of Labour (Standing Orders) Act the first party Anwar Hossain seeks direction upon the second party to reinstate him in his former post with all back wages mainly on the ground that the second party discharged him from service on 27-9-1975 with some *mala fide* intension in violation of provision of the Employment of Labour (Standing Orders) Act as the first party is the Joint Secretary of the Sramik Union.

The second party contested the case by filing written statements alleging *inter alia* that the termination of services of the first party is a termination simplicitor and that the first party was offered termination benefits but he refused to accept. It is also alleged that the first party's services was not terminated by way of victimisation of trade union activities.

It is to be seen whether the first party is entitled to get relief as prayed for.

DECISION

P.W. 1 Anwar Hossain (first party) is only examined himself in support of his case. None is examined on behalf of the second party. It is not disputed that the first party was a permanent Packer under the second party since 7-2-1972. It is proved that the first party is the Joint Secretary of the Sramik Union since 1972. No where in the case petition or in the evidence P.W. 1 has stated that he was dismissed or discharged from service by the second party by way of victimisation for his (first party) trade union activities. P.W. 1 could not say as to why the second party discharged him from service. P.W. 1 in his cross has stated that the second party offered termination benefits to him

after the termination letter exhibit I but he refused to accept. From the above discussions I find that the termination of service *vide* exhibit I is nothing but a termination simplicitor and that the first party is entitled to get termination benefit from the second party. I, therefore, find that the first party is not entitled to get reinstatement as prayed for.

Members consulted over the matter.

Ordered

That the case be dismissed on contest.

AMEEN UDDIN AHMED
Chairman,
Second Labour Court, Dacca.

Typed on my dictation and corrected by me.

AMEEN UDDIN AHMED
Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

25/26, Purana Paltan Lane, Dacca.

Complaint Case No. 204 of 1975.

Abdul Matin, C/o. Bobin Industries, P.O. Mannunagor, Tongi, Dacca—*First Party,*

versus

The Managing Director, Matsy Enterprise Limited, 94/95, Tongi Industrial Area, Dacca—*Second Party.*

PRESENT:

Mr Ameen Uddin Ahmed—*Chairman.*

Mr Md. Mahbubul Alam ..	} <i>Members.</i>
Mr S. M. Alfazuddin ..	

Representation—Mr A. R. Sonnamat, Labour Adviser for the first party and M/s. M. S. Rahman, Advocates for the second party.

Dated the 31st January, 1976:

By this application under section 25(1)(b) of the Employment of Labour (Standing Orders) Act the first party Abdul Matin seeks direction on the second party to reinstate him in his service with back wages mainly on the ground that the second party discharged him from service with some *malafide* intention in violation of the provision of Standing Orders Act as the first party is the Secretary of the Sramik Union.

The second party contested the case by filing written statement alleging *inter alia* that the termination of first party's service is nothing but a termination simpliciter and that the second party never discharged the first party from service by way of victimisation for any trade union activities. The first party is not entitled to get any relief.

It is to be seen whether the first party is entitled to be reinstated with back wages as prayed for.

DECISION

P.W. 1 Abdul Matin (first party) is examined himself in support of his case. None is examined on behalf of the second party. It is not disputed that the first party was permanent Fitter under the second party since 1967. It is proved that the first party is the Secretary of the Siamik Union since 1972. It is evident that the first party submitted various demands of the workers *vide* exhibit 1 and 1(A) to the second party. It is stated by P.W. 1 in his evidence that they used to submit their demands to the second party in January each year. He further stated that after January, 1975 they submitted no worker's demand to the second party. It is not proved that the letter exhibit 5, dated 18-7-1975 was given to the second party on the same was handed over to the management. P.W. 1 in his evidence in chief has stated that he cannot say the reason as to why the second party discharged him from service *vide* exhibit 4. There is no evidence on record to show that the first party was discharged by the second party by way of victimisation for his (first party) trade union activities. I, therefore, find that the first party has hopelessly failed to prove that his service was terminated by way of victimisation for his trade union activities.

It is admitted by P.W. 1 in his cross that the second party offered termination benefits also after passing the discharge order but he refused to accept. The first party may take termination benefits from the second party as the termination *vide* exhibit 4 as a termination simpliciter. In the result I find that the first party is not entitled to get the relief as prayed for.

Members consulted over the matter.

Ordered

That the case be dismissed on contest without costs.

AMEEN UDDIN AHMED
Chairman,
Second Labour Court, Dacca.

Typed on my dictation and corrected
by me.

AMEEN UDDIN AHMED
Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

25/26, Purana Paltan Lane, Dacca.

Complaint Case No. 205 of 1975.

Abdul Mannaf, Fireman, No. 352E, Bangladesh Inland Water Transport Corpn.,
C/o. Srama Upadesta Kendra, 9, Motijheel Circular Road, 3rd Floor, Dacca—2
—First Party,

versus

- (1) The Chairman, B.I.W.T.C., 16, Motijheel Commercial Area, Dacca—2.
(2) The Deputy Secretary, Bangladesh Inland Water Transport Corpn., 16, Motijheel Commercial Area, Dacca—2—Second Parties.

PRESENT:

Mr Ameen Uddin Ahmed—*Chairman*.

Mr Md. Mahbubul Alam ...

Mr S. M. Alfazuddin ...

} *Members.*

Dated the 9th February 1976:

By this application under section 25(1)(b) of the Employment of Labour (Standing Orders) Act the first party Abdul Mannaf, a permanent worker being a Fireman in the Steamer "Ostrich" belonging to the B.I.W.T.C., seeks a direction on the second party No. 2 to reinstate him in his former post and position with back wages alleging that while he (first party) was posted in the Steamer "Ostrich", a show cause letter, dated 23-5-1975 was allegedly issued by the second party No. 2 against him (first party) when he was in his village home on sick leave. Thereafter during his sickness *ex parte* dismissal order, dated 25-6-1975 was received from the second party No. 2 and subsequently the first party submitted an appeal in the form of grievance application on 30-5-1975 explaining and denying the false and frivolous story under which he was (first party) charge-sheeted and dismissed *ex parte*. The said dismissal order was illegal and ultrterior and contrary to the provision of sections 17-18 of the Employment of Labour (Standing Orders) Act, 1965.

The second party No. 2 contested the case by filing written statement and alleged *inter alia* that the first party while in service as Fireman in the Steamer "Ostrich", kept 5 (five) bags containing 14 (fourteen) maunds of rice in the Cabin of Second Driver Ali Akber illegally and without booking the same in the name of B.I.W.T.C. on 20-12-1974 and thus misappropriated the freight earned thereof for his personal gain. The said offence was detected by Inspector M. M. A. Samad while he inspected the vessel on 20-12-1974 and then the first party admitted his guilt and the second Driver Ali Akber gave written statement before the Inspector. After detection of the offence the first party left the Steamer on the plea of leave. Thereafter the second party served the charge-sheet on the first party's home address on 23-5-1975. Though the first

party received the charge-sheet, but he did not submit any explanation or reply. Consequently the second party dismissed the first party from service on 26-6-1975. The first party was dismissed in accordance with the provisions of the Employment of Labour (Standing Orders) Act, 1965. The first party is not entitled to any relief.

It is to be seen whether the first party is entitled to be reinstated in his service with back wages.

P.W. 1 Abdul Mannaf, the first party, has examined himself in support of his case. On the other hand D.W. 1 M. A. Samad, the Inspector of the second party vessel, is examined on behalf of the second party. It is not disputed that the first party was serving as Fireman in the Steamer "Ostrich" belonging to B.I.W.T.C. with effect from 1965, it is also an admitted fact that the first party was on leave for 45 days with effect from 4-5-1975. P.W. 1 admitted in his evidence that he received the charge-sheet, dated 23-5-1975 from the second party No. 2 in due time but he could not submit explanation or reply to the same as according to him he was ill then. P.W. 1 also admitted that he received the dismissal order in question dated 26-6-1975 exhibit-3 and thereafter he submitted grievance petition, dated 30-6-1975 to the second party who received the same but gave no reply or decision. It is also an admitted fact that the second party No. 2 received the grievance petition but gave no reply to the same. The copy of the said grievance petition is marked exhibit-4. It is alleged in the charge-sheet exhibit-2 that the first party while in duty as Fireman in the Steamer "Ostrich", kept 5 bags containing 14 maunds of rice in the Cabin of Second Driver Ali Akber illegally and without booking the same on 20-1-1974 and thus misappropriated the freight earn thereof for his personal gain and the said offence was detected by Inspector (D.W. 1) on 20-1-1974 in the vessel and that the first party admitted the guilt at the time of detection and the Second Driver Ali Akber also gave written statement before the Inspector. P.W. 1 admitted in his cross that on 20-12-1974 Mr Samad, Inspector (D.W. 1) held spot enquiry. P.W. 1 in his cross has stated that he does not know if 5 (five) bags of rice was found in the Cabin of Second Driver on 20-12-1974. The evidence of D.W. 1 shows that while he was on duty on 20-12-1974 he found 5 bags of rice lying in the Cabin of Second Driver Ali Akber, that is D.W. 1 who enquired and stated that the first party kept the said bags in Cabin. D.W. 1 further stated that the first party during the spot enquiry admitted the guilt by saying that he kept those bags of rice without booking. According to D.W. 1 in his cross he took written statements of the Second Driver Ali Akber but he took no statement of first party on 20-12-1974. Neither the written statement of the Second Driver Ali Akber nor the report of the Inspector D.W. 1 dated 23-12-1974 is produced, one exhibit-A is produced by the second party but the same was dated 30-12-1975, i.e., after the date of dismissal order.

According to section 18(I) of the Standing Orders Act, the aggrieved workman cannot be discharged or dismissed unless he has given a personal hearing if such a prayer is made by the aggrieved worker. Here in the instance case in spite of receipt of charge-sheet, exhibit-2, the first party has not prayed for personal hearing or submitted explanation. First party's plea for non-submission of explanation in no way can be believed. Admittedly the first party submitted the grievance petition to the second party No. 2 after the dismissal in question

but the second party No. 2 gave no reply or decision. There was no enquiry after the submission of the grievance petition. It does not show that any opportunity was given to the first party for hearing nor there was any enquiry after the grievance petition. Moreover the dismissal order in question exhibit-3 on the spot enquiry cannot be accepted to be made in compliance with the provisions of Standing Orders Act. In view of these, I find that the first party's dismissal from service is not proper and valid.

The first party has prayed for reinstatement with back wages. It can be safely said that there are well reasons to suspect the first party in the alleged charge framed by exhibit-2 and naturally the second party No. 2 has lost confidence and trust in the first party. Admittedly a spot enquiry was held by D.W. 1 dated 20-12-1974 over the matter. I think for the interest of the management, such an employee (first party) should not be reinstated under the second party. I am therefore in opinion, the first party should be given termination benefits as provided by section 19 of the Employment of Labour (Standing Orders) Act. To my thinking, the benefits, envisaged here, will make the ends of justice.

Learned members are agreed with me in the above view.

Ordered

That the case be allowed on contest without costs.

The first party will get termination benefits under section 19 of the Employment of Labour (Standing Orders) Act as follows:—

- (a) 90 days' notice pay at monthly wages as last drawn.
- (b) Wages for 14 days for each completed year of service or part thereof over six months as service compensation.
- (c) Unpaid wages, if any.
- (d) Wages for unavailed earned leave, if any.
- (e) The second party is directed to calculate and pay the same within 30 days from this day.

AMEEN UDDIN AHMED
Chairman,
Second Labour Court, Dacca.
9-2-1976.

Typed on my dictation and corrected
by me.

AMEEN UDDIN AHMED
Chairman.
9-2-1976.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

25/26, Purana Paltan Lane, Dacca-2.

Complaint Case No. 215 of 1975.

Hamayetuddin Ahmed, Asstt. Engineering Supervisor, C/o. Mr. Ghayesh Uddin Ahmed, 27, New Hajiganj, Narayanganj, Dacca—*First Party*,

versus

The Secretray, B.I.W.T.C., 16, Motijheel Commercial Area, Dacca-2 *Second Party*.

PRESENT—

Mr. Ameenuddin Ahmed—*Chairman*.

Mr. Md. Mahbubul Alam

Mr. S.M. Alfazuddin

} *Members.*

Representation—Mr. S. A. Ansari, Labour Advisor for the first party and Mr R. Ahmed for the second party.

Dated the 27th January 1976.

By this application under section 25 (1) (b) of the Employment of Labour (Standing Order s) Act, the first party Hamayetuddin Ahmed seeks direction upon the second party to reinstate him (first party) in his former post with full back wages mainly alleging that he has been dismissed form service *vide* second party's order dated 2-9-1975 without holding any enquiry as provided under Standing Orders Act and without giving reasonable opportunity to defend his case. The first party also alleged that after the said dismissal order he submitted grievance petition to the second party on 11-5-1975 protesting the said illegal dismissal order but the second party gave no reply or decision. Hence this case.

The second party appeared and filed written statement mainly alleging that the first party is not a worker according to Labour Law and as such he cannot maintain this case. The second party files a petition prayed for time on the date of hearing of this case on the ground stated therein but the said time petition was rejected *vide* order dated 26-1-1976 and this case was heard *ex parte*.

It is to be seen whether the first party is entitled to get any relief as prayed for.

Decision

P.W.1 Hamayetuddin Ahmed (First Party) is examined in order to substantiate his case. The documents filed by the first party are marked exhibits 1 to 6. The first party in his case petition as well as in evidence has stated that he was an Assistant Engineering Supervisor in the establishment of the second party. Exhibit 1 is the appointment letter of the first party and exhibit 2 is the letter by which the first party's service was confirmed as Assistant

Engineering Supervisor. Exhibit 3 dated 24-7-1975 is the letter by which the second party asked the first party to show cause for his alleged act referred to in the letter. Exhibit 4 dated 3-7-1975 is the letter by which the first party was dismissed from service. Exhibit 6 is the grievance petition dated 8-9-1975 by the first party to the second party after his dismissal from service.

It goes without saying that this case under section 25 will be maintainable only if the first party is found to be a worker, otherwise he is out of court. In order to determine whether an employee is a worker or is one excluded from its' category, I shall have to look into the nature of the work he performs. P.W.1 in his petition has not stated anything about his nature of work or duties. It is stated by P.W.1 in his evidence that he used to supervise the work of mechanics, Labourers and group of Helpers. He further stated that he has no power to grant leave of those worker, who used to work under him. The first party in his case petition or in his grievance petition did not assert himself to be a worker. He asserts him to be a Assistant Engineering Supervisor, From his evidence, it can be safely said that the first party had supervisory as well as administrative functions and control over the workers who used to work under him. The first party cannot be accepted to be a worker as law does not anywhere says that the criterion of a a person employed in administrative or supervisory capacity must be necessarily had the power to appoint and dismissed any employee of the establishment.

From the evidence and my discussion above, I am of the view that the first party was not a worker within the definition of section 2(5) of the Employment of Labour (Standing Orders) Act and as such he is not entitled to get relief in this case. I, therefore, find that this case is not maintainable.

Members consulted over the matter.

Ordered

That the case be dismissed *ex parte* as unmaintainable.

AMEENUDDIN AHMED

Chairman,
Second Labour Court, Dacca.

Typed on my dictation and corrected by me.

AMEENUDDIN AHMED

Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

25/26, Purana Paltan Lane, Dacca,

Complaint Case No. 225 of 1975.

Md. Abdur Razzaque, M. C. No. 501, Cloth Checker, Warehouse Department,
No. 2, Dhakeswari Cotton Mills, Godnail, Narayanganj, Dacca—*First Party*,

versus

The Manager, No. 2, Dakeswati Cotton Mills, Godnail, Narayanganj, Dacca—
Second Party.

PRESENT.

Mr. Ameen Uddin Ahmed— *Chairman.*

Mr. Md. Mahbubul Alam .. }
 Mr. S. M. Alfazuddin .. } *Members.*

Dated the 3rd February 1976:

This application under section 25(I)(b) of the Employment of Labour (Standing Orders), Act, 1965 by first party Abdur Razzaque for his reinstatement in his former post and position with back wages and other benefits.

The case of the first party is that he has been serving under the second party for the last 17 years as a Cloth Checker in the Warehouse department. The first party was attacked with T.B. and admitted in the Medical Hospital. After his discharge from the hospital the first party went to resume his duties but he was not allowed to resume duties rather he was sent to further medical examination. The medical report dated 12-3-1975 suggested light work for the first party. Accordingly the first party used to do light work but his monthly average pay was reduced from Taka 365.00 to 201.00. The first party protested the said reduction of pay. Thereafter suddenly the second party charge-sheeted the first party for misconduct on 7-8-1975 and the first party submitted explanation on 11-8-1975. Ultimately the second party dismissed the first party from service on 4-10-1975 without holding any enquiry whatsoever. The said dismissal is contrary to the provision of Labour Laws. The first party submitted grievance petition on 9-10-1975 to the second party but the second party gave no reply to the same. Hence this case.

The second party contested the case by filing written statement alleging *inter alia* that the first party was attacked with T.B. and he was allowed medical leave for his treatment. After treatment for 6 months the medical officer suggested to give the first party light works. The disease of the first party is highly terrible and as such M.O. advised the first party to work light job. The first party thereafter never turned up for duty, rather he excited the worker to go on strike. Ultimately the management charge-sheeted the first party for misconduct on 7-8-1975 and thereafter dismissed the first party from service on 4-10-1975 after duly complying the provisions of section 17-18 of the Standing Orders Act. The first party is not entitled to get any relief.

It is to be seen whether the first party is entitled to get relief as prayed for.

DECISION

P.W. 1 Abdur Razzaque the first party has only examined himself in support of his case. None is examined on behalf of the second party. Admittedly the first party was a permanent worker under the second party establishment and he (P. W. 1) was a Cloth Checker in the Warehouse Department and in consequence he was attacked with T.B. and admitted in the hospital.

P.W. 1, at the time of hearing, has clearly stated in his evidence that due to his continuous ill health it is not safe on his part to serve as Cloth Checker under the second party's establishment. P.W. 1 in his evidence further stated that he is now ready to accept termination benefit from the second party

according to law. According to P.W. 1 he was appointed as Cloth Checker under the second party on 26-3-1959 and since then he was continuing his service till dismissed by the second party on 4-12-1975 for the alleged misconduct. From the evidence of P.W. 1 it is clear that he is not willing to serve under the second party's establishment due to his continued ill health and as such he wants benefits according to Labour Laws.

In view of the aforesaid discussion the dismissal order dated 4-10-1975 in question, can be easily treated to be an order of discharge from service for the reason of first party's continued ill health.

The evidence of P.W. 1 will show that he used to get Taka 345.00 per month on average. Having regards to the facts and circumstances, I, find that the first party is not entitled to get reinstatement in his service but he is entitled to get benefit under the provision of section 16 of the Employment of Labour (Standing Orders) Act. The first party is entitled to get compensation at 14 days wages for every completed year of service from the second party. Accordingly,—

Ordered

That the case be allowed on contest without cost. The first party is entitled to get compensation at 14 days wages for every completed year of service with effect from 26-3-1959 to 4-10-1975. The second party is directed to calculate and pay compensation accordingly to the first party within 30 (thirty) days from this day.

Members consulted over the matter.

AMEEN UDDIN AHMED
Chairman,
Second Labour Court, Dacca.

Typed on my dictation and corrected
by me.

AMEEN UDDIN AHMED
Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

25/26, Purana Paltan Lane, Dacca.

Complaint Case No. 226 of 1975.

Abdul Aziz, O.H.M. Man, Token No. 586, Finishing Deptt., "A" Shift, Fouzi Chatkal—*First Party,*

versus

The Manager, Fouzi Chatkal, Ghorasal, Dacca—*Second Party.*

PRESENT:

Mr Ameen Uddin Ahmed—*Chairman.*

Mr Md. Mahbubul Alam .. }
 Mr S. M. Alfazuddin .. } *Members.*

Representation—Mr S. R. Chowdhury, Advocate for the first party and Mr M. Shamuddin, Advocate for the second party.

Dated the 5th February 1976:

By this application under section 25(1)(b) of the Employment of Labour (Standing Orders) Act, the first party Abdul Aziz seeks direction upon the second party to reinstate him in his former post with back wages mainly on the ground that the second party retrenched him (first party) from service on 19-5-1975 without following the legal procedure and thereafter the second party found the same retrenchment order defective, and then terminated his (first party) service on 28-6-1975. The said termination order is illegal. Thereafter the first party filed the grievance petition to the second party who gave no reply to the same nor gave any decision. Hence this case.

The second party contested the case by filing written statement alleging *inter alia* that the first party along with other workers are retrenched by an order dated 16-5-1975 in pursuance of an order from Bangladesh Jute Industries Corporation. Thereafter the first party was paid retrenchment benefits. The first party thereafter approached the Manager of the second party and requested him to terminate him (first party) instead of retrenchment so that the first party may get more benefits. Accordingly the service of the first party was terminated by a letter, dated 28-6-1975 superseding the previous order of retrenchment. The first party was asked to take termination benefits after adjustment of the retrenchment benefit but the first party refused to take the same. The second party received no grievance petition from the first party. The first party is not entitled to any relief.

It is to be seen whether the first party is entitled to get any relief as prayed for.

P.W. 1 Abdul Aziz the first party has only examined himself in support of his case. None is examined on behalf of the second party. It is not disputed that the first party was appointed as Machineman on 2-10-1968 under the second party. It is also an admitted fact that the first party was retrenched from service by the second party on 19-5-1975 *vide* exhibit-1 and thereafter at the request of the first party the Manager of the second party *vide* letter, dated 28-6-1975, *i.e.*, exhibit-2 terminated the service of the first party. It is admitted by P.W. 1 that he received retrenchment benefits amounting to Taka 654.00 from the second party.

However, before entering to the merit, I like to see if the first party's case petition is in time. The first party in his case petition has not stated the date or month or time when he submitted his grievance petition to the second party. At the time of hearing the first party (P.W. 1) has stated that he sent his

grievance petition to the second party about one or two months after the date of termination of his service. On the very face of the evidence of P.W. 1 I find that he has not submitted his grievance petition within time prescribed time as provided in the Employment of Labour (Standing Orders) Act. Consequently first party's case is barred by limitation. So, I am not in a position to look into the merit of the case. Accordingly,—

Ordered

That the case be dismissed on contest as time barred.

Members consulted over the matter.

AMEEN UDDIN AHMED
Chairman,
Second Labour Court, Dacca.

Typed on my dictation and corrected
by me.

AMEEN UDDIN AHMED
Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

25/26, Purana Paltan Lane, Dacca—2.

Industrial Relations Ordinance Case No. 121 of 1975.

Md. Lokman Hossain, 108, B.C.C. Road, 1st Floor, Room No. 16, Gandaria, Dacca-3—*First Party,*

versus

The Manager, Lira Industrial Enterprise (P) Ltd., 67, Dilkhusha Commercial Area, Dacca-2—*Second party.*

PRESENT :

Mr Ameen Uddin Ahmed— <i>Chairman.</i>	} <i>Members.</i>
Mr Md. Mahbubul Alam	
Mr S.M. Alfazuddin	

Representation—Mr Akkas Ali, Labour Consultant, for the First Party and Mr Md. Khalilur Rahman, Advocate for the Second Party.

Dated the 21-1 1976:

The first party Lokman Hossain, by this application under section 34 of Industrial Relations Ordinance, 1969 seeks a direction upon the second party for placing him (1st party) in Grade -IV of the I.W.W.C. Scale with effect from 16-5-1974. The case of the first party is that he is serving under the

second party as Shift-in-Charge. The first party is a highly skilled worker but he was placed in Grade No. III and fixed his pay accordingly by the second party *vide* letter, dated 25-5-1975 the first party as highly skilled worker entitled to be placed in Grade No. IV the scale of Taka 225.00 to Taka 395.00. The first party is entitled to be placed under Grade-IV in the scale of Taka 225.00 to Taka 395.00.

The second party contested the case by filing written statement alleging that the first party has no cause of action in this case as the second party has already issued an order placing the first party in the Grade-IV of the I.W.W.C. scale *vide* second party's order dated 21-8-1975 and the effect thereof has been given 16-5-1974. So the first party's case is liable to be dismissed.

It is to be seen whether the first party is entitled to get any relief as prayed for.

DECISION

Neither party adduce any oral evidence. It is not disputed that the second party *vide* his order, dated 21-8-1975 Ex-1 had placed the first party in Grade-IV of the I.W.W.C. Scale Taka 225.00 to Taka 395.00 with effect from 16-5-1974. The first party also received the said order, Ex-1. The relief prayed for by the first party in the case petition has been fully complied as will appear from Ex-1. So the first party has no cause of action after the said order Exhibit-1. Consequently the first party's case must fail.

Ordered]

That the case be dismissed on contest, accordingly.

Members consulted.

AMEEN UDDIN AHMED
Chairman,
Second Labour Court, Dacca.
21-1-1976.

Typed on my dictation and
corrected by me.
AMEEN UDDIN AHMED
Chairman.
21-1-1976.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

25/26, Purana Paltan Lane, Dacca

Industrial Relations Ordinance Case No. 164 of 1975.

Abdur Razzque, S/o, Late Nazemuddin Bepari, P. O. & Vill, Lakhonkhola,
P. S. Bandar, Narayanganj, Dacca—First Party,

versus

The Manager, The Dakeshwari Cotton Mills Ltd., No, 1, Dhamgarh, Narayan-
ganj, Dacca—Second Party.

PRESENT :

Mr Ameen Uddin Ahmed—*Chairman.*

Mr Md. Mahbubul Alam }
Mr S. M. Alfazuddin } *Members.*

Representation—Mr M. A. Latif Majumder, Advocate for the First Party and Mr L. Rahman, Labour Adviser, for the Second Party.

Dated the 28th January 1976:

The first party Abdur Razzaque has filed this case praying for declaring his suspension order, dated 28-6-1975 as illegal and further prayed for his (first party) reinstatement in service with back wages alleging that the second party, suddenly suspended him from service *vide* letter, dated 28th June 1975 on the false charges and that more than sixty (60) days have already passed but the second party did not decide the matter and clearly violated the mandatory provision of law.

The second party contested the case by filing written statement mainly alleging that this case under section 34 of Industrial Relations Ordinance as framed is not maintainable. It is further alleged that the first party stole some essential parts of Boiler department on 28-6-1975 while on duty and thereafter on the same date the first party was charge-sheeted for misconduct and the first party submitted his explanation on 1-7-1975 admitting the guilt and prayed for mercy. Thereafter the second party dismissed the first party on 7-7-1975 after following the provision of Labour Laws.

It is to be seen whether he is entitled to get relief as prayed for.

DECISION

P. W. 1 Abdur Razzaque the first party is only examined himself in support of his case. None is examined on behalf of the second party. It is not disputed that the first party was appointed as Oiler in the second party's establishment with effect from 7-8-1970 it is also an admitted fact that the second party issued charge-sheet, dated 28-6-1975 for misconduct upon the first party *vide* Exhibit—1. Admittedly the first party was suspended *vide* exhibit—1 till the disposal of the proceeding. The evidence of P. W. 1 in cross shows that in compliance with the charge-sheet exhibit—1 he submitted explanation, dated 1-7-1975 exhibit—A confessing his guilt. It also appears from the evidence of P. W.—1 that he knew about his dismissal from service about 4/5 months back. This clearly shows that the first party came to learn about his dismissal from service by the second party, prior to the filing of this case under section 34 of the Industrial Relations Ordinance.

The order of suspension pending enquiry is neither punishment nor penalty. The first party in his evidence simply prayed for his reinstatement in service with back wages. The question of reinstatement does not arise unless his service is dismissed by the employer. This case under section 34

of I. R. O. must fail for the reason that the first party as a dismissed worker and his dismissal is unconnected with any industrial dispute. Moreover, this case as framed is not maintainable. Thus the first party's case does not lie under section 34 of I. R. O. So the first party is not entitled to the relief as prayed for.

Ordered

That the case be dismissed on contest without cost.

The learned members are consulted over the matter.

Typed on my dictation
and corrected by me.

AMEEN UDDIN AHMED
Chairman.

AMEEN UDDIN AHMED
Chairman,
2nd Labour Court.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

25/26 Purana Paltan Lane, Dacca—2.

Industrial Relations Ordinance Case No. 196 of 1975

Hashmat Ali, Son of Late Abdul Hakim, at present Senior Fitter, formerly Foreman, Siddhirganj Power Station, Dacca.—*First Party,*

versus

- (1) The Chairman, Bangladesh Power Development Board, WAPDA Building, Dacca;
- (2) The Chief Engineer (O & M), Bangladesh Power Development Board WAPDA Building, Dacca;
- (3) The General Manager (Power), Bangladesh Power Development Board, WAPDA Building, Dacca;
- (4) The Chief Personal Officer (Power), Bangladesh Power Development Board, WAPDA Building, Dacca;
- (5) The Manager, Siddhirganj Power Station, Siddhirganj, Dacca—*Second Parties.*

PRESENT:—

Mr Ameen Uddin Ahmed—*Chairman.*

Mr Md. Mahbubul Alam }
Mr S.M. Alfazuddin, } *Members.*

Representation—Mr A.F. Hassan Ariff, Advocate, for the first party and Mr S. H. idar, M.A. Rahman and Mr H.R. Khan, Advocates, appeared on behalf of the second parties represented by its Secretary, P.D.B., WAPDA Building, Dacca.

Dated the 10th February 1976:

By this application under section 34 of Industrial Relation Ordinance 1969 the first party Hashmat Ali seeks direction upon the second parties to reinstate him in his original post of Foreman with the scale of pay attached with effect from 5th August 1959 after canceling the second party's office order No. 795, dated 26/28th June 1961.

The case of the first party is that he was appointed as Foreman with effect from 15th August 1959 at the basic pay of Taka 150.00 plus Dearness allowance *vide* memo. dated 5/14th September, 1959. The first party was working most efficiently in the said post of Foreman but most surprisingly the second parties demoted him (first party) to the rank of Fitter at the basic pay of Taka 110.00 per month with effect from 1st July 1961 by an illegal order dated 26/28th June 1961 without assigning any reason whatsoever. Thereafter the first party made several representations to redress his gross injustice but the second parties in spite of their giving undertaking gave no relief to the first party. Hence this case.

The second party contested the case by filing written statements alleging *inter alia* that the case is not maintainable as framed and that the case is barred by limitation, estoppel, and waiver. It is also stated by the second parties that the first party was working for the Election of Turbine at Siddharganj steam Power Station in the establishment of Superintending Engineer. He was appointed temporarily on work charged basis as Foreman at the basic pay of Tk. 150.00 plus dearness allowance on 15-8-1959. The said appointment expressly stipulated that the post was temporary and liable to be terminated with short notice. After the completion of erection work the first party was out of employment. The first party was again appointed as Fitter on work charged basis on 1-7-1961 and the first party accepted the appointment at Taka 110.00. This appointment as Fitter was fresh one and thereafter on 20-2-1962 the first party was made regular as Fitter by Deputy Chief Engineer on the said post and scale he has been working as such in the Siddharganj Power Station since 1-7-1961. After 12 years of his service as Fitter in the said scale which has been revised at Taka 150.00 to Taka 375.00, he (first party) has come out with this application under section 34 of the Industrial Relations Ordinance, 1969 claiming for reinstating him as Foreman with effect from 1-8-1959. His such prayer is not tenable in Law. The first party is not entitled to get any relief.

It is to be seen whether the first party is entitled to get relief as prayed for.

Neither party adduced any oral evidence. The Annexures A, B, C and D submitted by the first party alongwith his petition are taken in evidence without objection. It is not disputed that the first party was first appointed temporarily on work charged basis by the Superintending Engineer as Foreman on the basic pay of Taka 150.00 plus dearness allowance with effect from the 15-8-1959 and the said appointment letter, Annexure-A clearly stipulates that the post was temporary and liable to be terminated with short notice. It is also not disputed that the first party was again appointed as Fitter on work charged basis on 1-7-1961 by Annexure-B by the then Power Station Superintendent. This appointment in the service as Fitter appears to be a fresh one. It will appear from Annexure-A, that during

the continuation of the work of the project the first party was temporarily appointed as Foreman. From the case petition as well as the first party's relief as prayed for therein will show that the cause of action arose in 1961 when surprisingly he (first party) was demoted as Fitter by Annexure-B. It is clear from the materials on record that on 1-7-1961 by Annexure-B, his appointment as Fitter was a fresh one, without any continuation of service. There is no evidence whatsoever that the first party accepted the said post of Fitter with objection rather I find that the first party deliberately accepted the said post of Fitter without any objection. The first party after serving for more than 12 years in the said post (Fitter) at the scale given therein, he (First party) has come out with this case under section 34 of I. R. O. for cancelling the appointment as Fitter and reinstating him as Foreman with effect from 1959.

The case application is under section 34 of Industrial Relations Ordinance, 1969. Section 1(4) of the said Ordinance says that it shall come into force at once. This clearly shows that the said ordinance, 1969 was to come into force from 13-11-1969. There being nothing in the ordinance as regards its retrospective operation, it cannot be said that the intention of the promulgating authority of the ordinance was at a retrospective operation. According to first party's case, after one year and 9 months of his service as Foreman he was demoted to the rank of Fitter with effect from 1-7-1961 by an illegal order dated 26/28th. June, 1961 *i.e.*, by Annexure-B. It is clear from his prayer portion of the case petition that his cause of action arose in June, 1961 *vide* Annexure-B. That is at a long time before the ordinance of 1969 was promulgated. So in this view of the case, the first party's case under section 34 of I. R. O. 1969 is not maintainable.

According to first party's case he was demoted to the rank of Fitter with effect from 1-7-1961 by Annexure-B. That his cause of action arose in 1961. This case was filed by the first party on 16-7-1974 long after his cause of action (1961) without giving any explanation whatsoever for his inordinate delay. Section 34 of I. R. O. of course does not prescribe any period of limitation but this does not mean that an aggrieved can seek his remedy after leave of any period of time. It is so obvious that the I. R. O. 1969 is not applicable to this case. In the present case inordinate delay in filing this case has been explained by the first party. So his remedy as prayed for has been destroyed by his inordinate delay in filing this case. I have already referred to above that section 34 of I. R. O. 1969 is not applicable to this case as the first party's cause of action arose long before this ordinance came into force. Thus in any view of the case, the first party is not entitled to get any relief in this case.

The case is liable to be dismissed.

Ordered

That the case be dismissed on contest without costs.
Members consulted over the matter.

AMEEN UDDIN AHMED
Chairman,
Second Labour Court,
Dacca.

Typed on my dictation and corrected by me.

AMEEN UDDIN AHMED
Chairman,
10-2-1976.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

25/26, Purana Paltan Lane, Dacca—2.

Miscellaneous Case No. 17 of 1975.

Md. Aminul Huque Khan, S/o. Md. Shahabuddin Khan, C/o, A. Bari Khan,
150, Santinagar, Dacca—*First Party*,*versus*Bangladesh Jute Industries Corporation, represented by the Secretary, BJIC,
Adamjee Court, Motijheel C/A., Dacca—*Second Party*.

PRESENT:

Mr Ameen Uddin Ahmed—*Chairman*.

Mr Md. Mahbubul Alam

Mr S. M. Alfazuddin

} *Members.**Representation*—Mr M. A. Latif Majumder, Advocate for the first party and
Mr M. Khalilur Rahman, Advocate for the second party.

Dated the 4th February 1976.

This is an application under Order-IX Rule-9 of C. P. C. for restoration of the original I. R. O. Case No. 112/75 after set aside the order of dismissal for default, dated 10-1-1975 mainly on the ground that he (Petitioner) was engaged and had to appear in connection with Criminal case No. 4(4) of 1974 at Ruganaj Police Station before the Subdivisional Magistrate, Narayanganj on 10-11-1975 and as such the petitioner could not attend this Court (Labour Court) in spite of his full intention to appear.

The opposite party contested the case without filing any written objection.

It is to be seen whether the petitioner was prevented by any sufficient cause from appearing in this Court on 10-11-1975 when the original I. R. O. Case was called on hearing.

P. W.-1 Md. Aminul Huque Khan (Petitioner) has only examined in support of his case. The certified copy of order-sheet of Criminal Case No. 4(4) of 1974 under section 436 B. P. C. is marked Exhibit-1. According to P. W.-1 in cross on previous date of hearing of the original I. R. O. Case he was also present. It was suggested to P. W.-1 in cross that he (P. W.1) did not appear in Narayanganj Criminal Court on 10-11-1975 as alleged but he (P. W. 1) appeared at Narayanganj Criminal Court on 24-11-1975 and manufactured exhibit 1 for the purpose of this case. It will appear from exhibit-1 that the Subdivisional Magistrate signed the order on 24-11-1975. Had the order of the Criminal Case been passed on 10-11-1975, there was no earthly reason on the part of the Magistrate to sign the same on 24-11-1975. The aforesaid suggestion to P. W. 1 in cross rather find support from the said certified copy exhibit-1.

P. W. 1 was well aware about the hearing date (10-11-1975) of the I. R. O. Case since before. The petitioner could have taken step for shifting the date of the I. R. O. Case by filling a petition as according to him his Criminal Case was also fixed at Narayanganj court on 10-11-1975. The petitioner took no step whatsoever in the I. R. O. Case on 10-11-1975. This goes to suggest strongly that the petitioner was not interested to proceed with I. R. O. Case on 10-11-1975. Having regards to the above facts and circumstances I find that the petitioner has not been able to took that he has prevented by sufficient cause from appearing in Court on 10-11-1975 when the original I. R. O. Case was called on for hearing.

The learned Advocate for the opposite party contended that the provisions of I. R. O. had not provide for an application under order-IX rule-9 C. P. C and that this Court had not jurisdiction to entertained such application. The proceeding before the court in the aspect of I. R. O. Case No. 112/75 base concluded with the passing of the dismissal order, dated 10-11-1975 under the express provisions of sections 41(4) of I. R. O. and the proceedings so concluded can only be reopened by similar express provision of law and there is none in I. R. O. section 36(2) of the I. R. O. gives the Labour Court the power of Civil Court under C. P. C. only "While adjudicating and determining an industrial dispute" but it does not give any remedy or right of action to any worker, employer or collective bargaining agent". The section 36(2) of the I. R. O. is only available to a Labour Court while it is "Adjudicating an determining an industrial disputes" and as the present application under order-IX Rule-9 of C. P. C. is not an industrial dispute, in fact it is not a proceeding under I. R. O., therefore, section 36(2) of I. R. O. is not applicable to the present case and the question of this cannot bringing to bear it's power under that section to the present case does not arise.

I, therefore, find that the petitioner's application under Order-IX Rule-9 of C. P. C. is not maintainable under the provisions of I. R. O., in fact it is barred by section 36(1) and section 41(4) of I. R. O. and this court has no jurisdiction to entertain it. In view of the aforesaid discussion this Misc. Case must fail both on merit and law.

Members consulted over the matter.

Ordered

That the Misc. Case be dismissed on contest without costs.

AMEEN UDDIN AHMED

Chairman,

Second Labour Court,

Dacca.

4-2-1976.

Typed on my dictation
and corrected by me.

AMEEN UDDIN AHMED

Chairman.

4-2-1976.

MINISTRY OF HEALTH, POPULATION CONTROL AND LABOUR

(Labour and Social Welfare Division)

Section VI

NOTIFICATION

Dacca, the 20th March 1976.

No. S.R.O. 115-L/76 S-VI/1(16)/75/97.—In pursuance of sub-section (2) of section 37 of the Industrial Relations Ordinance, 1969 (XXIII of 1969), the Government is pleased to publish the awards and decision of the Labour Court, Rajshahi, in respect of the following cases, namely:—

1. I.R.O. Case No. 37 of 1975.
2. I.R.O. Case No. 38 of 1975.
3. I.R.O. Case No. 39 of 1975.
4. I.R.O. Case No. 40 of 1975.
5. I.R.O. Case No. 41 of 1975.
6. I.R.O. Case No. 66 of 1975.
7. I.R.O. Case No. 85 of 1975.

By order of the President
MUHAMMAD KHADEM ALI
Deputy Secretary.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

I.R.O. Case No. 37 of 1975.

Sree Horendra Nath Bhoumik, C/o. Bangladesh Chinikal Sramik Union,
 P.O. Gopalpur, P.S. Lalpur, Dist. Rajshahi—*Petitioner,*

versus

1. North Bengal Sugar Mills Co. Ltd., P.O. Gopalpur, P.S. Lalpur, Dist. Rajshahi.
2. Bangladesh Chinikal Sangsta, Shilpa Bhawan, 5th Floor, Motijheel Commercial Area, P.S. Ramna, Dacca—2.
3. Secretary, Nationalised Industries Division, Government of the People's Republic of Bangladesh, Shilpa Bhawan, Motijheel Commercial Area, P.S. Ramna, Dacca—2—*Opposite Parties.*

PRESENT :

Mr S.M. Serajul Mawla—*Chairman.*

Mr Md. Amjad Ali } *Members.*

Mr S. K. Paul } *Members.*

Order No. 10, dated 21-1-1976:

1st party files a petition for withdrawal of the case with permission to sue afresh. Prayer allowed.

Ordered

That the case be withdrawn with permission to sue afresh on the same cause of action if not otherwise barred.

Sd/—Md. AMJAD ALI

Sd/—S.K. PAUL

S.M. SERAJUL MAWLA

Chairman,

Labour Court, Rajshahi.

21-1-1976

Typed at my dictation by

Mr Md. Nural Hoque,
Stenographer and corrected by me.

S. M. SERAJUL MAULA

Chairman

Labour Court, Rajshahi.

21-1-1976

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

I. R. O. Case No. 38 of 1975.

Sree Nirmal Kanti Biswas, C/o. Bangladesh Chinikal Sramik Union, P. O. Gopalpur, P. S. Lalpur, Dist. Rajshahi—*Petitioner,*

versus

1. North Bengal Sugar Mills Co. Ltd., P. O. Gopalpur, P. S. Lalpur, Dist. Rajshahi.
2. Bangladesh Chinikal Sangstha, Shilpa Bhawan, Motijheel Commercial Area, P. S. Ramna, Dacca—2.
3. Secretary, Nationalised Industries Division, Govt. of the People's Republic of Bangladesh, Shilpa Bhawan, Motijheel C/A, P. S. Ramna, Dacca—2—*Opposite Parties.*

PRESENT :

Mr S. M. Serajul Mawla—*Chairman.*

Mr Md. Amjad Ali

Mr S. K. Paul

} *Members.*

Order No. 10, dated 21-1-1976:

1st party files a petition for withdrawal of the case with permission to sue afresh. Prayer allowed.

Ordered

That the case be withdrawn with permission to sue afresh on the same cause of action if not otherwise barred.

Sd/—Md. Amjad Ali.

Sd/—S. K. PAUL.

S. M. SERAJUL MAWLA

Chairman,
Labour Court, Rajshahi.
21-1-1976.

Typed at my dictation by
Mr Md. Nural Hoque, Stenographer,
and corrected by me.

S. M. SERAJUL MAWLA

Chairman,
Labour Court, Rajshahi.
21-1-1976.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

I.R.O. Case No 39 of 1975.

Kazi Abul Mohsin, C/o. Bangladesh Chinikal Sramik Union, P. O. Gopalpur,
P. S. Lalpur, Dist. Rajshahi—*Petitioner,*

versus

1. North Bengal Sugar Mills Co. Ltd., P. O. Gopalpur, P. S. Lalpur, Dist. Rajshahi.
2. Bangladesh Chinikal Sangstha, Shilpa Bhawan, Motijheel C/A, P. S. Ramna, Dacca—2.
3. Secretary, Nationalised Industries Division, Government of the People's Republic of Bangladesh, Shilpa Bhawan, Motijheel C/A., P. S. Ramna, Dacca—2—*Opposite Parties.*

PRESENT:

Mr S. M. Serajul Mawla—*Chairman.*

Mr Md. Amjad Ali }
Mr S. K. Paul } *Members.*

Order No. 10, dated, 20-1-1976.

1st party files a petition for withdrawal of the case with permission to sue afresh. The prayer allowed.

Ordered

That the case be withdrawn with permission to sue afresh on the same cause of action if not otherwise barred.

S. M. SERAJUL MAWLA

*Chairman,
Labour Court, Rajshahi.
20-1-1976*

Sd/- Md. Amjad Ali.

Sd/- S. K. Paul.
20-1-1976.

Typed by Mr Md. Nural Hoque,
Stenographer, at my dictation
and corrected by me.

S. M. SERAJUL MAWLA

*Chairman,
Labour Court, Rajshahi.
20-1-1976.*

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi

I. R. O. Case No. 40 of 1975

Md. Abdul Aziz, C/o, Bangladesh Chinikal Sramik Union, P. O. Gopalpur,
P. S. Lalpur, Dist. Rajshahi—*Petitioner,*

versus

- (1) North Bengal Sugar Mills Co. Ltd., P. O. Gopalpur, P. S. Lalpur, Dist. Rajshahi.
- (2) Bangladesh Chinikal Sangsta, Shilpa Bhawan, Motijheel C/A, P. S. Ramna, Dacca-2.
- (3). Secretary, Nationalised Industries Division, Govt. of the People's Republic of Bangladesh. Shilpa Bhawan, Motijheel C/A, P. S. Ramna, Dacca-2—*Opposite Parties.*

PRESENT :

Mr S. M. SERAJUL MAWLA—*Chairman.*

Mr Md. Amjad Ali }
Mr S. K. Paul } *Members.*

Order No. 10, dated 20-1-1976.

1st party files a petition for withdrawal of the case with permission to sue afresh. The prayer allowed.

Ordered

That the case be withdrawn with permission to sue afresh on the same cause of action if not otherwise barred.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
 20-1-1976.

Sd/—Md. AMJAD ALI.

Sd/—S.K. PAUL.

Typed at my dictation by
 Mr Md. Nural Hoque,
 Stenographer, and corrected by me.

S. M. SERAJUL MAWLA

Chairman,
Labour Court, Rajshahi.
 20-1-1976.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

I. R. O. Case No. 41 of 1975

Abdus Salam Talukder, C/o. Bangladesh Chinikal Sramik Union, P.O. Gopalpur, P. S. Lalpur, Dist. Rajshahi—*Petitioner,*

versus

- (1) North Bengal Sargar Mills Co. Ltd., P. O. Gopalpur, P. S. Lalpur Dist. Rajshahi.
- (2) Bangladesh Chinikal Sangsta, Shilpa Bhawan, Motijheel Commercial Area, P. S. Ramna, Dacca-2.
- (3) Secretary, Nationalised Industries Division, Govt. of the People's Republic of Bangladesh, Shilpa Bhawan, Motijheel C/A, P. S. Ramna, Dacca-2—*Opposite Parties.*

PRESENT :

Mr S. M. Serajul Mawla—*Chairman.*

Mr Md. Amjad Ali
 Mr. S. K. Paul } *Members.*

Order No. 10, dated 20-1-1976.

First Party files a petition for withdrawal of the case with permission to sue afresh. The prayer allowed.

Ordered

That the case be withdrawn with permission to sue afresh on the same cause of action if not otherwise barred.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
 20-1-1976.

Sd/—Md. AMJAD ALI.

Sd/—S. K. PAUL.

Typed at my dictation by
 Mr Md. Nural Hoque,
 Stenographer, and corrected by me.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
 20-1-1976.

 IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi

I. R. O. Case No 66 of 1975.

A. B. M. Mahbubur Rahman, S/o. M. Momtazur Rahman, Clerk (on suspension, Janata Bank, Kurigram, Dist. Rangpur—*Petitioner,*

versus

- (1) Controller, Janata Bank, Dilkusha Commercial Area, Dacca—2.
- (2) Manager, Janata Bank, Kurigram, Dist. Rangpur.
- (3) The General Manager, Janata Bank, No. 1 Dilkusha Commercial Area, Dacca-2—*Second Parties.*

PRESENT:

Mr S. M. Serajul Mawla—*Chairman,*

Mr. Md. Amjad Ali }
 Mr. S. K. Paul .. } *Members.*

Dated 28th January, 1976.

Petitioner an employee of Janata Bank, Kurigram, district Rangpur was suspended on 2-5-75 and was charge-sheeted on 30-6-75 for an offence of defalcation and falsification of accounts. On 22-7-75 petitioner instituted this case for a declaration that the order of suspension is null and void, for directing the opposite parties not to proceed with the charge sheet dated

30-3-75 and for reinstatement in service with back wages. Petitioner did not show cause to the charge brought against him till 17-7-75 and the second party also took no action *ex parte* or otherwise thought there was no order from the Court staying further proceeding of the charge sheet dated 30-6-75. The plea of the second party is that the petitioner failed to submit his explanation in time and by his letter dated 4-8-75 refused to appear before the Enquiry Committee till the disposal of this Case.

It appears from the pleading of the parties that the petitioner had been trying although to evade the proceeding started against him and the second party also did not care to dispose of the proceeding expeditiously either because of its ignorance about the legal formalities or for any other reasons which might be known to them alone though the offence committed by the petitioner is practically admitted by him. The second party ought to have disposed of the proceeding within sixty days from the date of suspension. Petitioner submitted his explanation 17 days after chargesheet and more than two months after the order of suspension. It is really strange that it took the second party nearly two months' time to draw up a proceeding after the order of suspension. I was told by the learned advocate for the second party that they have asked the petitioner to receive his full pay for the period beyond sixty days after the order of suspension dated 2-5-75. The Bank is a nationalised institution and as such none will suffer any personal loss for any unjustified payment or for any payment to the petitioner which could be avoided if the 2nd party would care to work promptly. However, the period of suspension may extend beyond sixty days if the matter is pending before any Court. Hence the petitioner is entitled to full pay for the period beyond sixty days from the date of his suspension till the date of institution of this case. The period covered by this case shall also be included within the period of suspension u/s 18(2) of the Employment of Labour (Standing Order) Act petitioner is entitled to no other relief. Other claims of the petitioner are hereby rejected.

Learned Members consulted.

Hence Ordered

That the case be dismissed on contest without cost subject to the observation made above. Petitioner shall get his full pay till the disposal of the chargesheet dated 30-6-75 minus a period of sixty days from the date of suspension and minus the period commencing from the date of institution of this case and ending today.

Sd/-MD. AMJAD ALI
Sd/-S. K. PAUL
28-1-1976.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
28-1-1976.

Typed by Mr Md. Nurul Hoque,
Stenographer,
Labour Court, Rajshahi.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
28-1-1976.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi

I R. O. Case No. 85 of 1975.

Md. Mofzul Hossain, M. Com.,
s/o. Mr Md. Abdur Rahman,
Vill. Duarpal,
P. O. Nithpur,
P. S. Porsha,
Dist. Rajshahi—*Petitioner*,

versus

- (1) The Manager,
Aziz Match Factory,
P. O. Shopura, P. S. Paba,
Dist. Rajshahi,
- (2) Chairman,
Abandoned Properties Management Board (Industry),
Rajshahi,

and

Deputy Commissioner, Rajshahi.

- (3) Chairman,
Bangladesh Fertilizer, Chemicals & Pharmaceuticals Corporation,
Shilpa Bhaban,
Motijheel Commercial Area,
Ramna, Dacca-2—*Second Parties*.

PRESENT :

Mr S. M. Serajul Mawla—*Chairman*.

Mr Md. Amjad Ali	}	<i>Members</i>
Mr S. K. Paul		

Dated 29th January. 1976

Petitioner secured an appointment in the Aziz Math Factory, Shopura, Rajshahi as Accountant-cum-Administrative Officer on 3-8-1972. This is an abandoned property on 14-3-1973 the then Manager obtained a letter of resignation from him by threat and coercion. That the resignation was involuntary was proved in an enquiry held by a Magistrate. Still the petitioner was not allowed to resume his duties in the factory but was given his pay up to 17th of March, 1973. In April, 1974 the management of this factory was placed under the Control of Bangladesh Fertilizer, Chemicals and Pharmaceutical Corporation. Opposite party No. 1 is Manager of this factory under O.P. No. 3, B.F.C.P.C. Petitioner stated in his application that in May 1974 he approached the Manager, Finance Director, B. F. C. P. C. but got no response from them.

The contention of the Second party is that at the time they took over charge of this factory petitioner was not in the picture at all as per the acquittance rolls and records of services available in the factory though it might be true that he was an employee of this factory till March, 1973 when it was under the Management Board, Rajshahi.

Petitioner instituted this case u/s 34 I. R. O. on 15-10-75 for reinstatement with back wages, whatever might be the nomenclature of the case it is to be adjudicated according to the provisions laid down in Section 25 of Employment of Labour (Standing Orders) Act. Even if it might be true that the petitioner approached the authorities at Dacca in May, 1974 his application is hopelessly barred by limitation. He also did not follow the procedure laid down in Section 25 of the Act. Hence he is not entitled to any relief.

Learned Members consulted.

Ordered

That the case be dismissed on contest without cost.

Sd/-Md. AMJAD ALI
Sd/-S. K. PAUL, 29-1-1976

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
29-1-1976.

Typed by Mr Md. Nural Hoque,
Stenographer, Labour Court, Rajshahi.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
29-1-1976.