

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

বৃহস্পতি, ডিসেম্বর ৯, ১৯৯৮

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

শ্রম ও জনশক্তি মন্ত্রণালয়

শাখা-৯

বাংলাদেশ সচিবালয়

প্রজ্ঞাপন

তারিখ, ১৪ই ডিসেম্বর, ১৯৯৭ ইং/৩০শে অগ্রহায়ণ ১৪০৪ বাং।

এস, আর, ও নং ২৭৯—আইন/শ্রম/শা-৯/৩(৮)/৯৭। Industrial Relations Ordinance, 1969 (XXIII of 1969) এর section 37(2) এর বিধান মোতাবেক সরকার শ্রম আদালত, রাজশাহী এর নিম্নবর্ণিত মামলাসমূহের মায় ও সিদ্ধান্ত এতদ্বারা প্রকাশ করিল, যথা:—

ক্রমিক নং	মামলার নাম	মামলার নম্বর
১	২	৩
১।	ফৌজদারী কেস নম্বর	২২/৯৬
২।	আই, আর, ও, মামলা নম্বর	২৯/৯৭
৩।	আই, আর, ও, মামলা নম্বর	৩০/৯৭
৪।	আই, আর, ও, মামলা নম্বর	৩১/৯৭

(৯৮০১)

মূল্য: টাকা ১৫.০০

ক্রমিক নং	নামলার নাম	নামলার নম্বর
১	২	৩
৫।	ইনিগ্রেশান কেস নম্বর	৩/৯৬
৬।	আই, আর, ও, নামলা নম্বর	৩৪/৯৭
৭।	আই, আর, ও, নামলা নম্বর	৩৫/৯৭
৮।	আই, আর, ও, (আপীল) কেস নম্বর	২৬/৯৬
৯।	আই, আর, ও, নামলা নম্বর	১/৯৭
১০।	আই, আর, ও, নামলা নম্বর	৩৯/৯৭
১১।	আই, আর, ও, কেস নম্বর	৪৯/৯৭ (আপীল)
১২।	ফৌজদারী নামলা নম্বর	১২/৯৩
১৩।	আই, আর, ও, (আপীল) নামলা নম্বর	৭/৯৭
১৪।	ইনিগ্রেশান অভিন্যায় কেস নম্বর	১/৯৫
১৫।	আই, আর, ও, নামলা নম্বর	২৭/৯৭
১৬।	আই, আর, ও, কেস নম্বর	৭৩/৯৬

রাষ্ট্রপতির আদেশক্রমে

(মীর মোহাম্মদ সাঈদুল হোসেন)

উপ-সচিব (প্রশ্ন)।

শ্রম আদালত, রাজশাহী বিভাগ, রাজশাহী

উপস্থিত:-মো: আবদুর রহমান পাটোয়ারী
চেয়ারম্যান,
শ্রম আদালত, রাজশাহী।

কৌজদারী কেস নং-২২/৯৬

মো: হিরু মিয়া, পিতা-মৃত মুন্সাক মিয়া, সাং-দেওয়ানবাড়ী রোড,
প্রবন্ধে:-ইকবাল ব্রাদার্স, পো: ও জেলা-বংপুর, থানা-কোতালী-বাদী।

বনাম

সোনা মিয়া, পিতা-তহিছ উদ্দিন, মালিক-মেসার্স সোনা বেকারী, গারাই আমবাগান (কাইসু-
বাজার), পো: হারাগাছ, থানা-কাউনিয়া, জেলা-বংপুর-আসানী।

প্রতিনিধি:-১। জনাব মো: কোরবান আলী, বাদী পক্ষের আইনজীবী।

২। জনাব এফ, ই, এম, আসাদুজ্জামান (মাখন), আসামী পক্ষের আইনজীবী।
আদেশ নং-১৪, তারিখ-১১/৯/৯৭।

অন্য নামলাটি আদেশের অন্য দিন মার্ম আছে। আসামী পক্ষের ১৩/৮/৯৭ তারিখের
ওড়া সার্কিট কোর্টে স্থানান্তরের আবেদন পেশ করা হইল। বাদী মো: হিরু মিয়া অনু-
পস্থিত আছেন। আসামী সোনা মিয়া আদালতের কাঠগড়ের উপস্থিত আছেন। তাহার
নিযুক্ত আইনজীবী মামলায় হাজিরা দাখিল করেন। বাদী পক্ষের বিজ্ঞ কৌশলী আদালতকে
বলেন বাদী দীর্ঘদিন যাবৎ আসিতেছেন না। তাই কোন পদক্ষেপ গ্রহণ করিবেন না।
তাই তিনি বাদী পক্ষের হাজিরা দাখিল করেন নাই।

Heard both sides. At the time of hearing, the Ld. Advocate
for petitioner Md. Hiru Mia states that the petition dated
13.8.97 filed by him for trial of the case at Circuit, court Bogra is
not pressed. Therefore, this petition be rejected. The Ld.
Advocate for petitioner further submits that the petitioner is
not attending the Court for a long. So, he is not inclined
to proceed with the case. The Ld. Advocate for accused
contends that as the petitioner is not interested to proceed with
the case, the same may be dismissed and the accused be dis-
charged. The petitioner Md. Hiru Mia is not in contact with
his engaged lawyer and he is absent.

Hence, it is

ORDERED

That the Criminal Case be dismissed. Accused Sona Mia
is discharged.

Md. Abdur Rahaman Patwari,
Chairman,
Labour Court, Rajshahi.

উপস্থিত :- জনাব মোঃ আবদুর রহমান পাটোয়ারী
চেয়ারম্যান, শ্রম আদালত, রাজশাহী।

আই, আর, ও মামলা নং-২৯/৯৭

রেজিষ্টার অব ট্রেড ইউনিয়ন, রাজশাহী বিভাগ, রাজশাহী—১ম পক্ষ।

বনাম

সভাপতি/সাধারণ সম্পাদক, সিরাজগঞ্জ দোকান কর্মচারী ইউনিয়ন,
(রেজি: নং রাজ-১২২৯), নিউমার্কেট, সিরাজগঞ্জ—২য় পক্ষ।

প্রতিনিধি : ১। জনাব এস, এম, সাইফুদ্দিন আহমেদ, ১ম পক্ষের প্রতিনিধি।

আদেশ নং-৫, তাং-২১-৯-৯৭।

অদ্য মামলাটি একতরফা শুনারীর জন্য দিন ধার্য আছে। বাদী পক্ষে রেজিষ্টার অব ট্রেড ইউনিয়ন প্রতিনিধি নামলায় হাজির প্রদান করেন। প্রতিপক্ষগণ অনুপস্থিত আছেন। অদ্য মালিক পক্ষের সদস্য জনাব পুজিন বিহারী বিগুম ও শুমিক পক্ষের সদস্য জনাব রশিদ উল্লাহ ঘারা কোর্ট গঠিত হইল। মামলাটি একতরফা শুনারীর জন্য গ্রহণ করা হইল। বাদী পক্ষের প্রতিনিধির মৌখিক বক্তব্য শুনা হইল। বাদী পক্ষের নামলায় কোন সাক্ষ্য দিবেন না বলিয়া মত ব্যক্ত করেন। বাদী পক্ষের দাখিলী কাগজ প্র-১, হিসাবে চিহ্নিত করা হইল। বাদী পক্ষের প্রতিনিধির মৌখিক যুক্তিতর্ক শুনী হইল।

বাদী পক্ষের প্রতিনিধি জনাব এস, এম, সাইফুদ্দিন আহমেদ মৌখিকভাবে জানান যে প্রতিপক্ষ সিরাজগঞ্জ দোকান কর্মচারী ইউনিয়ন, নিউমার্কেট বিগত ২১-৯-৯৪ ইং তারিখে রেজিষ্ট্রেশন প্রাপ্ত হয়। অতঃপর প্রতিপক্ষ কোন নির্বাচন অনুষ্ঠিত করেন নাই বা নির্বাচন সংক্রান্ত কোন ফলাফল বাদী পক্ষের কার্যালয়ে পাঠান নাই। বাদী পক্ষের প্রতিনিধি আরো জানান যে প্রতিপক্ষে ১৯৯৪ ও ১৯৯৫ সনের বার্ষিক বিবরণী দাখিল করেন নাই। প্রতিপক্ষ আদালতে উপস্থিত হইয়া বাদী পক্ষের অভিযোগ অস্বীকার করেন নাই। কাজেই বাদী পক্ষের নামলা প্রমাণিত হইল। বিজ্ঞ সদস্যদ্বয়ের সহিত আলোচনা করিলাম।

অতএব,

আদেশ

এই যে, অত্র মামলাটি একতরফা সূত্রে মঞ্জুর হয়। বাদী পক্ষকে সিরাজগঞ্জ দোকান কর্মচারী ইউনিয়ন, নিউমার্কেট (রেজি: নং রাজ-১২২৯) এর রেজিষ্ট্রেশন বাতিল করার অনুমতি দেওয়া গেল।

মোঃ আবদুর রহমান পাটোয়ারী

চেয়ারম্যান

শ্রম আদালত, রাজশাহী।

উপস্থিত :- জনাব মোঃ আব্দুর রহমান পাটোয়ারী।

চেয়ারম্যান, শ্রম আদালত, রাজশাহী।

আই, আর, ও, নাম্বা নং-৩০/৯৭

রেজিষ্টার অব ট্রেড ইউনিয়ন, রাজশাহী বিভাগ, রাজশাহী—১ম পক্ষ।

বনাম

সভাপতি/সাধারণ সম্পাদক, হরিশচন্দ্র পাট লেবার ইউনিয়ন,
(রেজিঃ নং রাজ-১২৬৫), হরিশচন্দ্র পাট বাজার, ধানা-জলঢাকা, নীলফামারী—
২য় পক্ষ।

প্রতিনিধি—১। জনাব এম, এম, সাইফুদ্দিন আহমেদ—১ম পক্ষের প্রতিনিধি।

আদেশ নং-৫, তারিখ—২১-৯-৯৭।

অদ্য মামলাটি একতরফা শুনানীর জন্য দিন ধার্য আছে। বাদী পক্ষে রেজিষ্টার অব ট্রেড ইউনিয়ন প্রতিনিধি মামলার হাজিরা প্রদান করেন। প্রতিপক্ষগণ অনুপস্থিত আছেন। অদ্য মালিক পক্ষের সদস্য জনাব পুলিন বিহারী বিশ্বাস ও শ্রমিক পক্ষের সদস্য জনাব রশিদ উল্লাহ দ্বারা কোর্ট গঠিত হইল। মামলাটি একতরফা শুনানির জন্য গ্রহণ করা হইল। বাদী পক্ষের প্রতিনিধির মৌখিক বক্তব্য শুনা হইল। বাদী পক্ষ মামলার কোন সাক্ষ্য দিবেন না বলিয়া মত ব্যক্ত করেন। বাদী পক্ষের দাখিলী কাগজ প্র-১, হিসাবে চিহ্নিত করা হইল। বাদী পক্ষের প্রতিনিধির মৌখিক যুক্তিতর্ক শুনা হইল।

বাদী পক্ষের প্রতিনিধির বক্তব্য শুনা হইল। তিনি বলেন যে, প্রতিপক্ষ হরিশচন্দ্র পাট লেবার ইউনিয়ন ১৯৯৪, ১৯৯৫ ও ১৯৯৬ সনের ত্রিমাসিক রিটার্ন দাখিল করেন নাই। সেইহেতু বাদী পক্ষ প্রতিপক্ষের রেজিষ্ট্রেশন বাতিলের অনুমতি প্রার্থনা করিয়াছেন। প্রতিপক্ষকে রেজিষ্ট্রী ডাকযোগে নোটিশ দেওয়া সত্ত্বেও আদালতে হাজির হইয়া বাদী পক্ষের অভিযোগ অস্বীকার করেন নাই বা কোন কাগজপত্রও দাখিল করেন নাই। বিজ্ঞ সংস্কারকের সহিত আলোচনা করিলাম।

বাদী পক্ষের মামলা প্রমাণিত হইল।

অতএব,

আদেশ

এই যে, অত্র মামলা একতরফা সূত্রে মঞ্জুর হয়। বাদী পক্ষকে হরিশচন্দ্র পাট লেবার ইউনিয়ন (রেজিঃ নং রাজ-১২৬৫) এর রেজিষ্ট্রেশন বাতিল করার জন্য অনুমতি দেওয়া গেল।

মোঃ আব্দুর রহমান পাটোয়ারী

চেয়ারম্যান,

শ্রম আদালত, রাজশাহী।

উপস্থিত : জনাব মোঃ আবদুর রহমান পাটওয়ারী
চেয়ারম্যান,
শ্রম আদালত, রাজশাহী।

আই, আর ও, মানলা নং-৩১/৯৭

রেজিষ্টার অব ট্রেড ইউনিয়ন, রাজশাহী বিভাগ, রাজশাহী—১ম পক্ষ।

বনান

সভাপতি/সাধারণ সম্পাদক, মিরগড় পাথরবালী শ্রমিক সমিতি,
(রেজিঃ নং রাজ-৮২৮), মিরগড়, পোঃ-ধাকানারা, জেলা-পকগড়—২য় পক্ষ।

প্রতিনিধি : ১। জনাব এস, এস, সাইফুদ্দিন আহমেদ, ১ম পক্ষের প্রতিনিধি।
আদেশ নং-৫, ২১-৯-৯৭।

অন্য মানলাটি একতরফা শুনার দিন ধায় আছে। বাদী পক্ষে রেজিষ্টার অব ট্রেড ইউনিয়ন প্রতিনিধি মানলায় হাজিরা প্রদান করেন। প্রতিপক্ষগণ অন্য অনুপস্থিত আছেন। অন্য মালিক পক্ষের সদস্য জনাব পুলিশ বিহারী বিশ্বাস ও শ্রমিক পক্ষের সদস্য জনাব রশিদ উল্লাহ বারা কোর্ট গঠিত হইল। মানলাটি একতরফা শুনারী জনদ গ্রহণ করা হইল। বাদী পক্ষের প্রতিনিধির মৌখিক বক্তব্য শুনা হইল। বাদী পক্ষ মানলায় কোন সাক্ষ্য দিবেন না বলিয়া মত ব্যক্ত করেন। বাদী পক্ষের দাখিলী কাগজ খ-১, হিসাবে চিহ্নিত করা হইল। বাদী পক্ষের প্রতিনিধির মৌখিক যুক্তিতর্ক শুনা হইল।

বাদী পক্ষের প্রতিনিধির মৌখিক বক্তব্য শুনা হইল। তিনি বলেন যে, প্রতিপক্ষ মিরগড় পাথরবালী শ্রমিক সমিতি ১৯৯১, ১৯৯২, ১৯৯৩, ১৯৯৪, ১৯৯৫ ও ১৯৯৬ সনের বার্ষিক রিটাইন দাখিল করেন নাই। সেই কারণে বাদী পক্ষ প্রতিপক্ষ মিরগড় পাথরবালী শ্রমিক সমিতির রেজিষ্ট্রেশন বাতিল করার অনুমতি প্রার্থনা করিয়াছেন। প্রতিপক্ষকে রেজিষ্ট্রারী ডাকযোগে নোটিশ দেওয়া হইলেও তাহারা আদালতে হাজির হইয়া বাদী পক্ষের অভিযোগ অস্বীকার করেন নাই। বাদী পক্ষের মানলা প্রমাণিত হইল। বিজ্ঞ সদস্যদ্বয়ের সহিত আলোচনা করিলাম।

অতএব আদেশ এই যে, অত্র আই, আর, ও মানলা একতরফা সূত্রে মঞ্জুর হয়। বাদী পক্ষকে প্রতিপক্ষ মিরগড় পাথরবালী শ্রমিক সমিতির রেজিষ্ট্রেশন (রেজিঃ নং রাজ-৮২৮) বাতিল করার জন্য অনমতি দেওয়া গেল।

মোঃ আবদুর রহমান পাটওয়ারী।
চেয়ারম্যান,
শ্রম আদালত, রাজশাহী।

Present : Md. Abdur Rahman Patwari,
Chairman, Labour Court, Rajshahi.

Date of delivery of Judgement—22nd Sept. 1997.

Emigration Case No. 3/96

1. Assistant Director, Employment and Manpower Office,
Bogra—*Complainant. p*

-Versus

1. Md. Hasan Mia

2. Md. Samsul Alam (Bakul Master)—*Accused.*

Mr. Benoy Kumar Gosh, A P P for Complainant.

Mr. Chitta Ranjan Basak, Advocate for Accused,
The Case in the Complainant:

The Case in the Complainant in brief is that accused Md. Hasan Mia came to village Chandihara and gave proposal to send Sanwar Hossain, son of witness Emdadul Haque Pramanik to Malayasia. He assured that Tk. 35,000 would be available as loan from bank. If rest of the amount of Tk. 40,000 (is paid in cash) he himself would send him to Malayasia. When witness Emdadul Haque Pramanik informed accused Md. Shamsul Alam (Bakul Master) about the proposal of his son accused Md. Hasan Mia, he replied that his advice may be followed. Subsequently witness Emdadul Haque Pramanik paid Tk. 25,000 on 11-11-93 at 4 P. M. to accused Md. Hasan Mia in presence of the witnesses. That on the night following the same day accused Md. Hasan Mia accompanied with Sanwar Hossain went to Dhaka by night coach and that Sanwar Hossain under went medical test, there. That Sanwar Hossain came back home after three days. After two months, accused Md. Hasan Mia came from Dhaka and told witness Emdadul Haque Pramanik that banks have postponed granting of loan to finance passage abroad. Thereafter he demanded further sum of Tk. 35,000 as probable outstanding charge for Malayasia and disclosed that otherwise there was no change of getting back Tk. 25,000 paid earlier. That witness Emdadul

Haque Parmanik paid Tk. 35,000 to accused Md. Hasan Mia on 20-01-94 at 7 A. M. in presence of the witnesses by selling goats and house hold articles etc. Accused Md. Hasan Mia went to Dhaka on the same day by coach. Later on accused Md. Hasan Mia wrote some letters on several occasions assuring him about sending of Sanwar Hossain to abroad and those letters have been preserved by this.

The further case of witness Emdadul Haque Pramanik is that after two months accused Md. Hasan Mia again came from Dhaka and told him that within a week there would be a flight for Malayasia and advice him to pay remaining sums Tk. 15,000 in cash. Witness Emdadul Haque Pramanik collected Tk. 15,000 as loan by executing deed and paid said Tk. 15,000 to accused Md. Hasan Mia on 24-03-94. After 10 or 11 months, accused Md. Hasan Mia came back from Dhaka and when he put pressure upon him due to lack of progress about his son's departure for Malayasia, accused Md. Hasan Mia showed a false VISA and told him that he (Sanwar Hossain) might go to Dhaka the next day for flight to Malayasia. When witness Emdadul Haque Pramanik enquired about Aroplane ticket, accused Md. Hasan Mia replied that the Plane ticket might be purchased on arrival in Dhaka. As a result there was suspicion in his mind and he went to Employment and Manpower Bureau, Dhaka ascertain about genuiness of the said VISA where the Authority after proper scrutiny informed him that it was a false VISA.

It is also a case of the complainant that when witness Emdadul Haque Pramanik was sure about the ill motive of accused Md. Hasan Mia and learned that accused Md. Hasan Mia was repaying money obtained from different persons on similar pretext he went to Rangpur and that with the help of Chairman, Kaprikhal Union Parisad a Salish was held. In the said salish accused Hasan Mia agreed to come to Chandihara to execute an undertaking for repaying the money he took from

him in presence of the witness. Accordingly accused Md. Hasan Mia came to Chandihara on 20-03-95 and executed an undertaking on a stamp paper of Tk. 50 demotion in presence of the witness with a promise to repay the said money within one month. But he did not keep his promise. So witness Emdadul Haque Pramanik gave him tagid and he put him under threat. Ultimately he filed a complaint before the Deputy Commissioner, Bogra and that as per his (D.C.'s) direction Social Welfare Officer, P.S. Sariakandi, district Bogra held an enquiry and submitted a report under Memo No. 144, dated 12-09-95 AD/28-05-1402 BS stating about involvement of accused Md. Hasan Mia in the matter of misappropriation of money of witness Emdadul Haque Pramanik.

The next case of the complainant is that the accused got licence for exporting Manpower from Bangladesh to abroad. That they by accepting money fraudulently in the name of sending witness Sanwar Hossain to Malayasia committed offence U/S 21 & 23 of Emigration ordinance, 1982. Hence the case.

The record shows that on receipt of complaint on 26-06-96 the Court examined the complainant U/S 200 Cr. P.C. and cognizance of the offence was taken U/S 21 & 23 of the Emigration Ordinance, 1982. Thereafter warrants were issued upon the accused who on receipt of the same appeared before the Court. Subsequently on their prayer they were enlarged on bail. That on 13-10-96 charges were duly framed against the accused. They pleaded not guilty and claimed to be tried. At the time of trial, prosecution examined 8 witnesses and defence cross examined them. Some papers were marked as Exhibits. After close of evidences the accused were examined U/S 342 Cr. P.C. The accused adduced no D. W.

The defence case as it appears from the trend of cross examination of the P.Ws and suggestions put to them is that one Abdul Hye, a sergent of AIR Force, took money from

witness Emdadul Haque Pramanik for sending his son Sanwar Hossain to abroad. He is a husband of the niece of witness Shahadat Hussain (P.W.-7.) On the other hand P.W.-7 Shahadat Hossain is a son-in-law of witness Emdadul Haque Pramanik (P.W.-2). So real culprit Abdul Hye was not brought to the scene intentionally. That witness Shahadat Hossain (P.W.-7) is a uncle of accused Md. Hasan Mia and cousin of accused Shamsul Alam @ Bakul Master. They are residents of the same homestead. There is a dispute amongst them about some immovable properties. Therefore the complainant at the ill advices of witness Emdadul Haque Pramanik (P.W.-2) entangled them in this case with ulterior motive.

Discussions of evidences of the P.Ws.

P.W.-1 Md. Abu Zafar is an Assistant Director of Employment and Manpower Bureau, Bogra. He has stated in examination in chief that Deputy Commissioner, Bogra forwarded a complaint and an enquiry report to his office and that on the basis of that complaint he instituted the case. As per his identification, the complaint filed before the Court was marked as Exhibits-1 while his signatures were proved as Exhibits 1/1, 1/2, 1/3 and 1/4. He also identified the complaint filed by witness Emdadul Haque Pramanik before the Deputy Commissioner, Bogra as Exhibit-2. He has further stated in examination in chief that the preliminary report dated 12.09.95 received through the Deputy Commissioner, Bogra is on record. He has also stated in examination in chief that witness Emdadul Haque pramanik has stated in his Complaint filed before the Deputy Commissioner, Bogra that he paid to accused Md. Hasan Mia Tk. 25,000 on 11.11.93 Tk. 35,000 on 20.01.94. and Tk. 15,000 on 24.03.94. Accused Md. Hasan Mia along with witness Sanwar Hossain went to Dhaka for sending him to Malaysia. But subsequently instated of sending him to Malaysia sent back him home. Witness Emdaul Haque Pramanik demanded dack his money. But accused Md. Hasan Mia did not refunded the money. Accused Md. Hasan mia gave a false VISA to witness Emdadul Haque Pramanik and that after testing the genuiness of the said VISA by Bureau of manpower, Dhaka he was told that it was a false VISA. After that Emdadul Haque Pramanik arranged Salish through the good offices of local Union Parishad. On that basis accused Md. Hasan Mia executed an undertaking on a stamp paper of Tk. 50 to the

effect that he would repay the money. He has next stated in examination in chief that Deputy Commissioner, Bogra was sure about genuiness of the allegation on getting the same enquired into and after that he forwarded all relevant papers to him for filing a case. He disclosed that the accused possess no valid licence for exporting Manpower to abroad.

During cross examination by the accused he said that he perused the enquiry report dated 12.09.95 and the contents of the enquiry report is true. He further said that as per report accused Hasan Mia is a student and that Abdul Hye a Sergeant of Bangladesh Air Force cheated him. He also said that in the enquiry report there is no mention about any undertaking. He admitted that accused Shamsul Alam @ Bokul Master gave no undertaking. He further admitted that sergent Addul Hye is not an accused. He also admitted that he did not see the VISA procured by accused Md. Hasan Mia. He has next admitted that he has no personal knowledge. Defence gave him suggestion that he over looked the averment of the enquiry report and being influenced brought this case. He denied the suggestion.

P. W.-2 Emdadul Haque Pramanik is the father of witness Sanwar Hossain. He has stated in examination in chief that accused Md. Hasan Mia came to his house on 11.11.93 and addressing him as Nana maternal grand father told that Malayasia is importing Manpower from Bangladesh. He further told him to send his son Sanwar Hossain to Malayasia. In this context he proposed to him to pay Tk. 25,000 in cash and assured him that he would adjust Tk. 40,000 from Bank loan. He has further stated in examination in chief that he discussed the matter with accused Shamsul Alam @ Bakul Master who advised him to agree with the proposal of accused Md. Hasan Mia. After that he came back home at his village at Chandihara and in presnce of witness Wahab Mahari, Sanwar Hossain, Fazlar Rahman, Farid uddin, Israt Ali and Shahadat Hossain @ Fulu Mia paid Tk. 25,000 to accused Md. Hasan Mia on 11.11.93 at 4 p.m. After that on the night following of this day, accused Md. Hasan Mia accompanied with Sanwar Hossain went to Dhaka by night coach. After three days, Sanwar Hossain came back home and told him that he underwent Medical test,

He has further stated in examination in chief that after two months accused Md. Hasan Mia came from Dhaka and told him that banks postponed granting of loan. So he claimed further sum of Tk. 35,000 from him in cash and that he paid Tk. 35000 on 20.01.94 in presence of the witnesses and accused Md. Hasan Mia went to Dhaka in the evening. He has also stated in examination in chief that accused Hasan Mia wrote two letters to him from Dhaka. That accused Md. Hasan Mia came from Dhaka after two months and told him that the flight was scheduled on the next week and he demanded Tk. 15000 as residue flight fare. He paid him Tk. 15000 on 24.03.94 and he left for Dhaka. Meanwhile accused Md. Hasan Mia wrote him one or two letters from Dhaka. He was putting pressure upon accused Md. Hasan Mia to send his son abroad. Accused Md. Hasan Mia came home after 11/12 months and told him that the flight was on the following day and that he came home for his son Sanwar Hossain. He showed him a VISA. He enquired about Air Ticket and accused Md. Hasan Mia informed that he would purchase ticket on arrival in Dhaka. As a result as suspicion arose in his mind he got the alleged VISA scrutinised in the Bureau of Employment and manpower in Dhaka whereupon he was informed that it was not a genuine VISA.

He has stated in examination in chief that later on he heard that accused Md. Hasan Mia fraudulently collected money from some other persons as well on the plea of sending them abroad and he was paying back their money. That meanwhile he refunded the money of one Mitu. Then he requested the accused to refund his money. But the accused did not pay his money. He arranged a salish through the good offices of the local U.P. Chairman. Accused Md. Hasan Mia expressed his desire to execute an undertaking in the presence of the witnesses who were present where he accepted the money. Subsequently accused Md. Hasan Mia executed an undertaking on a stamp paper of Tk. 50 on 20.03.95. and undertook to pay back the money within a month. After one month, he went to the house of accused Md. Hasan Mia and he assured him that he was arranging fund. But after 8/10 days, accused Md. Hasan Mia refused to pay back the money and he threatened him. Therefore he filed a complaint, Exhibit-2, before the Deputy Commissioner, Bogra. He provided his signature as Exhibit 2/1. He has further stated in examination in chief that the accused got no licence to export Manpower abroad and that they misappropriated his money.

During cross examination he said that when talk was held for sending his son to abroad he did not ask accused Md. Hasan Mia as to whether he possessed licence for exporting manpower abroad. He further said that he came to learn that the accused got no licence before he filed complaint before the Deputy Commissioner, Bogra. He admitted that there is a Bureau of Manpower at Bogra and a lawyer advised him to file the case through Bureau of Manpower. He further admitted that the complaint filed by him before the Deputy Commissioner was written by his son in law Shahidul Islam as per his instructions. He also admitted that Abdul Hye a sergeant of Bangladesh AIR Force was the husband of the niece of his another son in-law Shahadat Hossain (Fulu Mia). He told that he did not contact with Abdul Hye for sending his son abroad. He can not say if Abdul Hye was in Dhaka or not at that time. Defence gave him suggestion that his son in law Shahadat Hossain had talk with Abdul Hye for sending Sanwar Hossain abroad and that he used to visit his residence. He denied the suggestion. He said that accused Shamsul Alam @ Bakul Master is a cousin of his son in law Shahadat. He can not say whether his son in law Shahadat Hossain got any dispute with accused Shamsul Alam @ Bakul Master. Defence gave him suggestion that he had transaction with Addul Hye for sending his son abroad. But he filed the complaint against the accused at the ill advice of Shahadat Hossain to save Addul Hye. He denied the suggestion.

He admitted that his wife was a family planning worker at Chandihara within P. S. Shibgonj under district Bogra and that he was a tailor by profession in that place. But due to eye defect, he gave up his work recently. Now he stays at his native home at village Raninagar under P, S, Shariakandhi. He further admitted that he is acquainted with accused Md, Hasan Mia after marriage of his daughter Selina with Shahadat Hossain. He also admitted that he got no written document about payment of money to accused Md. Hasan Mia. He told that his witnesses hail from Shariakandhi and Nimerpara. That Nimerpara is quater mile from Chandihara. That Chandihara is a Bazar and that population of that Bazar is about 3000 or 4000. That Chandihara is within U. P. Roy Nagar. The U. P. Chairman and ward Members are not

witness as regards payment of money to accused Md, Hasan Mia Salish was held at Rafrikhal. The Chairman and Member of Kafrikhal Union Parishad are not witnesses in this case. That accused Md. Hasan Mia is a student and his father accused Shamsul Alam @ Bakul Master is a school teacher.

Defence gave him suggestion that he paid no money to accused Md. Hasan mia and that accused shamsul Alam did not tell him to pay money. Defence gave him further suggestion that at the bad counsel of Abdul Hye and Shahadat Hossain he filed this false case. He denied both these suggestion.

Prosecution recalled P. W.-2 in examination in chief. He identified an undertaking dated 20.03.96 Exhibit-3 purportedly executed by accused Md. Hasan Mia on a stamp paper of Tk. 50/. He marked signatures of accused Md. Hasan Mia as Exhibit 3/1 and 3/2.

In cross examination he said that the stamp was purchased through Babu on 11.11.93. Then he said that it was 20.01.95. He admitted that he did not enclose the original undertaking with his complaint forwarded to the Deputy Comissioner, Bogra. Defence gave him suggestion that he manufactured a fabricated undertaking and that accused Md, Hasan Mia did not execute any undertaking. He denied the suggestion.

P.W.-3 Sanwar Hossain has stated in examination in chief that he is famiilor with accused Md, Hasan Mia and Shamsul Alam and that they were present in Court Room. He has further stated in examination in chief that accused Md. Hasan Mia obtained Tk. 25,000 from his father on 11.11.93. for sending him to malayasia and he accompanied him to Dhaka where he under went Medical test. After three days he come back Chandihara from Dhaka. That after 2 or 3 months accused Md. Hasan Mia came from Dhaka and told his father that banks were no longer advancing money for exporting Manpower and he claimed further sum of Tk. 35,000 from his father. That on 20.1.94 his father paid Tk. 35,000 to accused Md. Hasan Mia and he went to Dhaka. That after

৪ or 10 months accused Md. Hasan Mia again came from Dhaka and on 24.3.94 his father paid Tk. 15000 to him. He has also stated in examination in chief that he himself witness wahab, Farid uddin, Fazlar, Isarat Ali and Shahadat Hossain were present at the time of payment of money to accused Md. Hasan Mia on those occasions.

He has stated in examination in chief that Md. Hasan Mia took him to Dhaka for sending him abroad on different dates and he could not arrange flight for him. He has further stated in examination in chief that his father demanded back money from accused Md. Hasan Mia and there was a Salish at his locality. Accused Hasan Mia wanted to execute an undertaking promising payment of the amount. Than he came to Chandihara and executed an undertaking on 20.03.95 on a stamp paper of Tk. 50. But he failed to pay back the money as promised.

During cross examination he said that accused Md. Hasan Mia was a student and he used to live at a Mess. He himself used to stay with accused Md. Hasan Mia at the Mess. He saw no official there. He further said that he read upto class V or VI and can read papers. He can not say who and how Agents export Manpower. He admits that he did not go to police station. He further admits that witness Shahadat Hossain is his brother in law and they worked as tailors. He also said that the money paid to accused Md. Hasan Mia were of 500 demonitions and that his mother saw payment of money and she is not a witness. He next said that he heard that Abdul Hye was employed in Bangladesh AIR Force and he did not see him. He can not say whether Shahadat Hossain went to Abdul Hye or not. He admits that Abdur Rashid is his cousin and he is an employee of Agrani Bank in Dhaka. Due to his paucity of time he could not make contact with

any body in this respect. Defence gave him suggestion that they paid no money to accused Md. Hasan Mia and he took no money from them. He denied the suggestion.

P. W.- 4 Md. Israt Ali has stated in examination in chief that he is familiar with Emdadul Haque Pramanik and accused Md. Hasan Mia. He has further stated in examination in chief that accused Md. Hasan Mia received Tk. 25000, Tk. 35,000 and Tk. 15,000 on 11.11.93, 20.01.94 and 24.03.94 respectively. But accused Md. Hasan Mia could not sent his son abroad. Accused Md. Hasan Mia executed an undertaking on a stamp paper of Tk. 50 demonition promising to pay back Tk. 75 000. He was witness in the said undertaking.

During cross examination he said that he came to court with Emdadul Haque Pramanik and he received no summons from the Court. He admitted that Emdadul Haque pramanik bore his expenses. He further admitted that he knew accusd Md. Hasan Mia form 11.11.93 and before hand he was not known to him. Defence gave him suggestion that he is a yes man of Emdadul Haque Pramanik and he was tutored by him. He denied the suggestion.

P.W.-5 Fariduddin has stated in examination in chief that he is acquainted with Emdadul Haque Pramanik and accused Md. Hasan Mia. He has further stated in examination in chief that accused Md. Hasan Mia, obtained Tk. 25,000, Tk. 35000 and Tk. 15000 in three instalments from Emdadul Haque Pramanik with a promise of sending his son abroad. But as he failed to send him abroad, he executed an undertaking over a stamp of Tk. 50 promising to refund the money. He was a witness in that Undertaking. Subsequently accused Md. Hasan Mia did not pay back the amount.

In cross examination he said that he came to Court on receipt of news from Emdadul Haque Pramanik. He admitted that he paid his conveyance charge. Defence gave him suggestion that accused Md. Hassan Mia received no money from Endadul Haque Pramanik and he executed no undertaking. He denied the suggestion.

P.W.-6 Abdul Wahab is a deed writer and he is attached to Sadar sub-Registrar's Office, Bogra. He is acquainted with Emdadul Haque Pramanik and accused Md. Hasan Mia. He has stated in examination in chief that as per request of Emdadul Haque Pramanik he went to his house at Chandihara on 20. 03. 95. He gave him a stamp paper of Tk. 50 demonition and he started scribing a deed. At that time, he asked accused Md, Hasan Mia the reason thereof. He informed him that he recived Tk. 75000 from Emdadul Haque on excuse of sending manpower abroad. He has further stated in examination in chief that after writing of the deed was over in presence of the witnesses, he obtained signatures of accused Md, Hasan Mia. thereon. He identified the said deed and his signature before the Court.

During cross examination he said that he is a licence holder scribe and renewed his licence upto date. He has further stated in examination in chief that his house is less than quater mile away from that of Emdadul Haque Pramanik. He admits that Sadar sub-Registrar's Office, Bogra is 12 mile distance while Shibgonj sub-Registrar's Office is 6 mile away from his house. Defence gave him suggestion that he did not accused Hasan Mia anything and that he told him nothing. Defence further gave him suggestion that no deed was written by him. He denied both the suggestion. He admitted that he came to Court to depose as per information received from Emdadul Haque and got no summons seperate'y, He told that he arrieved at Bogra Sadar sub-Registrar's Office, Bogra at his own expense and came to Court from there. Defence also gave him suggestion that he deposed falsely. He denied the suggestion.

P.W.-7 Md. Shahadat Hossain @ Ful Babu is a tailor. Emdadul Haque Pramanik and the accused are known to him. He has stated in examination in chief that accused Hasan Mia addressing him as uncle tole that he is enggaed in exporting manpower abroad. Then he replied that he has a brother in law (wife's

brother) and he would inform him the same. Thereafter he told his father in-law about the same. His father in-law went to accused Shamsul Alam and that as per his counsel he agreed to pay money to accused Hasan Mia.

He has further stated in examination in chief that on 11.11.93 accused Hasan Mia came to the house of his father in-law at village Chandihara and received Tk. 25,000 from his father in law (P.W.-2). Thereafter he left for Dhaka alongwith his brother in law (wife's brother) Sanwar Hossain where he (P.W.-3) stayed for three days and underwent Medical test. After some moths accused Hasan Mia came from Dhaka and on 24.03.94 took Tk, 35,000 from his father in-law, and he went to Dkaka. That on 20.01.95 he again took Tk. 15,000 from his father in law (P.W.-2) and left for Dhaka. But as accused Hasan Mia was unsuccessful in sending Sanwar Hossain abroad. They demanded refund of their money. There was a salish. They claimed money. Accused Hasan Mia came to village Chandihara and executed an undertaking at village Chandihara over a stamp paper of Tk. 50 in presence of himself witness Isarat Ali, Farid, Fazlar and Bachhu Mia.

In cross examination he said that he lives at Chandihara and work as a tailor. His father said that he went to Dhaka with accused Hasan Mia on some occasion. He admits that one Abdul Hye is a husband of his niece and that he is an employee of Bangladesh AIR Force. He replied that he was not aware of whether Abdul Hye exported Manpower abroad and that he did not go to his quater. He also said that one Mitu paid money to accused Hasan Mia for sending him abroad. He admits that the nick name of Abdul Hye is Badsha and that Addul Wahab is his elder brother. Defence gave him suggestion that they paid money to Abdul Hye. He denied the suggestion. In reply to a question expressed his ignorance as to whether Abdul Hye and his brother Abdul wahab had any contact with public in connection with export of Manpower.

He admits that there is a village by name Paiyarabandha under police station Mithapukur of district Rangpur. He further admits that his nick name is Ful Babu. He also admits that one Amjad Hossain of village Paiyarabandha instituted a criminal case over stealing of Deep Tubewell and he was in jail hajot. Defence gave him suggestion that there was no salish and there was no talk with the accused about any Manpower export. The defence gave him further suggestion that accused Hasan Mia accepted no money from them. He denied the suggestion.

He admits that he read upto class one or two and that some how he can read by spelling words. He further admits that accused Shamsul Alam is a teacher of a High school for the last 25 years. He also admits that he went to Dhaka with accused Hasan Mia and he can not say where he deposited the money. Defence gave him suggestions that they tried to save Abdul Hye and implicated the accused falsely owing to family dispute. He replied that it was not true.

P.W.-8 Md. Fazlar Rahman is a neighbour of Emdadul Haque. He has stated that he know the accused. He has further stated in examination in chief that the accused took Tk. 75,000 from Emdadul Haque for sending his son abroad. But the accused could not send him. He has also stated in examination in chief that accused Hasan Mia executed an undertaking on 20-03-95 Exhibit-3 and that he was present at that time. He proved his signature as Exhibit-3/3.

During cross-examination he said that his house is quarter mile distance from the house of Emdadul Haque. He admits that the accused hail from district Rangpur and that their homestead is 40/42 mile distance. He also said that he saw the accused on 20-03-97 for the first time. He admits that Chandihara is a Bazar. Defence gave him suggestion that accused Hasan Mia executed no undertaking and that he deposited falsely as he is a neighbour of Emdadul Haque. He denied the suggestion.

FINDINGS AND DECISION

The complaint case is that accused Md. Hasan Mia gave proposal to send Sanwar Hossain (P.W.-3), son of Emdadul Haque Pramanik (P.W.-2) to Malayasia. P.W.-2 agreed to his proposal. He paid Tk. 25,000, 35,000 and 15,000 on 11-11-93, 20-01-94 and 24-03-94 respectively to accused Md. Hasan Mia who killed time and finally he failed to send him to Malayasia. He, however, executed an undertaking Exhibit-3 promising to refund the money which he ultimately did not refund.

P.W.-1 has stated that witness Emdadul Haque Pramanik (P.W.-2) submitted a complaint (Ext.-2) before Deputy Commissioner, Bogra who got the matter enquired into forwarded the complaint of P.W.-2 together with enquiry report dated 12-09-95 Eng/28-5-1402 Bang to him for filing a case. He admitted that he filed a complaint (Ext.-1). He supported the contents of Exhibit-1 before the court.

P.W.-2 Emdadul Haque Pramanik a detailed discription of back ground of his allegation and proved his complaint (Exhibit-2) filed before Deputy Commisioner, Bogra. Accused Md. Hasan Mia received money from him and on presure he gave him a false VISA which he got scrutinized and was certain that the said VISA was false. Therefore when he demanded back his money from accused Hasan Mia he executed an undertaking promising to refund the money. The Ld. Advocate for prosecution submitted that by executing exhibit-3 accused Md. Hasan Mia admitted taking of money from P.W.-2. The Ld. Advocate for defence argued that accused Md. Hasan Mia put no signature on Exhibit-3 and it is concocted. On a glance the signature appearing on Exhibit-3 and signature appearing in the Vokatnama dated 22-1-96 in the name of Md. Hasan Mia appears to be similar. beside there are other evidences on recore against him.

P.W.-3 and P.W.-7 are son and son-in-law of Emdadul Haque Pramanik. They narrated how accused Hasan Mia took money from P.W.-2, how he gave false assurance and under what circumstances he executed an undertakiug Exhibit-3, P.W.-4 and P.W.-5 stated that Emdadul Haque paid money to accused Md. Hasan Mia on 11-11-93, 20-01-94 and 24-03-94.

P.W.-5 told that he wrote an undertaking Exhibit-3 and obtained signature of accused Md. Hasan Mia thereon. P.W.-8 said that he was present while scribe wrote Exhibit-3. He marked his signature as Exhibit-3/3.

The Ld. Advocate for defence contents that P.W.-1 is an official witness and he has no personal knowledge about alleged transection. The Ld. Advocate for the defence further contents that P.W.-2, 3 and 7 are father, son and son-in-law. So they are not disinterested witnesses. The Ld. Advocate for defence also contents that P.W.-4 and P.W.-5 are chance witness. The case was instituted by Bureau of Manpower. But they without summon came to court to depose in the request of Emdadul Haque Pramanik. The case was instituted on the basis of complaint filed by Emdadul Haque Pramanik before Deputy Commissioner, Bogra. He lost his money. So arrival of P.W. 4 and P.W. 5 before the court as per information of P. W. 2 is not harmful. The Ld. Advocate for defence next contends that payment of money by Emdadul Haque to accused Md. Hasan Mia was not proved by independent witness. In our views the evidence of P. W.2, P.W.3, and P.W.7 have no contradiction as regards payment of money to accused Md. Hasan Mia by P.W.2. Moreover P.W.4 and P.W.5 corroborated them.

The Ld. Advocate for defence submits that P.W.2 stated that VISA supplied by accused Md. Hasan Mia was verified in the Bureau of Employment and Manpower, Dhaka and they allegedly found the same as false. But it is curious that the said false VISA was not seized by them. The Ld. Advocate for defence further submits that P. W. 2 said that the stamp was purchased on 11.11.93 and then he said on 20.01.95 but in fact Exhibit-3 was written on stamp paper purchased on 20-03-95. So, according to him stamp of dated 11.11.93 or 20.1.95. was not produced before the court. In our view P.W.2 mentioned the date of purchase of stamp as 11.11.93 or 20.01.95 by slip of tongue and it was not very fatal. Because P.W.6 and P.W. 8 corroborated executing of undertaking Exhibit-3 by accused Md. Hasan Mia.

The Ld. Advocate for defence also submits that actually the money was taken by one Abdul Hye from Emdadul Haque. He (Abdul Hye) is the husband of the niece of Shahadat Hossain Ful Babu (P.W. 7.) On the other hand P. W. 7 is the son in law of P. W. 2. So Abdul Hye is relative of P. W. 2. Reversely according to him P. W. 7. got dispute with Hasan Mia and Shamsul Alam. So, out of mis-understanding Emdadul Haque filed complaint (Ext. 2) before Deputy commissioner, Bogra against the accused and tried to save Abdul Hye as per conspiracy of P. W. 7. It is in evidence that P. W. 7. is a cousin of accused Shamsul Alam and accused Md. Hassan Mia is his nephew. So the accuseds are also relative of P. W. 7. The matter of dispute allegedly prevailing in between P.W. 7, and the accused was not established properly. Moreover, during cross examination of P. Ws. the defence could not elucidate anything from their mouth that Emdadul Haque paid money to Abdul Hye. On the Contrary P.W. 2, P.W. 3, P.W. 4, P.W.5 and P. W. 7 said that Emdadul Haque paid money to accused Md, Hasan Mia. Therefore the submission of the Ld. Advocate for defence that out of enmity Emdadul Haque implicated accused Md. Hasan Mia and he tried to save Abdul Hye has no leg to stand. On analysing the evidences on record it is clear that accused Md. Hasan Mia obtained money from P.W. 2. Emdadul Haque for sending his son Sanwar Hossain (P. W. 3.) to Malayasia although he has no licence and he is not a recruiting agent for export of manpower to abroad.

Under the facts and circumstances and in the light of foregoing discussions we may come to the conclusion that prosecution has been able to prove the case against accused Md. Hasan Mia beyond doubt. Therefore, he is found guilty of the offence U/S 23 Emigration Ordinance, 1982.

As regards accused Shamsul Alam @ Bakul Master the allegation against him is that P.W.2 Emdadul Haque Pramanik discussed with him before entering into transactions with accused Md. Hasan Mia. That accused Shamsul Alam @ Bakul Master gave consent and thus he abetted commission of the offence

by accused Md. Hassan Mia. There is no averment in the complaint as to in whose presence he advised witness Emdadul Haque to pay money to accused Md. Hasan Mia. None of the P. Ws. told before the court on the point that they saw accused Shamsul Alam was present in the venue on different dates when accused Md. Hasan Mia accepted money from witness Emdadul Haque. Further more he is not a party in the undertaking, Exhibit-3.

The Ld. Advocate for defence contends that accused Shamsul Alam @ Bakul Master is a senior teacher of Zaigir High School under P, S, Mithapukur, district Rangpur and that he has been engaged in teaching profession for the last 20 years. His version is that it is not probable that he would abbet commission of offence by any person otherwise-it is established by sufficient and satisfactory evidences. We find that there is no reasonable evidence on record in this regard against this accused. It may be noted that if for worst views it is taken that accused Shamsul Alam @ Bakul Master was consulted and he gave consent for payment of money by Emdadul Haque Pramanik to accused Md. Hasan Mia it does not follow that he had criminal intension in mind. Therefore, our conclusion is that the charge framed against accused Shamsul Alam was not proved beyond doubt. So he is not found guilty U/S 21 of Emigration Ordinance, 1982.

Hence, it is

ORDERED

That accused Md. Hasan Mia be convicted of the charge U/S 23 of Emigration Ordinance, 1982 and sentenced to suffer R. I. for 4 (four) years and also to pay fine of Tk. 1000 (one thousand) only in default to suffer R. I. for 2 (two) months.

Accused Shamsul Alam @ Bakul Master be acquitted from the charge U/S 21 of the said Ordinance. Send accused Md. Hasan Mia to jail hajat and issue conviction warrant.

Md. Abdur Rahman Patwari
Chairman, 22.9.97
Labour Court, Rajshahi.

উপস্থিত : জনাব মোঃ আবদুর রহমান পাটোয়ারী
চেয়ারম্যান,
শ্রম আদালত, রাজশাহী।

স্বাই, আর ও, মানলা নং-৩৪/৯৭

রেজিষ্ট্রার অব ট্রেড ইউনিয়ন, রাজশাহী বিভাগ, রাজশাহী—১ম পক্ষ।

বনাম

সভাপতি/সাধারণ সম্পাদক,

বিএডিসি উল্লাপাড়া উপজেলা সার গুদাম কুলি শ্রমিক ইউনিয়ন,
(রেজিঃ নং রাজ-৯০৮), রেলস্টেশন উল্লাপাড়া, গিরাজগঞ্জ—২য় পক্ষ।

১। জনাব এস, এন, সাইকুদ্দিন আহমেদ, ১ম পক্ষের প্রতিনিধি।

আদেশ নং ৫, তাং ২৮/৯/৯৭।

অদ্য মানলাটি প্রতিপক্ষের জবাব দাখিলের জন্য দিন ধার্য আছে। বাদী পক্ষে রেজিষ্ট্রার অব ট্রেড ইউনিয়ন প্রতিনিধি মানলায় হাজিরা প্রদান করেন। প্রতিপক্ষগণ অদ্যও অনুপস্থিত আছেন। গত ২৫-৬-৯৭ ইং তারিখে প্রতিপক্ষগণের বিরুদ্ধে রেজিষ্ট্রি ডাকযোগে নোটিশ পাঠানো হয়। নোটিশ বিনা জারীতেও ফেরৎ আসে নাই। প্রতিপক্ষ পরপর চারটি তারিখে অনুপস্থিত আছেন। প্রতিপক্ষগণকে কোর্টে পুনঃ পুনঃ ডাকার পর অনুপস্থিত পাওয়া গেল। অদ্য মালিক পক্ষের সদস্য জনাব মোঃ ইয়মাইল হোসেন ও শ্রমিক পক্ষের সদস্য জনাব মোঃ আবু সেলিম দ্বারা কোর্ট গঠিত হইল। মানলাটি একতরফা শুনার জন্য লওয়া হইল। বাদী পক্ষে রেজিষ্ট্রার অব ট্রেড ইউনিয়নের মৌখিক বক্তব্য শুনা হইল। বাদী পক্ষ মানলায় কোন সাক্ষ্য দিবেন না বলিয়া মত ব্যক্ত করেন। বাদী পক্ষের দাখিলী কাগজাদি প্র-১, হিসাবে চিহ্নিত হইল। বাদী পক্ষের মৌখিক যুক্তিতর্ক শুনা হইল।

নথি পর্যালোচনা করিয়া দেখিলাম। বাদী পক্ষের প্রতিনিধির বক্তব্য শুনিলাম। বাদী পক্ষের অভিযোগ হইল যে বি, এ, ডি, গি, উল্লাপাড়া উপজেলা সার গুদাম কুলি শ্রমিক ইউনিয়ন ১৯৯৫ ও ১৯৯৬ সালের বাধিক বিবরণী দাখিল করেন নাই। তাহাদেরকে ৫-৩-৯৭ ইং তারিখে ৩৭৯ নং স্মারক মাধ্যমে রেজিষ্ট্রি ডাকযোগে নোটিশ দেওয়া গেলও তাহারা হাজির হন নাই বা ১৯৯৫ ও ১৯৯৬ সালের বাধিক বিবরণী দাখিল করেন নাই। নথি হইতে দেখা যায় যে, মানলাটি দায়ের করার পর আদালত হইতে প্রতিপক্ষকে রেজিষ্ট্রি ডাকযোগে ২৫-৬-৯৭ ইং তারিখে নোটিশ দেওয়া হইয়াছিল। কিন্তু তাহারা মানলাটিতে প্রতিবন্ধিতা করার জন্য আদালতে উপস্থিত হন নাই। ইহা হইতে প্রতিমান হইবে প্রতিপক্ষ মানলাটিতে প্রতিবন্ধিতা করিতে ইচ্ছুক নয়।

বিষয় সদস্যগণের সহিত আলোচনা করা গেল। বাদী পক্ষের মানলাটি প্রমাণিত হইল।

অতএব,

আদেশ এই

যে, অত্র আই, আর, ও, নামলা একত্রফা সূত্রে বিনা খরচায় মঞ্জুর হয়। বাদী পক্ষকে প্রতিপক্ষের বি, এ, ডি, ইস, উজ্বাপাত্তা সার ওরান কুলি শ্রমিক ইউনিয়নের রেজিষ্ট্রেশন (রেজিঃ নং রাজ-৯০৮) বাতিল করার অনুমতি দেওয়া গেল।

মোঃ আবদুর রহমান পাটোয়ারী

চেয়ারম্যান

শ্রম আদালত, রাজশাহী।

শ্রম আদালত, রাজশাহী বিভাগ, রাজশাহী

উপস্থিত : জনাব মোঃ আবদুর রহমান পাটোয়ারী

চেয়ারম্যান,

শ্রম আদালত, রাজশাহী।

আই, আর, ও, নামলা নং-৩৫/৯৭

রেজিষ্ট্রার অব ট্রেড ইউনিয়ন, রাজশাহী বিভাগ, রাজশাহী—১ম পক্ষ।

বনাম

মতাপত্তি/সাধারণ সম্পাদক,

হারাগাছ জাতীয়তাবাদী বিডি শ্রমিক ইউনিয়ন,

(রেজিঃ নং রাজ-১০৯৪), হারাগাছ, রংপুর—২য় পক্ষ।

১। জনাব এস, এম, সাইফুদ্দিন আহমেদ, ১ম পক্ষের প্রতিনিধি।

আদেশ নং-৫, তাং ২৮/৯/৯৭।

অদ্য মামলাটি প্রতিপক্ষের জবাব দাখিলের জন্য দিন ধার্য আছে। বাদী পক্ষ রেজিষ্ট্রার অব ট্রেড ইউনিয়ন প্রতিনিধি নামলার হাজিরা প্রদান করেন। প্রতিপক্ষগণ অদ্যও অনুপস্থিত আছেন। গত ২৫-৬-৯৭ তারিখে প্রতিপক্ষগণের বিরুদ্ধে রেজিষ্ট্রি ডাব্বোগে নোটিশ পাঠানো হয়। নোটিশ বিনা জারীতেও ফেরৎ আসে নাই। প্রতিপক্ষগণ পরপর চারটি তারিখে অনুপস্থিত আছেন। প্রতিপক্ষগণকে কোর্টে পুনঃপুনঃ ডাকার পর অনুপস্থিত পাওয়া গেল। অদ্য মালিক পক্ষের সদস্য জনাব মোঃ ইসমাইল হোসেন ও শ্রমিক পক্ষের সদস্য জনাব মোঃ আবু সেলিম দ্বারা কোর্ট গঠিত হইল। মামলাটি একত্রফা সুনানীর জন্য গ্রহণ করা হইল। বাদী পক্ষের রেজিষ্ট্রার অব ট্রেড ইউনিয়ন প্রতিনিধির নৌখিক বক্তব্য শুনা হইল। বাদী পক্ষ নামলার কোন শাক্য দিবেন না বলিয়া ব্যক্ত করেন। বাদী পক্ষের দাখিলী কাগজাদী প্র-১, হিসাবে চিহ্নিত করা হইল। বাদী পক্ষের নৌখিক যুক্তিতর্ক শুনা হইল।

বাদী পক্ষের প্রতিনিধির বক্তব্য শুনা হইল। বাদী পক্ষের অভিযোগ হইল যে হারা-গাছ জাতীয়তাবাদী বিডি শ্রমিক ইউনিয়ন ১৯৯৩, ১৯৯৪, ১৯৯৫ ও ১৯৯৬ সনের বায়িক বিবরণী দাখিল করেন নাই। তাহাদের প্রতি বিগত ইং ৮-৪-৯৫ তারিখের ৭৩৫ নং স্মারক মূলে রেজিষ্ট্রি ডাকযোগে নোটিশ দেওয়া হইয়াছিল। কিন্তু তাহারা হাজির হন নাই কিংবা ১৯৯৩, ১৯৯৪, ১৯৯৫ ও ১৯৯৬ সনের বায়িক রিটার্ন দাখিল করেন নাই। বাদী পক্ষের প্রদর্শনী চিহ্নিত-১, তাহাদের বক্তব্য সমর্থন করে।

নথি পর্যালোচনা করিয়া দেখা যায় যে, অত্র আদালত হইতে ২৫-৬-৯৭ ইং তারিখে রেজিষ্ট্রি ডাকযোগে প্রতিপক্ষের প্রতি নোটিশ ইস্যু করা হইয়াছিল। তথাপিও তাহারা আদালতে হাজির হন নাই এবং উল্লিখিত সালের বাৎসরিক রিটার্ন দাখিল করেন নাই।

বিজ্ঞ সদস্যগণের সহিত আলোচনা করা হইল। বাদী পক্ষের অভিযোগ প্রমাণিত হয়।

অতএব,

আদেশ এই

যে, অত্র আই, আর, ও মানলা একতরফা সূত্রে বিনা খরচায় মঞ্জুর হইল। বাদী পক্ষকে প্রতিপক্ষের হারাগাছ জাতীয়তাবাদী বিডি শ্রমিক ইউনিয়ন এর রেজিষ্ট্রেশন (রেজি: নং রাজ-১০৯৪) বাতিল করার জন্য অনুমতি দেওয়া গেল।

মো: আবদুর রহমান পাটোয়ারী
চেয়ারম্যান,
শ্রম আদালত, রাজশাহী।

In the Court of chairman, Labour Court, Rajshahi.
Present :- Mr. Md. Abdur Rahman Patwari
Chairman, Labour Court, Rajshahi.

Members :- 1. Mr. Md. Ismail Hossain, for the Employer.
2. Mr. Md. Abu Selim, for the Labour.

Date of delivery of Judgment- 2nd October 1997.

I. R. O. (Appeal) Case No. 26/96

1. Md. Mukhlessur Rahman, President.
2. Md. Nuruzzaman, General Secretary.
Baby-Taxi & Tempo Malik Samity, Badalgachi, Naogaon—
Appellants.

Versus

1. Registrar of Trade Union, Rajshahi Division, Rajshahi—
Respondent No. 1.
2. S. M. Akram Hossain, President, Naogaon Zilla Baby-Taxi/
Tempo Malik Samity. Regn. No. Raj-1396—Respondent
No. 2.
3. Md. Zahidul Islam General Secretary. Naogaon Zilla
Baby Taxi/Tempo Malik Samity. Regn. No. Raj-1396.
Respondent No. 3.

- Representatives :-
1. Mr. Saifur Rahman Khan, Advocate
for the Appellants.
 2. Mr. S. M. Saifuddin Ahmed, Representa-
tive for Respondent No. 1.
 3. Mr. Md. Korban Ali, Advocate for Res-
pondent Nos. 2 & 3.

JUDGMENT

This is an appeal U/S 8(3) of the Industrial Relations Ordinance, 1969.

The case of the appellant, in brief, is that they are owners of Baby Taxi/Tempo under police station Badalgachi, District-Naogaon. That with a view to from a Malik Samity of Baby Taxi/Tempo owners within the Police Station Badalgachi to maintain cordial relationship between the owners and the workers, to protect their own interest and for raising and resolving disputes pertaining to their Transport/Vehicle business they have formed a Trade Union under the name and style Badalgachi Baby Taxi and Tempo Malik Samity. That the appellants Md. Mukhlessur Rahman and Md. Nuruzzaman were elected President and General Secretary of the Association. They drafted a constitution of the Association and the General Members of the Associa-

tion in a meeting approved the constitution with some modifications. Thereafter they forwarded the same to Respondent No. 1 on 15.5.96 with all relevant papers and informations.

That the Respondent No. 1 raised some objections under Memo No. R.T.U/Raj/469 dated. 16.5.96 and in fact the objection letter was posted after some days. That the appellants the received the objection letter of Respondent No. 1 on 22.5.96 and they filed petition on 03.6.96 after removing objections an expressed their willingness to make amendment with regard to any other requirements. that as the office bearers of Badal gachi Baby Taxi and Tempo Owners Association are not sufficiently educated and they admits that defects were prevailing in their original petition. The further case of the appellants is that the Respondent No. 1 rejected their prayer for registration of their Association later on the plea that their reply was not received by them which is not a fact. Hence the appellants preferred this appeal.

The case of Respondent No. 1. in short, is that on receipt of the petition of the appellants. They found some defects and as per letter No. R.T.U/Raj/ 469 dated 16.5.96 they returned the same with a request to refile within 15 days after removing the defects. That the appellants did not re-submit their prayer curing the defects pointed out. That the contention of the appellants that they were present in the office of Respondent No. 1 on 03.6.96 is not correct. The further case of the Respondent No. 1 is that as the appellants failed to comply with their direction they rejected the prayer as per provision of section 8(2) of I.R.O., 1969, It is also the case of Respondent No. 1 that proposed Association has no existence. So they have no right to prefer this appeal.

The case of Respondent Nos. 2 and 3 is that the appellant are not members of any establishment and they have no locus standi to form an Association. That the proposed Association is based within the area of a police Station and that section

54 of Motor vehicle Ordinance 1983 Read with clause IX of section 2 of I.R.O 1969 as amended by Act No. 22 of 1993 is a bar and as per provision of section 54 as referred to they have no satisfactory ground for preferring any appeal for registration of their proposed Trade Union. That the appellants with a malafide intention of causing harm to the Union of the Respondent Nos. 2 and 3 are trying to obtain registration of the proposed Trade Union illegally.

POINT FOR DETERMINATION

1. Are the appellants entitled to get an order directing the Respondent No. 1. Registrar of Trade Union, Rajshahi to register their Proposed Trade Union.

FINDINGS AND DECISION

The case of the appellants is that they are owners of Baby Taxi/Tempo under police Station Badalgachi, District—Naogaon. That with a view to establish harmonious relationship in between them and workers, to resolve disputes arising out amongst them and to protect their own interest, they in a General Meeting held on 22.1.96 Exhibit 1. formed a Trade Union as Badalgachi Baby Taxi/Tempo Malik Samity of which Md. Mokhlessur Rehman and Shahidul Islam were elected as President and General Secretary respectively. That they applied to the Registrar of Trade Union, Rajshahi Divion, Rajshahi on 15.05.96 for registration of their Trade Union.

The bone of contention of the Respondant No. 1 is that they issued a letter under Memo No. R.T.U./Raj/469 dated 16.5.96. Exhibit-5, requesting the Appellants to remove the defects within 15 days. But they did not comply with their request and, therefore, their prayer was rejected under Memo No. R.T.U./ Raj/568 dated 03.06.96 Exhibit-8.

Exhibit-7 is the Envelope and the objection letter, Exhibit-8, was posted under its cover. It is evident that Exhibit-8 was registered under serial No. 1543 on 18.5.96 at G.P.O- Rajshahi. The Appellants submits that they received the objection letter, Exhibit-8, on 22.5.96. It is not unlikely. The Appellants submit that they in reply wrote a letter on 03.6.96 to the Registrar of Trade Union, Rajshahi removing some defects and expressing their readiness to cure the rest and that they were present in the office of the Registrar on 03.6.96. Exhibit-6 is the copy of the letter written by the Appellants to the Registrar of Trade Union, Rajshahi. It transpires from the face of the copy of this letter that the office of the Respondent No. 1 received the original letter dated 03.6.96. by affixing official seal and putting signatures with date of the recipient clerk. So the contention of the Respondent No. 1 that they did not receive the letter dated 03.6.96, Exhibit-6 does not stand.

The Appellants got the objection letter Exhibit-5 on 22.5.96 and they were present in the Office of the Respondent No. 1 on 03.6.96 with their replies. Exhibit-6, which was within the stipulated period of time limit of 15 days fixed by the Respondent No. 1 This indicates that the Appellants were prompt in their action and sincere to get registration of their Trade Union from Respondent No. 1. Therefore, the Respondent No. 1 was required to render co-operation and accord registration of their trade union subject to observing of formalities.

The Ld. Advocate for Respondent Nos. 2-3 contends that as per clause IX of section 2 of I.R.O., 1969 as amended vide Act No. 22 of 1993, Establishment means any office, firm, Industrial Unit, Transport vehicle etc. and that each class of Transport vehicles such as Taxi/Baby Taxi/Tempo operating in a region of a transport committee shall be deemed to be an establishment while section 54 of Motor vehicle Ordinance, 1983 defines that jurisdiction of a transport committee shall not be less than the area of a district in full or a Metropolitan

city. The Ld. Advocate for Respondent Nos. 2-3 submits that Trade Unions have to be organised Establishment wise and there can not be at any given point of time more than 3 registered Trade Union in an establishment. Therefore, he opposed the appeal tooth and nail.

Section 2 Sub section XXVI of I.R.C., 1969 defines Trade Union as any combination of workman or employers formed primarily for the purpose of regulating the relations between workman and employers, etc. So keeping the aforesaid definition in view we are constrained to hold that proposed formation of Malik Samity will no doubt fall under the purview of Trade Union.

The Ld. Advocate for Respondent Nos. 2-3 while parting with his submission concluded that Respondent Nos 2-3 also represent 'Malik Samity' of Baby Taxi/Tempo of Greater Naogaon district. That there are as many as eleven police stations under this district. That if a Trade Union of Baby Taxi/Tempo is allowed for each police station, in that case the number of Trade Union of the owners of Baby Taxi/Tempo will be raised to eleven under the district. As a result there is chances of more than three registered Trade Union of Malik Samity of Baby Taxi/Tempo in an establishment under the Transport Committee of Naogaon district which will be contrary to the provision of law.

It is not denied that Respondent Nos. 2-3 lead a Trade Union in the name of Malik Samity of Baby Taxi/Tempo Plying in Greater Naogaon district. They did not furnish papers to point out that there are already at least two more Trade Union of this category operating in the establishment of Transport committee of Naogaon district. Beside, they could not place any specific law to the effect that the restriction quoted by them is equally applicable in the case of Trade Union of Malik Samity as contemplated by the Appellants.

In fine, the Ld. Advocate for Respondent Nos. 2-3 submits that in the 'P' Form enclosed by the appellants alongwith there application, the number of members of the proposed Trade Union are 32. Amongst them Transport vehicles of 16 members were shown on test. According to him as they are yet to obtain registration and route permit, the presumption may be that they are not operating in a region of a Transport committee and as such the owners of those transport vehicles need not be treated as members of the proposed Trade Union. He, however, does not challenge ownership of Transport vehicles by them. Factually registration of Transport vehicles and issuance of Route Permit is a simple matter of formalities. So question of operating by them is not at all uncertain.

Furthermore, it is a fact that the term operating was used in the proviso of clause IX of section 2 of I.R.O., 1969 as amended by Act 22 of 1993 for the purpose of registration of Trade Union of workman employed in Transport vehicles. The Ld. Advocate for Respondent Nos. 2-3 could not show us any instance that the term operating imposed as a condition for the purpose of registration of Trade Union of workman employed in Transport vehicles is also applicable in the event of registrations of Trade Union in respect of Malik Samity of Transport vehicle. The appellants added that for formation of Trade Union by owners of Transport vehicles there is no restriction as to the number of their members. The Respondents do not dispute on this point.

The Ld. Members were consulted and discussed.

Having regard to our foregoing discussions and under the facts and circumstances, we may come to the conclusions that the appellants may get registration of their Trade Union subject to observance of formalities.

Hence, it is

ORDERED

That the I.R.O. (appeel) be allowed on contest against the Respondent without any order as to cost. The Respondent No. 1 is directed to register the proposed Trade Union of the Appellants subject to observance of formalities and issue certificate.

Md. Abdur Rahman Patwari
Chairman,
Labour Court, Rajshahi.
02-10-1997

শ্রম আদালত, রাজশাহী বিভাগ, রাজশাহী
উপস্থিত:—জনাব মোঃ আবদুর রহমান পটওয়ারী
চেয়ারম্যান, শ্রম আদালত, রাজশাহী।

আই, আর, ও মামলা নং ১/৯৭

রাজশাহী কৃষি উন্নয়ন ব্যাংক কর্মচারী সংসদ, রেজি: নং রাজ ৬১১ পক্ষে সভাপতি
মো: নরুল ইসলাম, সুপারভাইজার, রাজশাহী কৃষি উন্নয়ন ব্যাংক, পলা শাখা, রাজশাহী
—দরখাস্তকারী।

বনাম

- ১। রেজিষ্টার অব ট্রেড, ইউনিয়ন, রাজশাহী বিভাগ, রাজশাহী।
- ২। গোলাম রাব্বানী পটু, সুপারভাইজার, রাকাব, পাহাড়পুর শাখা, জেলা নওগাঁ।
- ৩। শেখ মো: তোফিক এলাহী, টাইপিষ্ট, রাকাব, এলপিও, খেঁটার রোড, কাজীহাটা রাজশাহী।
- ৪। মো: আ: রহিম টাইপিষ্ট কাম নিম্নমান সহকারী, রাকাব প্রধান কার্যালয়, খেঁড় অগ্রিম বিভাগ, খেঁটার রোড, কাজীহাটা, রাজশাহী।
- ৫। মো: মসিকুল ইসলাম, পিও, শাখা নিয়ন্ত্রণ বিভাগ, রাকাব প্রধান কার্যালয়, খেঁটার রোড, কাজীহাটা, রাজশাহী।

২-৫ সকলেই সদস্য, রাজশাহী কৃষি উন্নয়ন ব্যাংক, কর্মচারী সংসদ,
রেজি: নং রাজ ৬১১—প্রতিপক্ষ।

- প্রতিনিধিগণ:— ১। জনাব মোঃ কোরবান আলী, দরখাস্তকারী পক্ষের আইনজীবী।
- ২। জনাব এস. এম. সাইকুদ্দিন আহমেদ, ১ নং প্রতিপক্ষের প্রতিনিধি।
- ৩। জনাব মোঃ রফিকুল ইসলাম বকুল, ২—৫ নং প্রতিপক্ষগণের আইনজীবী।

আদেশ নং ১৪, তারিখ ১৫-১০-৯৭

অদ্য মামলাটি বাদী পক্ষের ৭-৮-৯৭ তারিখের মামলা তুলিয়া নিবার আবেদন উপস্থাপন করা হইল। বাদী পক্ষে বিজ্ঞ কৌশলী মামলায় হাজিরা প্রদান করেন। ১ নং প্রতিপক্ষে রেজিষ্টার অব ট্রেড ইউনিয়ন প্রতিনিধি মামলায় হাজিরা প্রদান করেন। বাদীপক্ষ ও প্রতিপক্ষগণ আদালতের বাহিরে আপোষ নিষ্পত্তি করিয়াছে; বিধায় বাদী পক্ষ অত্র আবেদন মামলা তুলিয়া নিবার জ্ঞাপ্রার্থনা করেন। অদ্য মালিক পক্ষের সদস্য জনাব পুলিন বিহারী বিশ্বাস ও শ্রমিকপক্ষের সদস্য জনাব কামরুল হাশান দ্বারা কোর্ট গঠিত হইল।

শ্রবণ করিলাম। নথি পর্যালোচনা করিয়া দেখা যায় যে, দরখাস্তকারী পক্ষ বিগত ৩০-৯-৯৭ তারিখে একবার দরখাস্ত দাখিল করিয়া উহাতে সঠিত কারণে মামলাটি উঠাইয়া লওয়ার জন্য অনুমতি নিষ্পত্তি আদেশ প্রার্থনা করিয়াছে। প্রতিপক্ষ উক্ত দরখাস্তখানা দেখিয়াছেন মর্মে উহাতে স্বাক্ষর প্রদান করিয়াছেন। শুনানীকালে দরখাস্তকারী পক্ষের বিজ্ঞ কৌশলী বক্তব্যে বলে: যে দরখাস্তকারী এবং প্রতিপক্ষগণ আদালতের বাহিরে বিরোধ আপোষে নিষ্পত্তি করিয়াছেন বিধায় মামলাটি তুলিয়া লওয়া প্রয়োজন।

পক্ষগণ যেহেতু তাদের মধ্যে বিদ্যমান তিক্ততা লাঘবে বিরোধ আদালতের বাহিরে আপোষ মীমাংসা করিয়াছেন সেইহেতু মামলাটি উঠাইয়া লওয়ার অনুমতি দেওয়া যায়।

বিজ্ঞ সদস্যগণের সহিত আলোচনা করা হইল। প্রার্থনা মঞ্জুর করা গেল।

অতএব,

আদেশ হইল

যে, অত্র আই, আর, ও মামলা দরখাস্তকারী পক্ষ কতক উঠাইয়া লওয়ার অনুমতি দেওয়া গেল। উক্তরূপে মামলাটি নিষ্পত্তি করা গেল।

মো: আবদুর রহমান পাটোয়ারী
চেয়ারম্যান,
শ্রম আদালত, রাজশাহী।

শ্রম আদালত, রাজশাহী বিভাগ, রাজশাহী

উপস্থিত :—জনাব মোঃ আবদুর রহমান পাটোয়ারী চেয়ারম্যান, শ্রম আদালত,
রাজশাহী।

আই, আর, ও নম্বা নং ৩৯/৯৭

রেজিষ্টার অব ট্রেড ইউনিয়ন, রাজশাহী বিভাগ, রাজশাহী—১ম পক্ষ।

দ্বান

সভাপতি/সাধারণ সম্পাদক, বোদা থানা রিক্সা ও ভ্যান শ্রমিক ইউনিয়ন,
(রেজিঃ নং রাজ ১৩৩৪,) বোদা থানা, বোদা, পঞ্চগড়—২য় পক্ষ।

১। জনাব এস, এম, সাইফুদ্দিন আহমেদ, ১ম পক্ষের প্রতিনিধি।

আদেশ নং ৫, তারিখ ১৫-১০-৯৭

অন্য মামলাটি একতরফা শুনানীর জন্য পিন ধার্য আছে। বাকী পক্ষে রেজিষ্টার অব ট্রেড ইউনিয়ন প্রতিনিধি মামলায় হাজিরা প্রদান করেন। প্রতিপক্ষগণ অদ্যও অনুপস্থিত আছেন অপর মালিক পক্ষের সদস্য জনাব পুলিশ বিহারী বিশ্বাস ও শ্রমিক পক্ষের সদস্য জনাব কামরুল হাসান দ্বারা কোর্ট গঠিত হইল। মামলাটি এক তরফা শুনানীর জন্য গ্রহণ করা হইল বাকী পক্ষে রেজিষ্টার অব ট্রেড ইউনিয়ন প্রতিনিধির মামলায় মৌখিক বক্তব্য শূন্য হইল। বাকীপক্ষের দাবিলী কাগজারী প্র-১ হিসাবে চিহ্নিত করা হইল। বাকী পক্ষে রেজিষ্টার অব ট্রেড ইউনিয়ন প্রতিনিধির মৌখিক যুক্তিতর্ক শূন্য হইল।

১ম পক্ষের বক্তব্য হইল যে, দ্বিতীয় পক্ষ বোদা থানা রিক্সা ও ভ্যান শ্রমিক ইউনিয়ন ১৯৯৫ ও ১৯৯৬ সনের আয় ব্যয়ের হিসাব বিবরণী দাখিল করেন নাই। ইহার ফলে ১ম পক্ষ দ্বিতীয় পক্ষকে ১৭-৩-৯৭ তারিখের আর্টার্ড ইউ/রাজ/৪৬৭ নং রেজিষ্টারিত পত্রের মাধ্যমে নোটিশ ইস্যু করেন। কিন্তু দ্বিতীয় পক্ষ উক্ত নোটিশের কোন জবাব প্রদান করেন নাই অথবা ১৯৯৫ ও ১৯৯৬ সনের আয় ব্যয়ের হিসাব বিবরণী প্রদান করেন নাই।

১ম পক্ষের নোটিশ প্র-১ হিসাবে চিহ্নিত করা হইয়াছে। অত্র আদালত কর্তৃক ও দ্বিতীয় পক্ষকে রেজিষ্টারি ডাকযোগে নোটিশ দেওয়া হইয়াছে। তথাপি দ্বিতীয় পক্ষ আদালতে হাজির হন নাই। ফলশ্রুতিতে ১ম পক্ষের অভিযোগ প্রমাণিত হয়।

বিজ্ঞ সদস্যগণের সহিত আলোচনা করা হইল।

এতএব আদেশ এই যে, অত্র আই আর ও মামলা একতরফা সূত্রে মঞ্জুর হইল। প্রথম পক্ষকে দ্বিতীয় পক্ষ বোদা থানা রিক্সা ও ভ্যান শ্রমিক ইউনিয়নের রেজিষ্ট্রেশন (রেজিঃ নং রাজ ১৩৩৪) বাতিল করিবার অনুমতি দেওয়া গেল।

মোঃ আবদুর রহমান পাটোয়ারী

চেয়ারম্যান

শ্রম আদালত, রাজশাহী।

শ্রম আদালত, রাজশাহী বিভাগ, রাজশাহী
উপস্থিত জনাব মোঃ আবদুর রহমান পাটোয়ারী
চেয়ারম্যান, শ্রম আদালত, রাজশাহী।

আই, আর, ও, কেস নং ৪৯/৯৭ (আপীল)

- ১। মোঃ নবী হোসেন, সভাপতি
- ২। মোঃ ফজলে রাবিব আলীক, সাধারণ সম্পাদক প্রস্তাবিত রাজশাহী জেলা ট্রাক শ্রমিক ইউনিয়ন, প্রধান কার্যালয়, হেলগেট, গপুরা, রাজশাহী—আপীলকারী।

বনাম

রেজিষ্টার অব ট্রেড ইউনিয়ন, রাজশাহী বিভাগ রাজশাহী—রেসপনডেন্ট।

প্রতিনিধিগণ: ১। জনাব মোঃ কোরবান আলী, আপীলকারী পক্ষের আইনজীবী।

২। এস, এম, সাইকুদ্দিন আহমেদ, রেসপনডেন্ট পক্ষের প্রতিনিধি।

আদেশ নং ৫, তারিখ ২৬-১০-৯৭

অন্য মামলাটি চূড়ান্ত শুনানীর জন্য দিন ধার্য আছে। বাদী পক্ষের বিজ্ঞ কৌশলী দরখাস্তে বর্ণিত হেতু বাদ মূলে উল্লেখ করিয়াছেন যে দরখাস্তকারীগণ অত্র মৌকদ্দমা আর চালাইতে ইচ্ছুক নয় বিধায় মামলা উঠাইয়া নিবার জন্য প্রার্থনা করেন।

প্রতিপক্ষে রেজিষ্টার অব ট্রেড ইউনিয়ন প্রতিনিধি মামলার হাজিরা প্রদান করেন। বাদী পক্ষের বিজ্ঞ কৌশলীর আবেদন প্রতিপক্ষকে দেখানো হয়।

পক্ষগণকে শ্রুত হইল। আপীলকারীগণ মামলিক দরখাস্তে উল্লেখ করিয়াছেন যে তাহারা আপিলটি চালাইবেন না এবং উা তুলিয়ানিতে ইচ্ছুক। বিজ্ঞ কৌশলী উক্ত দরখাস্তের সপক্ষে বক্তব্য পেশ করেন। প্রার্থনা মঞ্জুর করা হইল।

অন্তএব;

আদেশ এই

যে আপীলকারীগণকে আবেদন মোতাবেক আপিলটি তুলিয়া নেওয়ার অনুমতি দেওয়া যেন। উল্লিখিত নতে আপিলটি নিষ্পত্তি করা হইল মর্মে গণ্য হইবে।

মোঃ আবদুর রহমান পাটোয়ারী
চেয়ারম্যান
শ্রম আদালত, রাজশাহী।

শ্রম আদালত, রাজশাহী বিভাগ, রাজশাহী
উপস্থিত : জনাব মোঃ আবদুর রহমান পাটোয়ারী
চেয়ারম্যান, শ্রম আদালত, রাজশাহী।

ফৌজদারী মানলা নং ১২/৯৩

বেগম রওশন আখতার, পিতা মীর রুস্তম আলী,
সং হেতুর্থা সংসীপাড়া, থানা বোয়ালিয়া, জেলা রাজশাহী—বাদিনী।

বনান

- ১। ডাঃ অনিল চন্দ্র বর্মণ, পিতা মৃত নিমাই চন্দ্র বর্মণ, ভারপ্রাপ্ত পরিচালক, বাংলাদেশ রেশন গবেষণা প্রশিক্ষণ ইনস্টিটিউট, রাজশাহী, জেলা রাজশাহী।
- ২। জনাব: সুরুল হক (প্রাক্তন ভারপ্রাপ্ত সচিব), বাংলাদেশ রেশন বোর্ড, রাজশাহী।
- ৩। পোনান রবানী, চেয়ারম্যান, বাংলাদেশ রেশন বোর্ড, রাজশাহী।
ত্রিগেজিয়ার, বর্তমান পরিচালক, বর্তমান ঠিকানা শশত্রু বাহিনী, কাকরাইল
রোড, ঢাকা, থানা রমনা—আসামীগণ।

প্রতিনিধিগণ :- ১। জনাব মোঃ কোরবান আলী, বাদিনী পক্ষের আইনজীবী।

২। জনাব এম. এম. এমদাদুর রহমান, আসামী পক্ষের আইনজীবী।

আদেশ নং-৫৭, তারিখ ২৬-১০-৯৭

অদ্য মানলাটি বঙ্গ মন্ত্রণালয়ের ২৯-৭-৯৭ তারিখের পত্রের শুনানীর জন্য দিন ধার্য আছে। ১ ও ২ নং আসামীগণ আদালতে উপস্থিত আছেন। তাহাদের বিজ্ঞ আইনজীবী মানলায় হাজিরা প্রদান করেন। ৩ নং আসামী অনুপস্থিত আছেন। বাদিনী পক্ষে বিজ্ঞ কৌশলী দরখাশ্তে বর্ণিত হেতুবাদমূলে উল্লেখ করিয়াছেন যে প্রতিপক্ষ মাননীয় আদালতের দ্বারা কার্য-করী করার পদক্ষেপ গ্রহণ করিয়াছেন এবং বাদিনীর পাওনা প্রদানের প্রয়োজনীয় ব্যবস্থাদি গ্রহণ করিয়াছেন বিধায় বাদিনী অত্র মানলা চালাইতে ইচ্ছুক নয় বিধায় অত্র মানলা উঠাইয়া দিবার জন্য প্রার্থনা করেন। আসামী পক্ষের বিজ্ঞ কৌশলীকে আবেদনের কপি দেখানো হয়।

উভয় পক্ষে বিজ্ঞ কৌশলীগণের বক্তব্য শ্রবণ করিলাম। শুনানীকালে বাদিনী পক্ষে বিজ্ঞ কৌশলী বক্তব্যে বলেন যে বাদিনী অত্র মানলাটি আর চালাইতে ইচ্ছুক নহে হেতু উহা উঠাইয়া লওয়া আবশ্যিক। প্রার্থনা মঞ্জুর করা হইল।

অতএব,

আদেশ এই

যে বাদিনীকে ফৌজদারী মানলাটি উঠাইয়া নেওয়ার অনুমতি দেওয়া গেল। আলোচ্য মতে ফৌজদারী মানলাটি নিষ্পত্তি করা গেল মর্মে গণ্য হইবে।

মোঃ আবদুর রহমান পাটোয়ারী

চেয়ারম্যান

শ্রম আদালত রাজশাহী।

শ্রম আদালত, রাজশাহী বিভাগ, রাজশাহী
উপস্থিত : জনাব মোঃ আবদুর রহমান পাটোয়ারী
চেয়ারম্যান, শ্রম আদালত, রাজশাহী।

আই, আর, ও, (আপীল) নম্বর নং-৭/৯৭

এম, এম, আবদুল হান্নান, পিতা-মৃত আবদুল জ্বার,
গ্রাম-দেলগাবাজী, থানা-গারিয়াকান্দি, জেলা-বগুড়া।
বর্তমানে পিয়ন, রাজশাহী কৃষি উন্নয়ন ব্যাংক, কাছিয়াটা, রাজশাহী—আপীল্যান্ট।

বনাম

রেজিষ্টার অব ট্রেড ইউনিয়ন, রাজশাহী বিভাগ, রাজশাহী—রেসপনডেন্ট।

প্রতিনিধিগণ :- ১। জনাব মোঃ রফিকুল ইসলাম (বকুল), আপীলকারী পক্ষের আইনজীবী।

২। জনাব মোঃ আবদুল হান্নান, রেসপনডেন্ট পক্ষের প্রতিনিধি।

আদেশ নং-৯, তারিখ ২৭-১০-৯৭

অন্য মামলাটি বাদী পক্ষের ৭-৮-৯৭ ইং তারিখের মামলা তুলিয়া নিবার আবেদন শুনা-
নীর জন্য দিন ধার্য আছে। বাদী পক্ষের বিজ্ঞ কৌশলী মানলায় হাজিরা প্রদান করেন।
প্রতিপক্ষে রেজিষ্টার অব ট্রেড ইউনিয়ন প্রতিনিধিও মামলায় হাজিরা প্রদান করেন। বাদী
পক্ষের দাখিলী ৭/৮/৯৭ ইং তারিখের মামলা উঠাইয়া নিবার আবেদন উপস্থাপন করা হইল।
অন্য মালিক পক্ষের সদস্য জনাব কজলুর রহমান ও শ্রমিক পক্ষের সদস্য জনাব আবু গেলিম
হারি কোর্ট গঠিত হইল।

পক্ষগণকে শ্রবণ করিলাম। আপীল্যান্ট দাখিলকৃত দরখাস্তে বলিয়াছেন যে, তিনি
আপীলটি চালিতে ইচ্ছক নয়। হেতু উহা তুলিয়া নিতে চান।

বিজ্ঞ কৌশলী উক্ত দরখাস্তের সপক্ষে বক্তব্য পেশ করেন। প্রার্থনা মঞ্জুর করা হইল।

অতএব,

আদেশ এই

যে অত্র আপীল মামলাটি তুলিয়া নেওয়ার জন্য অনুমতি দেওয়া গেল। আলোচ্য মতে
আপীলটি নিষ্পত্তি করা গেল মর্মে গণ্য হইবে।

মোঃ আবদুর রহমান পাটোয়ারী
চেয়ারম্যান
শ্রম আদালত, রাজশাহী।

In the Court of Chairman, Labour Court, Rajshahi
Present ; Mr. Md. Abdur Rahman Patwari
Chairman, Labour Court, Rajshahi.

Date of delivery of Judgment 28 th October, 1997.

Emigration Ordinance Case No. 1/95

Assistant Director,
Bureau of Employment and Manpower, Bogra---Complainant

Versus

Md. Enamul Haque (Bhulu)--Accused.

The story in the petition of complaint.

The case of Complainant Assistant Director, Bureau of Employment and Manpower, Bogra is that accused Md. Enamul Haque (Bhulu) on 02-09-92 at 10 A.M. received Taka 70,000 from witness Md. Abdul Quddus with a promise to send him to Malayasia with job. The condition was that if the entirement amount demanded was paid in one instalment he must be sent to the destination without delay. Legally, thereafter Md. Abdul Quddus sold two tin shed house, there cows, mortgaged land and took loan to collect money. Accused Md. Enamul Haque (Bhulu) received Tk. 70,000 from him and accompanied him to Dhake for Medical test. Subsequently on 9.12.92. at 12 noon Md. Abdul Quddus emplaned Bangladesh Biman and arrived at Bangkok Airport at 2.30 P. M. After Passing some days there he was taken to Hajjai Border by a Micro Bus and was given shelter at Hotel Haji Mat. The middleman took his passport and other papers and send him by a Truck to the address of another middleman in Malayasia. after 18 days the police arrested him from their and sent him to jail hajaj where he spent 5 months 18 days and was sent back to Bangladesh.

The further case of the complainant is that accused Md. Enamul Haque (Bhulu) got no licence and that he is not a Re- cruting agent. That on coming back to Bangladesh Md. Abdul Quddus demanded back his money and he promising to refund the same executed undertaking. Subsequently he refused to pay back the money and put him under threat. So Md. Abdul Quddus filed a complaint before the Deputy Commissioner, Bogra who got the allegation enquired and directed the informant to file a case.

The record shows that complainant Md. Abu Zafar was examined by the court on 22-01-95 U/S 200 Cr. P. C. and the case was registered U/S 21 and 23 (B) of Emigration Ordinance No. XXIX of 1982. Later on W/A was issued upon accused Md. Enamul Haque (Bhulu) and he appeared before this court on 15-01-96 and that on his prayer he was enlarged on bail. Afterwards on 08-04-96 charge was framed U/S 21 and 23 (B) of E. O. No. 29/82 against him. During trial prosecution adduced 7 witnesses out of whom the last two P.w.s. were tendered. Defence cross examined P. w.-1. to P.W-7 After the close of the evidences accused Md. Enamul Haque (Bhulu) was examined U/S 342 CRPC.

The defence case as it appears from the trend of cross examination and suggestions put to the P. Ws. is that accused Md. Enamul Haque (Bhulu) took no money from witness Md. Abdul Quddus. That he went to Malayasia through Recruiting Agent having valid licence and he was employed there. That he indulged himself with illegal activities there and he was deported from Malayasia for his misdeed. That Dudu, brother of Md. Abdul Quddus married the sister of accused Md. Enamul Haque (Bhulu). As Dudu got misunderstanding with his wife, he out of grudge managed to institute this case against accused Md. Enamul Haque (Bhulu) to harass them.

Discussions of evidences of the P. Ws.

P. W. 1 is Md. Abdul Quddus. He has stated in examination in chief that about three years and half months or four years back accused Md. Enamul Haque Bhulu received Tk. 70,000 from him at his home situated under village Buruj, Police Station Gabtali, District Bogra in the name of sending him to Malayasia. That after one month he sent him to Malayasia. That he got no job there and spent two months concealing him. After that police arrested him and sent him to Seminar Camp where he was detained for five months and eight een days. That ultimately he was deported to Bangladesh.

He has further stated in examination in chief that on arrival in Bangladesh he went to the accused, claimed his money and asked him to answer as to why he was not provided with job. That the accused wanted to pay back the money and executed undertaking on judicial stamp worth of Tk. 50. He marked

photo copy of the said undertaking as Exhibit-1 and the signature of accused as Exhibit-1/1. He has also stated in examination in chief that the original undertaking was lost from his possession. He has next stated in examination in chief that later on as the accused did not pay back his money, he filed a complaint before the Deputy Commissioner, Bogra. He identified accused Md. Enamul Haque @ Bhulu on dock. He marked photo copy of his complaint filed before the Deputy Commissioner, Bogra as Exhibit-2 and his own signature as Exhibit-2/1.

P.W.-1 went on in his examination in chief to say that accused Md. Enamul Haque @ Bhulu is not Government approved recruiting Agent. That he obtained money from him on the plea of providing him with job in Malaysia and misappropriated the money.

During cross examination he said that he paid money to accused Md. Enamul Haque @ Bhulu in 1992 and can not recollect the exact date. He further said that witness Jasimuddin @ Lalu, Dudu, Bazlar Rahman, Nantu, Azizar Rahman Pramanik, Khurshed Alam Quraishi, Talib Ali Sarker and Nazrul Islam were present at the time of payment of money.

Defence gave him suggestion that he paid money to Azhar Ali. He denied the suggestion. He however added that afterwards the accused paid money to Azhar Ali. He further added that the accused realised money from Azhar Ali and paid back the same. Defence gave him further suggestion that the accused did not receive money from him and also did not send him to Malaysia. He replied that it is not true. Defence also gave him suggestion that he was sent to Malaysia by approved Recruiting Agent and he was provided with job. But as he was involved in illegal activities he was sent back to Bangladesh by police. Defence gave him next suggestion that as the relationship in between his brother Dudu and Dudu's wife (accused's sister) is strained, he (Dudu) managed to institute this concocted case to take revenge. He denied all these suggestions straightway.

P.W.-2 Md. Azizar Rahman Pramanik has stated in examination in chief that accused Md. Enamul Haque @ Bhulu and witness Md. Abdul Quddus are known to him. He has further stated in examination in chief that about three or three and half years back at 8 or 9 A.M. witness Md. Abdul Quddus at his home paid some money to accused Md. Enamul Haque @ Bhulu for sending him abroad. That while Taka 50,000 or Tk. 60,000 were counted he left the place and while leaving he saw there were some more money uncounted.

During cross examination he said that his house is one rope distance from the house of witness Md. Abdul Quddus intervened by 15 or 16 houses. He further said that he is a cultivator and he has 5 or 6 Bighas of land. He also said that he was present at the time of counting of money and that Quddus called him. He next said that Bazlar, Ialu, Talib, Nazrul, Quddus (victim) and Bhulu (accused) were present there. Defence gave him suggestion that Quddus did not call him and there was no transaction. Defence gave him further suggestion that one Dudu and his wife got misunderstanding between them and that accused Md. Enamul Haque @ Bhulu took the side of his sister. That Dudu managed Abdul Quddus to bring this case and that at the request of Dudu and Quddus he deposed falsely. He denied the suggestions.

P.W.-3 Md. Abu Zafar is an Assistant Director of the Bureau of Employment and Manpower, Bogra. He has stated in examination in chief that on receipt of a complaint against accused Md. Enamul Haque @ Bhulu through Deputy Commissioner, Bogra he instituted the case.

He has further stated in examination in chief that accused Md. Enamul Haque @ Bhulu on 02-09-92 received Tk. 70,000 from Abdul Quddus of village Buruj, P.S. Gabta, District Bogra with a promise to send him to Malaysia with job. Thereafter on 09-12-92 accused Md. Enamul Haque @

Bhulu by Bangladesh Biman took him to Bangkok. After some days the accused sent Abdul Quddus to Hajjai Border by micro bus and hired a room at Hotel Hajimat for his shelter. Accused Enamul Haque took away passport and other papers from Abdul Quddus and sent him inside Malaysia by a truck. After 18 days Abdul Quddus was caught by police and detained in jail hajai for five months and eighteen days. Subsequently the authority deported him to Bangladesh. On return Abdul Quddus demanded back Tk. 70,000 from accused Enamul Haque and he executed undertaking promising to refund the money. But he did not do so. That Deputy Commissioner, Bogra got the allegation enquired into through T.N.O., P.S. Sariakandi, and as the allegation was prima facie true he directed him to file a case.

He has also stated in examination in chief that accused Md. Enamul Haque has no licence to export Manpower from Bangladesh to abroad. He identified the complaint as Exhibit-3. He proved his signatures as Exhibits-3/1, 3/2, 3/3.

In cross examination he said that he drafted the complaint. He admitted that Abdul Quddus did not file complaint to him direct. He further admitted that he has no personal knowledge. Defence gave him suggestion that Enamul Haque did not receive money from Abdul Quddus and that he did not accompany him to Bangkok and also did not take away his passport and other papers. He denied the suggestions.

P. W. - 4 Md. khurshid Alam is familiar with accused Md. Enamul Haque @Bhulu and witness Abdul Quddus. He has stated in Examination in chief that on 09. 02. 92. at 09/10 A. M. accused Md. Enamul Haque received Tk. 70,000 from Abdul Quddus with a pretext to send him to Malaysia. He has further stated in examination in chief that accused Enamul Haque accompanied Abdul Quddus to Bangkok by Bangladesh Biman. Then he sent him to a place (Border) after taking his passport and other papers. There

Abdul Quddus was not provided with job and he was put in jail. Thereafter he came back to Bangladesh and claimed back his money. As a result accused Enamul Haque executed undertaking to pay back the sum of Tk. 70,000 in his present. But he did not refund the amount. He proved the undertaking as Exhibit-1 and his signature as Exhibit- 1/2. He identified accused Bhulu on dock.

During cross examination he said that 15 or 20 persons were present at the time of making over the money, they were Lal Mia, Lalu, Bhulu Mia, Azizar Rahman, Abu Talib sarker, Nazrul Islam, Dudu, Abdul Quddus and Enamul Haque. Defence gave him suggestion that accused Enamul Haque did not go to the house of Abdul Quddus and he received no payment. Defence further gave him suggestion that the relation existing in between Dudu and his wife deteriorated. Therefore Dudu brought this case through Abdul Quddus against Enamul Haque. He denied the suggestions Defence also gave him suggestion that he (witness) put no signature in the undertaking which was created. He replied that it was not a fact. He admits that accused Enamul Haque was a teacher of a non Government primary school.

P.W. -5 Abdul Talib sarker has stated examination in chief that on 02.09.92 Enamul Haque received Taka 70,000 from Abdul Quddus for sending him to Malaysia. Thereafter he sent him to Malaysia. But Abdul Quddus got no job and he was put to Jail as he went there with fabricated papers. Afterwards Abdul Quddus came back to Bangladesh, claimed back his money and called for a salish. Accused Enamul Haque agreed to pay back the amount and he entered into an agreement. He has further stated in examination in chief that in the undertaking, Exhibit- 1 he was a Mukabella witness. He proved his signature as Exhibit - 1/3. He has also stated in examination in chief that khurshed Alam read over the contents of the undertaking, Exhibit - 1, in their presence and that he himself

did not go through it. We come across that khurshed Alam deposed as p. w.-4 before the court. He indentified accused Enamul Haque on dock.

During cross that examination he said that at the time of making over money Munjr uddin, khurshed, Azizar Rahman Jashim uddin, Enamul Haque (accused) and others were present. the denomination of the currency were of Tk. 500, Tk. 100 and Tk. 50 notes. He admitted that he himself did not count the amount. It is also not the prosecution case. He further said that the undertaking was written as the accused agreed to pay back the money. Defence gave him suggestion that no undertaking was written and executed and that a photocopy was created which he refuted. Defence gave him another suggestion that there was no transaction and that accused Enamul Haque received no money from Abdul Quddus. Defence also gave him suggestion that he deposed falsely at the request of Abdul Quddus. His answer was that there was no truth in those suggestions.

P. W. -6 is Jashim uddin pramanik and that he is a brother of Abdul Quddus (victim). He was tendered by the prosecution.

During cross examination by defence, he got personal knowledge about the transaction. He further said that khurshed, Azizar, Abu Talib, Dudu, Bhulu, Chand Mia, Jalil and others were present at the time of handing over money. Defence gave him suggestion that he was persent in the Bharandha of Ejlash Room when witness Abu Talib was on witness Box and that as he is a brother of Abdul Quddus, be deposed falsely. He replied that it was not correct.

P.W. -7 is Nazrul Islam pramanik. He was also tendered by prosecution.

In cross examination, defence gave him suggestion that he is a causin of Abdul Quddus. He denied the sugg-stion. As his version he is an uncle by relation. It is not unusnal.

Analysis of evidences and decisions

Witness No. 1 Abdul Quddus corroborated the prosecution case. He told that accused Md. Enamul Haque @ Bhulu about 3 or 3½ years back gave him proposal to send Malaysia for overseas employment. He accepted the proposal, paid Tk. 70,000 to accused Md. Enamul Haque @ Bhulu in presence of the witnesses. He was boarded Bangladesh Biman, reached Bangkok, was sent to Hajjai Border by Micro Bus, was kept in Hajimat hotel and was taken inside Malayasia by Truck on the basis of fabricated papers where police after arrest confined him in concentration Camp and finally deported to Bangladesh. He further told that on arrival in Bangladesh, he demanded back his money from accused the Md. Enamul Haque, a Salish was convened and agreed to repay the amount in the mukabilla of the witness who were present there. In the outcome accused Md. Enamul Haque executed undertaking, Exhibit-1 (photo copy, the original was). But he failed to honour his undertaking later on.

P.W.-3 is complainant. He supported the complaint, Exhibit-2. He said that as per direction of Deputy Commissioner, Bogra he filed the case.

P.W.-2 stated that he was present when Abdul Quddus paid money to accused Md. Enamul Haque @ Bhulu. He saw counting of Taka 50,000 or Taka 60,000 by the accused and he saw some more money at his hand uncounted while he left the place. He is a neighbour of P.W.-1.

P.W.-4 said that on 02-09-92 Abdul Quddus paid Taka 70,000 to accused Md. Enamul Haque @ Bhulu. He was sent to Malayasia, but he was caught by police and sent back to Bangladesh. Accused Md. Enamul Haque executed undertaking, Exhibit-1. It seems he is a signatory in Exhibit-1 as a witness.

P.W.-5 is a co-villager of P.W.-1. He corroborated other P.Ws including P.W.-4, P.W.-6 a tendered witness explicitly stated in cross examination that he has personal knowledge about the aforesaid transaction. He is an elder brother of P.W.-1. So it is not unlikely that he was in the know how of the matter. We have already noted that P.W.-7 was tendered by prosecution and he was not cross examined by defence at length.

On elaborate scrutiny of the evidences on record, we observe that P.w.-2 supported the complaint, Exhibit-2 as aforementioned while P.W.-1, P.W.-3, P.W.-4 & P.W.-5 satisfactorily corroborated the prosecution case. P.W.-6 as a tendered witness in cross examination upheld the prosecution case.

In addition to oral evidence, there is also documentary evidence in this case. Had in fact accused Md. Enamul @ Haque Bhulu not fraudulantly induced Abdul Quddus (P.W.-1) to emigrate to Malaysia for overseas employment and received money from him why he would execute undertaking. Exhibit -1 as mentioned. The original undertaking reportedly was lost. It is no matter as because photo copy of it which also bears the signatures of accused Md. Enamul Hapue @ Bhulu is on record. He executed Yokalatnama and bail bond in this case. Furthermore, there are some more relevant papers on record on comparing of his signature, appearing therein with the signatures evident on Exhibit -1 with our naked eyes, it resembles that all those signatures were put with the same hand by the same person.

The defence does not dispute that Abdul Quddus (P.W.-1) did not go to Malaysia. The allegation of the prosecution is that Abdul Quddus was not sent abroad on the basis of genuine papers. On the reverse, the defence version is that he was employed in Malaysia, but he involved in illegal activities. So he was sent back to Bangladesh. It is a vague submission. Had Abdul Quddus committed any Criminal offence in Malaysia

except fraudulent emigration as arranged at the inducement of the accused, the defence could collect necessary papers from there and produce the same before the court and that in such a background he (accused) would not execute undertaking, (Exhibit-1), acknowledging his liability to pay back the money.

Next the defence plea is that Dudu, brother of Abdul Qudus married a sister of accused Md. Enamul Haque. Now due to strain relationship in between Dudu and his wife, Dudu managed to institute this case against Md. Enamul Haque @ Bhulu through Abdul Qudus on false allegation out of grudge. If it was true in that case the sister of Md. Enamul Haque as well might have been implicated as a co-accused alongwith Md. Enamul Haque. Above all there was scope for defence to adduce her and other persons as P.Ws in this behalf to establish the defence to adduce her and other persons as D.Ws in this behalf to establish the defence plea. But no P.W. was examined in this regard. Therefore the natural presumption is that the defence contention has no truth and they have nothing to establish.

Last but not least accused Enamul Haque being summoned turned up before the court and he was present at the time of recording of evidence in this case. His engaged Lawyer cross examined the P.Ws. in details on his behalf. But after the close of evidences of the prosecution, he is hiding. It is not unbelievable that he was affraid of definate evidence elucidated against him by the prosecution. His conducts add circumstantial evidences against him. He is now fugitive and his engaged lawyer could not explain the reasons of him absconsion.

Under the facts and circumstances and in the light of foregoing discussions, we are constrained to hold that the prosecution has been able to prove the case. Therefore, accused Md. Enamul Haque @ Bhulu is found guilty of the charge U/S 21 and 23 B of the Emigration Ordinance, No. XXIX of 1982.

Hence, it is

ORDERED

That accused Md. Enamul Haque Bhulu (absconding) be convicted US 21 of Emigration Ordinance No. XXIX of 1982 and sentenced to suffer R. I. for 5 (five) years. He is also convicted US 23 (B) of said Ordinance and sentenced to suffer R. I. for another 5 (five) years. Both the sentences will run concurrently. Since he was awarded maximum punishment under both counts no sentence of fine is passed. His sentence will be enforceable from the date of his surrender or arrest whatsoever.

Issue conviction warrant upon him through S. P. Bogra for necessary action.

Md. Abdur Rahman Patwari
Chairman. 28-10-97
Labour Court, Rajshahi.

শ্রম আদালত রাজশাহী বিভাগ রাজশাহী
উপস্থিত :- জনাব মোঃ আবদুর রহমান পাটোয়ারী
চেয়ারম্যান, শ্রম আদালত ৩, রাজশাহী
অই, আর, ও মামলা নং-২৭/৯৭

রেজিষ্টার অব ট্রেড ইউনিয়ন, রাজশাহী বিভাগ, রাজশাহী—প্রথম পক্ষ।

বনাম

গভাপতি/সাধারণ সম্পাদক,
জয়পুরহাট জেলা চীল কল মালিক সমিতি,
(রেজিঃ নং রাজ-১০০৩), সদর রোড, জয়পুরহাট—দ্বিতীয় পক্ষ।

১। জনাব এম, এম, গাইফুদ্দিন আহমেদ, ১ম পক্ষের প্রতিনিধি।

আবেশ নং-৬, তারিখ ২৮/১০/৯৭

অদ্য মানলাটি একতরফা শুনারীর জন্য দিন ধার্য আছে। বাদী পক্ষে রেজিষ্টার অব ট্রেড ইউনিয়ন প্রতিনিধি মানলায় হাজিরা প্রদান করেন। প্রতিপক্ষ অদ্যও অনুপস্থিত আছেন। অদ্য মালিক পক্ষের সদস্য জনাব ইসমাইল হোসেন ও শ্রমিক পক্ষের সদস্য জনাব রশিদ-উল্লাহ দ্বারা কোর্ট গঠিত হইল। মানলাটি একতরফা শুনারীর জন্য গ্রহণ করা হইল। বাদী পক্ষে রেজিষ্টার অব ট্রেড ইউনিয়ন প্রতিনিধি মৌখিক বক্তব্য শুনা হইল। বাদী পক্ষের দাখিলী কাগজাদী প্র-১ হিগাবে চিহ্নিত করা হইল। বাদী পক্ষের মৌখিক যুক্তি-তর্ক শুনা হইল।

ইহা জয়পুরহাট জেলা চাউল কল মালিক সমিতির রেজিস্ট্রেশন বাতিলের জন্য মামলা। ১ম পক্ষের বক্তব্য হইল যে জয়পুরহাট জেলা চাউল কল মালিক সমিতি ১২-৫-৯২ ইং তারিখের রেজিস্ট্রেশন প্রাপ্ত হয়। অতঃপর উক্ত সমিতি ১৯৯২, ১৯৯৩, ১৯৯৪, ১৯৯৫ ও ১৯৯৬ সনের বার্ষিক রিটার্ন দাখিল করেন নাই। ১ম পক্ষের আরো বক্তব্য হইল যে দ্বিতীয় পক্ষকে রেজিস্ট্রী ডাকযোগে ২৫-২-৯৫ ইং তারিখে ৩০৫ নং স্মারক নোটিশবাক নোটিশ প্রদান করা হইয়াছিল। তথাপি দ্বিতীয় পক্ষ তাহাদের দপ্তরে হাজির হন নাই এবং উপরোক্ত সালের বার্ষিক রিটার্ন দাখিল করেন নাই। ১ম পক্ষের দাখিলকৃত কাগজ প্র-১ হিসাবে চিহ্নিত হইল।

নথি পর্যালোচনা করিয়া লক্ষ্য করা যায় যে মামলাটি দায়ের করার পর অত্র আদালতে হইতে দ্বিতীয় পক্ষকে ৫-৬-৯৭ ইং তারিখে রেজিস্ট্রী ডাকযোগে নোটিশ পাঠানো হয়। কিন্তু তাহার মামলা প্রতিবন্ধিতা করার জন্য আদালতে হাজির হন নাই। ইহার ফলে ১ম পক্ষের অভিযোগ প্রমাণিত হইল।

বিজ্ঞ সদস্যগণের সহিত আলোচনা করা হইল।

অতএব,

আদেশ এই

যে, অত্র আই, আর, ও মামলা একতরফা সূত্রে মঞ্জুর করা গেল। জয়পুরহাট জেলা চাউল কল মালিক সমিতির রেজিস্ট্রেশন (রেজিঃ নং রাজ-১০০৩) বাতিল করার জন্য অনু-মতি দেওয়া গেল।

মোঃ আবদুর রহমান পাটোয়ারী
চেয়ারম্যান,
এম আদালত, রাজশাহী।

In the court of chairman labour Rajshahi
Present . Md. Abdur Rahman Patwari
Chairman Labour Court, Rajshahi.

Members: 1. Mr. Md. Fazlur Rahman for the employers
2. Mr. Kamrul Hassan for the Labour.

Date of Delivery of Judgment—30th October, 1997.

I.R.O. Case No. 73/96

1. Registrar of Trade Union, Rajshahi Division, Rajshahi--Ist Party.

Versus

2. President Secretary, Joypurhat Government Food Godown Kulee Sramik Union, Registration No. Raj 1022 2nd Party.
1. Mr. S. M. Saifuddin, Ahmed, Assistant Director, Representative for Ist Party.
2. Mr. Saifur Rahman Khan, Advocate. Representative for Second party.

JUDGMENT

The case of Ist Party is that registration bearing No. Raj-1022 was granted in favour of Joypurhat Government Food Godown Kulee Sramik Union on 09-09-1992. As per Article 23 of the constitution of the Sramik Union framed in this behalf there is provision for holding election after every two years. But Joypurhat Government Food Godown Kulee Sramik Union held no election since its inception. Besides they did not file annual return of income and expenditure for the year 1994 and 1995. So the registration of the Union is liable to be cancelled. Hence they instituted the case.

The second party on receipt of notices made appearance and filed a written statement to contest the case. There case is that the members of the Union did not demand election. So there was no election. Further more they due to mistake of facts did not submit annual returns for the year 1994 and 1995. They pleaded that they are not literate and they may be exonerated for the irregularities incidentally occurred which was unintentional. That they have already submitted annual return of income and Expenditure for the year 1994 and 1995 in the office of the Ist party and that preparation for holding election was a foot. They prayed for affording them a chance and assured that no mistake could be committed in future.

FINDING AND DECISION

Heard both sides. The Ld. Advocate submits that meanwhile election of the Union was held. He furnished result sheets which was marked as exhibit No. 1. The Ld. Advocate further submits that papers pertaining to annual return of Income and expenditure for the year 1994 and 1995 were also duly deposited in

the receiving section of the office of Ist Party and the staff concerned received the same by putting seal and signature. The representative of Ist Party does not refute the contention of the Second party. So the presumption is that they received those papers. Our views is that they may also receive copy of the result sheet, Exhibit No. 1. If not already made over to them. from the record of this court.

Discussed and consulted the Ld. Members. They are in favour of accepting the appology tendered by the Second Party to save the Union. I am not inclined to differ.

Hence it is

ORDERED

That the I.R.O. Case be dismissed on contest. Permission not accorded for cancellation of the registration of Joypurhat Government Food Godown Kulee Sramik Union (Registration No. Raj 1022.)

Md. Abdur Rahman Patwari
Chairman, 30-10-97
Labour Court, Rajshahi.

শ্রম ও জনশক্তি মন্ত্রণালয়

শাখা-৯

প্রজ্ঞাপন

তারিখ-১৪ই ডিসেম্বর, ১৯৯৭ ইং/৩০শে অগ্রহায়ণ, ১৪০৪ বাং।

এস, আর, ও নং ২৮০—আইন/শ্রম/শা-৯/৩ (৮)/৯৭ Industrial Relations Ordinance. 1969 (XXIII of 1969) এর section 37(2) এর বিধান মোতাবেক স কার শ্রম আদালত, রাজশাহী এর নিম্নবর্ণিত মামলাসমূহের রায় ও সিদ্ধান্ত এতদ্বারা প্রকাশ করিল, যথা :—

ক্রমিক নং	মামলার নাম	মামলার নম্বর
১।	কমপ্লেইন্ট কেস নম্বর	১৮/১৯৯৪
২।	ফৌজদারী কেস নম্বর	৭/৯৩
৩।	ফৌজদারী কেস নম্বর	৮/৯৩
৪।	কমপ্লেইন্ট কেস নম্বর	১৯/১৯৯৪
৫।	আই, আর, ও, মামলা নম্বর	৯/৯৭
৬।	আই, আর, ও মামলা নম্বর	১২/৯৭
৭।	কমপ্লেইন্ট কেস নম্বর	১১/৯৩
৮।	আই, আর, ও, মামলা নম্বর	২৮/৯৬

রাষ্ট্রপতির আদেশক্রমে
শ্রী মেরহাম্মদ সাখাওয়ারাত হোসেন
উপ-সচিব (শ্রম)।

In the labour court, Rajshahi Division, Rajshahi,
PRESENT : Sudhendu Kumar Biswas Chairman,
Labour Court, Rajshahi.

MEMBERS : 1. Mr. Khandakar Abul Hossain, for the
Employers.
2. Mr. Addus Sattar Tara, for the Labour.
Sunday, the 6th day of July 1997.

COMPLAINT CASE NO. 18/1994

Md. Abul Kalam Azad, S/O. Late Mafizuddin Mandal,
Vill. Bhanaiduskliā, P. O. Bisnupur, P. S. & Dist. Joypur-
hat—... Petitioner.

Versus

1. General Manager,
2. D. C. P. O.,
3. Deputy Chief Chemist, President, Inquiry Committee.
4. C. D. O., Grade-1, Member, Inquiry Committee.
5. D. C. A., Member, Inquiry Committee.
6. Assistant Labour welfare officer.
- 1-6 No. O. Ps are Officers of Joypurhat Sugar Mills Ltd.
7. Md. Babor Ali, Centre- incharge (Vice-President,
Executive Committee, Joypurhat Chinikal Sarmik
Karmachari Union) All Vill. Joypurhat Sugar Mills
Ltd., P. O., P. S. & Dist Joypurhat Opposite Parties.

Representatives 1. : Mr. Md. Afzal Hossain, Advocate for
petitioner.
2. Mr. Md. Korban Ali, Advocate for the
Opposite Parties.

J U D G M E N T

This is a complaint case U/S 25 of the Employment of
Labour (Standing Orders) Act, 1965 for reinstatement in the
service with back wages.

The case of petitioner Md. Abul Kalam Azad is, in short,
that the petitioner was appointed Seasonal Clerk in the Joypur-
hat Sugar Mills Ltd. in 1987 and he was transferred and
posted at Manglebari lane purchasing Centre in 1993-94 under
O.P. No. 7. O.P. No. 6 Assistant Labour Welfare Officer at

the instance of O.P. No. 1 General Manager of Joypurhat Suger Mills Ltd. without any allegation suspended the petitioner on 24.3.94 vide Memo No. Estt./B-35/237. Subsequently O.P. No. 2 O.C.P.O. on behalf of O.P. No. 1 brought some charges against the petitioner vide Memo No. Estt./B-35/84 dated 24.4.94 and directed the petitioner to show Cause within 4 days and accordingly the petitioner submitted parawise explanation on 30.4.94. The petitioner denied in his explanation regarding the receipt of weight of case of 23-3-94 and his signature therein. The petitioner admitted that 19 receipts mentioned in para 2 of the charge sheet were prepared by the petitioner in presence of O.P. No. 7 and he handed those over to the cane growers. The receipts dated 16.3.94. and 19.3.94. were true. The petitioner claimed to hold an inquiry to verify the genuineness of the receipts from 11.3.94 to 20.3.94 mentioned in para 4, but it was not done. The liabilities of the charges brought in paras 5, 6 and 7 regarding Basi and Agam Purjec do not create any obligation to the petition. O.P. No. 3 Deputy Chief Chemist, the president of the Inquiry Committee directed the petitioner to appear before the Inquiry team on 17.5.94 at 8 A.M. vide his letter dated 15.5.94. The petitioner accordingly made appearance and mentioned in his deposition to examine the impartial and reliable cane growers and employees, but O. Ps 3 to 5 without giving the petitioner a chance to defend himself held inquiry ex parte according to their sweet will without examining those witnesses and completed inquiry- O.P. No. 2 on behalf of O.P. No. 1 vacated the suspension order of the petitioner vide Memo No. Estt./B-35/1666 dated 17.5.94. The O. Ps did not dering any charge of short of cane against the petitioner. O.P. No. 1 without considering the written explanation and deposition of the petitioner properly, dismissed the petitioner from service vide Memo No. Estt. B-35/3116 dated 8.9.94. The petitioner submitted grievance on 14.9.94 by registered post to O.P. No. 1 who did not receive the same. The petitioner believes that the O.P. No. 7 being the vice President of the trade Union of Joypurhat Suger Mills Ltd. influenced the O.Ps to cause loss to the petitioner. According to the bilateral contract the Centre in charge and the weighmen clerk are responsible to compensate 60% and 40% respectively for short case. The management allowed O.P. No. 7 to continue his service, but the management dismissed the petitioner illegally. Hence, the petitioner brought this case.

O.P. No. made appearance in the case and contested the same by filing a written statement denying most of the material allegations made in the petition and contending inter alia that the petitioner has no right to file this case, that the case is barred by limitation, that the case is bad for defect of parties and the case is not maintainable in its present form.

Defence case is, in short, that the petitioner has no respect to law and order and he discharges his duties according to his will. In 1988-89 season the petitioner illegally recorded more weight of cane than the actual quantity in the mill gate and the same was brought to the notice of the management. The petitioner prayed for mercy and he was excused with warning in future. The petitioner also showed short of cane worth of Tk.82,057.77 in 1992-93 season at Aima Rasulpur Cane Purchasing Centre and Tk. 32,823.11 being 40% of the cost of short cane was realised from the petitioner. The petitioner, yet did not change his habit. In the 1993-94 season the petitioner in collusion with the cane growers created false receipts of weight of cane by violating the principles of basi and agam purjee and the principles of daily purchase of cane. The petitioner showed purchase of 3787.60 quintals of cane from 11.3.94 to 20.3.94 by 191 receipts but he sent only 208.60 quintals of cane and accordingly the Centre-in charge Mr. Babor Ali of Manglebari Centre informed the management on 22.3.94 regarding short of 1698.20 quintals of cane worth of Tk. 1,76,874.32 On this allegation the management suspended the petitioner vide Memo No. Estt./B-35 to 37 dated 24.3.94. and the Centre-in-charge Babor Ali was also suspended vide Memo No. Estt P.E. 894 238 dated 24.3.94. A committee was formed for preliminary inquiry. The committee, after holding preliminary inquiry submitted a report against the petitioner. O.P. No 1 brought seven charges against the petitioner. vide Memo No Estt. B-35 84 dated 24.4.94 and directed the petitioner to file written explanation within four days. The written explanation submitted by the petitioner was not satisf

factory and an Inquiry Committee consisting of 3 members was formed on 13.5.94. The Inquiry Committee served a notice upon the petitioner on 15.5.94 fixing 17.5.94 for inquiry. The inquiry Committee examined the petitioner and all other connected papers and submitted a report on 3.8.94 against the petitioner O.P. No. 1 on considering report and past conduct of the petitioner dismissed the petitioner from service form 8.9.94 vide Memo No. Estt. /B-35/3116 dated 8.9.94. The petitioner did not file the grievance petition as required U/S 25 of the Employment of labour (Standing Orders) Act, 1965. The petitioner has filed this case on false allegations to harass the O.ps. So the petitioner is not entitled to get relief sought for and the case is liable to be dismissed with costs.

POINTS FOR DETERMINATION

1. Whether the petitioner was illegally dismissed from the service
2. Whether the petitioner served the grievance petition as required U/S 25 of the Employment of Labour (Standing Orders) Act, 1965.
3. Is the petitioner entitled to relief for reinstatement in service with back wages.

FINDINGS AND DECISION

All the points have been taken up together for the sake of convenience of discussion and brevity.

At the time of trial of the case the petitioner examined five witnesses including himself as P. w. 1 who stated the case of the petition. Petitioner filed some documents and the same were marked Exts. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12. On the other hand, the contesting O.P. examined only one witness Md. Babor Ali Mandal, the then Centre-in-charge, Manglabari as O.P.W. 1 who stated the defence case. Documents filed by the O.P. and marked Exts Ka, Kha, Ga Cha, Uno, Chha, Ja Jha, Jha(1), Eno Ta, Tha and 'x' series were admitted into evidence on admission.

It is not disputed that petitioner Md. Abul kalam Azad was an employee of Joypurhat Sugarmills Ltd. and he was engaged a weighmon Clerk at manglabari cane purchasing Centre in the year 1993--94 under O.P. No. 7 petitioner's contention is that the Mill authority suspended him on 24.3.94 illegally, that the mill authority brought charges against him : on 24.4.94 and directed him to submit written explanation and accordingly he submitted written explanation on 30.4.94 denying all the allegations brought against him: an inquiry committee was formed for holding inquiry against the petitioner: that the inquiry committee by letter dated 15.5.94 directed him to appear before the inquiry committee on 17.5.94 at 8 A.M. : that the inquiry committee without giving him any opportunity to defend himself and without examining any witness held inquiry and submitted a false inquiry report. The mill authority dismissed him from service on 3.9.94 illegally and against that dismissal order the petitioner submitted grievance on 14.9.94 by registered post. The petitioner without having any reply therefrom brought this case. On the other hand, defence contention is that the petitioner has no respect to law and order and he discharges his duties according to his will. In 1988-89 season the petitioner recorded more weight of cane than the actual quantity and when the matter was brought to the notice of the authority the petitioner prayed for mercy. The petition also showed short of cane worth Tk. 82,057.77 in 1992-93 season at Aima-Rasulpur Cane Purchasing Center and Tk. 32,823.11 was recovered from him according to law. The petitioner did not change his habit and according to his habit he showed purchase of 3787.60 quintals of cane from 11-3-94 to 20-3-94 by 191 receipts at Manglebari Centre, but he sent 2089.60 quintals of cane. At this Centre-in-charge Mr. Babar Ali made a report to the authority on 22.3.94 regarding short of 1698.20 quintals of cane. On this allegation a committee was formed for preliminary inquiry. The committee after inquiry submitted a report against the petitioner. On the basis of the

report charges were brought against the petitioner and he was directed to submit written explanation. The written explanation submitted by the petitioner was not satisfactory and accordingly an inquiry committee was formed. The inquiry committee held inquiry against the petitioner according to law. The petitioner was given opportunity to defend himself. The inquiry committee held that the charges brought against the petitioner were proved. On the strength of that inquiry report the petitioner was dismissed from service on 8-9-94. The petitioner did not submit any grievance. The petitioner has filed this case false allegations So he is not entitled to get any relief as prayed for.

Ext. 1, the Memo No. Estt./B-35/237 dated 24.3.94. of General Manager, Joypurhat Sugar Mills. Ltd. shows that the petitioner was suspended, Exts. Ga, the report dated 22-3-94 of Md. Babor Ali Mandal Centre-in-charge, Manglebari Cane purchasing Centre appears to show that he made a report to the General Manager, Joypurhat Sugar Mills Ltd. to the effect that petitioner Md. Abul Kalam Azad, weighman Clerk purchased cane on 11-3-94, 12.3.94, 15.3.94, 16.3.94, 19.3.94, and 20-3-94 but he did not find the cane and he showed shortage of cane. Ext. Uno, the preliminary inquiry report shows that the inquiry team headed by Md. Nazmul Islam, Senior A.O. of the Sugar Mills concerned held preliminary inquiry and found shortage of 1698·20 quintals of cane at Manglebari Centre from 11.3.94 to 20-3-94 by 191 receipts. Ext. 2, the Memo No. Estt/B/35 84 dated 24-4-94 shows that 7 charges including shortage of 1698·20 quintals of cane worth of Tk. 1,76,874·32 by creating 191 false receipts from 11-3-94 to 20-3-94 were brought against him by the management. Ext. 3 shows that the petitioner submitted written explanation denying the charges brought against him. It is not disputed that an inquiry team was formed to hold inquiry against the petitioner. Petitioner Md. Abul Kalam Azad as P.w.1. stated in his examination in chief that the inquiry committee directed him to appear before the inquiry team on 17-5-94 and he made appearance there. P. w. I. further stated that he was not given chance to defend himself. O.P.w. 1 Md. Babor Ali Mandal who stated the defence case stated that the inquiry committee held inquiry in presence of him and the petitioner. He further stated that the inquiry committee interrogated him and the petitioner and recorded their statements. He proved the statements Ext. Eno of the petitioner and statements Ext. Eno(1) of him (O.P.W.1) Exts. Eno and Eno (1) show that

the petitioner and O.P.W. 1 made statements before the inquiry committee. Ext. Eno shows that the petitioner put his signature in his statements recorded by the inquiry committee. P.W. 1 admitted in his cross examination that he made statements before the inquiry committee. From the above findings we see that the Mill authority brought charges against the petitioner and the petitioner was given chance to defend himself at the time of holding inquiry. Ext. Ta is the inquiry report submitted by the inquiry committee. The inquiry report (Ext. Ta) shows that the charges brought against the petitioner were proved and they found that the petitioner showed shortage of 1698.20 quintals of cane by 191 receipts from 11.3.94 to 20.3.94 at Manglebari Cane Purchasing Centre. It is admitted that the petitioner was dismissed from service by dismissal order dated 8.9.94 (Ext. 7 and Tha).

We have seen earlier that the specific charges were brought against the petitioner and the authority by forming an inquiry committee got the charges required by a committee and the committee submitted a report against the petitioner. It is true that on the strength of that inquiry report the Mill management dismissed the petitioner from service. All these indicate that the inquiry committee assessed the evidences of record before submitting the report and the Mill authority relied upon the evidences on report of the inquiry committee. This Labour Court is not a Court of appeal and as such this Court can not re-assess the evidences on record. This Court can only interfere when the inquiry committee acts univarily. In this instant case the petitioner has no specific allegation that the inquiry committee acted unfairly. We have seen earlier that the inquiry committee held inquiry in presence of the petitioner and the inquiry committee interrogated him. So, having regard to my above findings I hold that the Mill authority dismissed the petitioner from service after compliance of law.

In a case like this any dismissed worker is to submit grievance within 15 daya in writing to his employer by registered post of the occurrence of the cause of such grievance as per provisions of section 25 (1) of the Employment of Labour (standing orders) Act, 1965. The petitioner states in the petition that he submitted the grievance petition on 14.9.94 by registered post to O.P. No. I.P.W. 1 Md. Abdul kalam Azad stated in his deposition that the Mill authority

dismissed him from service on 8.9.94 and on heving the dismissal order he submitted grievance petition on 14.9.94 by registered post having registration No. 827 and the Mill authority did not receive his grievance petition. In support of his contention petitioner filed postal receipt (Ext.9) which appears to show that a letter was registered to Nurul Islam Trafdar, General Manager, Joypurhat sugar Mills Ltd. In answering a question petitioner Abul kalam Azad as P.W. 1 stated, "আমার বরখাস্ত আদেশে ভাকযোগে পাইছি। আমি ২০-৯-৯৪ ইং তারিখে প্রাতিষ্ঠানিক পত্রে দস্তখত করিয়া বরখাস্ত আদেশ গ্রহণ করি। এই সেই প্রাতিষ্ঠানিক (প্রদর্শন ক)" Ext. ka is the acknowledgment receipt. Ext. ka appears to show that a registered letter bearing No. 997 was sent by Joypurhat suger Mills (Ltd.) to petitioner Md. Abul kalam Azad. Ext. ka also shows that Estt./B-35/3116 has been noted. The mill authority dismissed the petitioner from service vide Memo No. Estt. /B-35/3116. so, from the statements of P.W. 1 and the recital of acknowledgment receipt (Ext. ka) it proved beyond reason that the Joypurhat sugar Mills Ltd. sent the dismissal order (Ext. 7) to the petitioner by registered post on 8.9.94 and the petitioner received the same on 20.9.94. Now a question arised: asto how the petitioner sent the grievance on 14. 9.94. (vide Ext. 9). the petitioner has no explanation asto what led him to send grievance on 14.9.94 befor his receiving of the dismissal order (Ext.7) on 20.9.94. So, Ext. 9 can not be relied upon to hold that the petitioner filed grievance to O.P. No. 1. the employer. So all these indicate that the petitioner created those papers in collusion with the postal department. The petitioner has no case that he sent grievance after 20.9.94. so all these indicate that the petitioner did not send any grievance to the employer on receipt of his dismissal. So having regard to my above findings and on considering all the facts and circumstances of the case and material evidences on record I hold that the petitioner. did not file this case after complying the provision of section 25 (1) of the Employment of Labour (Standing orders) Act, 1965. so the case is not maintainable in its present form and as such the petitioner is not entitled to relief sought for.

Therefore, having regard to my above findings and on considering all the facts, circumstances of the case and material evidences on record I hold that the petitioner has failed to prove his case and he is not entitled to get relief as prayed for.

I, therefore, reply the point under determination against the petitioner. The Learned Members have been discussed and consulted with.

Hence, it is

ORDERED

That the Complaint case is dismissed on contest against O. P. No. 1 and ex-parte against the rest without any order asto cost.

Sudhendu kumar Biswas
Chairman,
6.7.97
Labour Court, Rajshahi.

শ্রম আদালত, রাজশাহী বিভাগ, রাজশাহী।

উপস্থিত :- সুধেন্দু কুমার বিশ্বাস
চেয়ারম্যান,
শ্রম আদালত, রাজশাহী।
কৌজদারী কেস নং-৮/৯৩

মোঃ দরিয়ার রহমান, সহ-সভাপতি, বংপুর জেলা হোটেল ও রেস্তোরাঁ শ্রমিক ইউনিয়ন,
রেজিঃ নং রাজ-৮৫৮,
পিতা:-মোঃ জব্বার আলী, সাং-বড়খাতা, পোঃ-বড়খাতা, থানা-হাতিবান্দা,
জেলা-লালমনিরহাট—বাদী।

বনাম

- ১। মোঃ লোকমান ফারুক, সম্পাদক,
- ২। অতুল চন্দ্র রায়, সভাপতি,
- ৩। শ্রী ভূপেন চন্দ্র রায়, সহ-সভাপতি-কাম-আবায়কারী,
- ৪। মোঃ জহুরুল ইসলাম, সদস্য,
সর্বঠিকানা :- বংপুর জেলা হোটেল ও রেস্তোরাঁ শ্রমিক ইউনিয়ন,
ইউনিয়ন অফিস মহিদি জব্বার মার্কেট, স্টেশন রোড, বংপুর—আগামীগণ

প্রতিনিধি :- ১। জনাব সাইফুর রহমান খান, আসামী পক্ষের আইনজীবী।
আদেশ নং-৪৯, তারিখ :- ২০-৭-৯৭।

অদ্য নামলাটি আদেশের জন্য দিন ধার্য আছে। বাদী পক্ষ অনুপস্থিত আছেন। বাদী পক্ষে বিজ্ঞ কৌশলী ও মানলাম কোন পদক্ষেপ নেন নাই। আসামীপক্ষের পক্ষে বিজ্ঞ কৌশলী মানলাম সময়ের আবেদন করেন। অদ্য মালিক পক্ষের সদস্য জনাব মোঃ ইউনুস মিয়া ও শ্রমিক পক্ষের সদস্য জনাব মোঃ সেলিম দ্বারা পুনঃ কোর্ট গঠিত হইল।

বিজ্ঞ সদস্যদের সহিত আলোচনা ও পরামর্শ করা হইয়াছে।

অতএব আদেশ হইল যে আসামী মোঃ লোকমান ফারুক, অতুল চন্দ্র রায়, শ্রী ভূপেন চন্দ্র রায় ও মোঃ জহুরুল ইসলামকে শিল্প সম্পর্ক অব্যাদেশের ৬১ ও ৬১(ক) ধারায় আনীত অভিযোগ হইতে খালাশ দেওয়া গেল।

আসামীদের আবেদনে কোন আদেশের দরকার নাই বিধায় নামঞ্জুর হ।

সুধেন্দু কুমার বিশ্বাস

২০-৭-৯৭

চেয়ারম্যান,

শ্রম আদালত, রাজশাহী।

শ্রম আদালত, রাজশাহী বিভাগ, রাজশাহী।

উপস্থিত :- সুধেন্দু কুমার বিশ্বাস

চেয়ারম্যান,

শ্রম আদালত, রাজশাহী

ফৌজদারী কেস নং-৭/৯৩

মোঃ হামিদুল ইসলাম (মালিক নকবুল হোটেল), সেক্রেটারী,
বাংলাদেশ বেস্তোরা মালিক সমিতি, রংপুর জেলা শাখা, নবাবগঞ্জ বাজার, ষ্টেশন রোড,
রংপুর, জেলা-রংপুর—বাদী।

বনাম

- ১। লোকমান ফারুক, সেক্রেটারী,
- ২। অতুল চন্দ্র রায়, সভাপতি,
- ৩। শ্রী ভূপেন চন্দ্র রায়, সহ-সভাপতি,
- ৪। মোঃ জহুরুল ইসলাম, সদস্য,

সর্বঠিকানা :- রংপুর জেলা হোটেল ও রেস্তোরাঁ শ্রমিক ইউনিয়ন,
ইউনিয়ন অফিস, সহিদ জরশেজ মার্কেট, ষ্টেশন রোড, রংপুর—আসামীপক্ষ।

প্রতিনিধি :-১। জনাব সাইফুর রহমান খান, আসামী পক্ষের আইনজীবী।
আদেশ নং-৪৯, তাং ২০-৭-৯৭।

অন্য নামলাই আদেশের অন্য দিন ধার্য আছে। বাদী পক্ষ অনুপস্থিত আছেন।
বাদী পক্ষে বিজ্ঞ কৌশলীও নামলায় কোন পদক্ষেপ নেন নাই। আসামীগণের পক্ষে বিজ্ঞ
কৌশলী নামলায় সময়ের আবেদন করেন। অন্য মালিক পক্ষের সদস্য জনাব মোঃ ইউনুস
মিরা ও শ্রমিক পক্ষের সদস্য জনাব মোঃ সেলিম শাহা পুনঃ কোর্টি গঠিত হইল।

বিজ্ঞ সদস্যদের সহিত আলোচনা ও পরামর্শ করা হইয়াছে।

অতএব, আদেশ হইল যে আসামী লোকমান ফারুক, অতুল চন্দ্র রায়, শ্রী ভূপেন চন্দ্র
রায় ও মোঃ জহুরুল ইসলামকে ১৯৬৯ সনের শিল্প সম্পর্ক অধ্যাদেশের ৬১ (ক)/৫৮ ধারায়
স্বাধীন অভিযোগ হইতে খালি দেওয়া গেল।

আসামীদের দাখিলী সময়ের আবেদনের আদেশের দরকার নাই বিধায় নামঞ্জুর হয়।

অনুলিপিকারক :-জা, রেসা

স্বধেন্দু কুমার বিশ্বাস

২০-৭-৯৭

চেয়ারম্যান,

শ্রম আদালত, রাজশাহী

IN THE LABOUR COURT, RAJSHAHI DIVISION
RAJSHAHI.

PRESENT :-Sudhendu Kumar Biswas
Chairman,
Labour Court, Rajshahi.

MEMBERS : 1. Mr. Pulin Bihari Biswas for
the Employer.
2. Mr. Abdus Sattar, Tara, for
the Labour.

Tuesday,, the 22nd day of July, 1997.

COMPLAINT CASE NO. 19/1994.

Md. Nurul Islam S/O. Late Taslimuddin Ahmed Vill, Kasba, P.O, Pulhat, P.S. Kotwali, Dist. Dinajpur—Complainant (pert.)

Versus

1. Asstt. General Manager, Rupali Bank, Regional Office, Dinajpur.
2. Manager, Rupali Bank, Sikdarhat Branch, Dinajpur.
3. Managing Director, Rupali Bank, Head office, 34, Dilkusha Commercial Area, Dhaka-2—Opposite Parties.

REPRESENTATIVES :-1. Mr. Korban Ali, Advocate for the petitioner.
2. Mr. Nazmus Sadat, Advocate for the Opposite Parties.

J U D G M E N T

This Complaint Case is U/S 25 of the Employment of Labour (Standing ORDERS) Act. 1965.

The case of complainant Md. Nurul Islam is, in short, that he was appointed Guard in the Rupali Bank vide Order No. RO/STAFF/MISC./APP/55 dated 10.2.74 by O.P. No. 3. He joined in the Rupali Bank, Ranirbandar Branch, Dinajpur. He was then transferred and posted to Rupali Bank, Sikdarhat Branch, Dinajpur. The O. Ps on being satisfied with his job made his service permanent. There was a union of the employees of Rupali Bank of Bangladesh in the name and style of "RUPALI BANK "KARMACHARI" SHANGHA and the same was registered and the same was affiliated with the Bangladesh Banks Employees Federation. The Bangladesh Bank Employees Federation submitted four points charter of demand to the all banks of Bangladesh on 31.8.1981. The O. Ps referred the matter to the Director of Labour and Registrar of Trade Unions for cancellation of their registration. The said Federation in protest called for strike over the country from

14.9.1981. The authority of the Banks including the defedant Bank did not solve the problem and situation. On the contrary they took punitive measure and lodged complain to the police and the police, to suppress the movement, began to arrest the office bearers of the Federation and Union concered. The petitioner came to learn that police was searching him for arrest. The petitioner, in consultation with the officers and staff of the Bank, gave the arms and ammunicatcn to the officer concerned of the bank on proper receipt on 11.9.81. He was absconding to avoid arrest and accordingly he could not join his duties. The petitioner did not take part in the strike. The authority announced 'General Pardon, and asked the emp loykees of the Bank to join on or before 24.9.81. The petitioner went to his Bank on 18.9.81. with a petition of his joining report, but the O. P. No 2 did not allow him to join and he (O.P.No 2) wrote a note of regrate in the margin of the petition. The petitioner came to learn that O. P. No. 2 in collusion with O. P. No 1 lodged F.I.R. against him and a warrant of arrest was issued against him. At this the petitioner bgain had to abscond. During that period the petitioner got a letter of temination from O. P. No 1 vide No. ROD/MSR/ADN/261/81 dated 14.9.81. O.P. No 1 did not hold any inquiry before issuing the termination letter or the petitioner was not given any chance to be heard. The order of termination issued by O.P. No 1 was without jurisdiction. O. P. Nos 1 and 2 started a criminal case against the petitioner U/S 3 of Essential service ordinance, 1958 vide G.R. Case N .986/81 wherein the petiti-oner made appearance and prayed for bail and he was granted bill on 23.10.81. In the trial the petitioner was found not guilty and he was acquitted U/S 25. k. Cr. P.C. on 21.11.1982. The termination order by O.P. No 1 was without jurisdiction and the same was not termination simpliciter and the order of termination was passed in the grab of termination simpliciter. The termination order was unlawful, malafide, without juris-diction and void. The petitioner came to lean that the authority

concerned and the government were thinking for reinstatement of the terminated Bank Employees in connection with the strike of 1981. The plaintiff was all along in the hope of getting back his job. The Honourable President and the Chief Martial Law Administration appointed a Review Committee for consideration of the cases of terminated Bank employees. The petitioner submitted an application before the Review Committee praying for his reinstatement, but the Review Committee did not give any decision in case of the application of the petitioner. The O. Ps did not hold any inquest or the petitioner was not given any chance to show cause. The petitioner was also deprived of the benefits U/S 13/2 of the Banks Employees Service Regulation, 1981. The petitioner was not an office bearer of the aforesaid union or a member of the union. He did not provoke any employee for participating in the Bank strike. He was illegally terminated by O.P. No. 1. The petitioner filed O. C. Suit No. 142/90 in the Court of the Asstt. Judge, Dinajpur and the same was dismissed on contest on 29.10.90 with observation that the Civil Court is not the proper forum to adjudicate upon the case of the petitioner. The petitioner preferred an appeal bearing No. 30/91 which was also disallowed on the same observation. Both the Court observed that the case of the petitioner would lie before the Labour Court. Hence the petitioner brought this case for an order to the effect that the order dated 18.9.91 is illegal, without jurisdiction and for reinstatement in service with back wages.

O.P. No. 1 and 2nd made appearance in the case and contested the same by filing a written statement denying most of the material allegations made in the plaint and contending inter alia that the case is not maintainable in its present form the case is barred by limitation and the case is barred under principles of waiver, estoppel and acquiescence.

The case of the O.Ps is, in short, that the service of the petitioner was no longer required by the O. ps and as such the competent authority of the Bank concerned terminated the ser-

vice of the petitioner with affect from 19.9.81 as per provisions of the Rupali Bank Employees Service Regulations. The service of the complainant petitioner concerned was terminated within the sanction of law. The termination of service was not related in connection with the trade union activities as alleged by the petitioner. The termination was Termination simpliciter and the petitioner was asked to get his benefit as admissible in law. The F.I.R. had been misconstrued. F. I. R. was made as a matter of protection against the property of the Bank. The F. I. R. was made just to check illegal activities, which were detrimental and prejudiced to the economic interest of the country. The lodging of F.I.R. was altogether separate and exclusive to criminal activities of the picketers. So the petitioner is not entitled to get any relief prayed. for and the case is liable to be dismissed with cost.

POINTS FOR DETERMINATION

1. Is the case maintainable in its present form ?
2. Was the petitioner terminated illegally ?
3. Is the petitioner entitled to get an order declaring the termination order illegal and without jurisdiction and for reinstatement in the service with back wages?
4. What relief, if any, is the petitioner entitled to ?

FINDINGS AND DECISION

All the points have been taken up together for the sake of convenience of discussion and brevity.

At the time of hearing of the case the petitioner examined himself as P.W.1 who stated the case of the petitioner and the documents filed by the petitioner were marked Exts. 1, 2, 3, 4, 5, 6, 7, 8 and 9. on the other hand the contesting O.Ps examined. Mr. Mostafa Kamal, the Manager of Rupali Bank, Sikderhat Branch, Dinajpur as D.W. 1 who stated the defence case and documents marked Ext. ka was admitted into evidence on behalf the O. Ps.

It is not disputed that petitioner Md. Nurul Islam was appointed Guard in the Rupali Bank/Ranirbandar Branch/vide order No. FO/STAF/MISC./APP/55 dated 10.2.74 (Ext. 1) and he was then transferred to Sikderhat Branch, Dinajpur. It is not also disputed that the Bank employees of our country called for strike with effect from 14.9.81. Petitioner's contention is that the petitioner came to learn that the police was searching for the arrest of Bank Guards of dinajpur and the warrant of arrest was issued. The petitioner deposited his arms and ammunition to the Bank on 11.9.81 and he was absconding and as such he could not join his duties. The authority announced 'General pardon' and asked the employees to join on or before 24.9.81. The petitioner went to join his duty on 18.9.81 with a joining report, but O. P. No. 2 did not allow him to join his duty. The petitioner came to learn that O. P. No. 2 in collusion with O.P.No.1 lodged F.I.R. against him and as such he was absconding. During that period he got the termination letter from O. P. No. 1 under Memo No. ROD/MSR/ADMN./261/81 dated 14.9.91 (Ext.2). In the criminal case filed by O. P. No. 2 the petitioner was acquitted on 21.11.1982. The petitioner filed O.C. Suit No. 142/90 in the Court of Assistant Judge, Dinajpur and the same was dismissed on contest on 29.10.90 with observation that the Civil Court is not the proper form. The petitioner preferred an appeal bearing No. 30/91 and the same was also disallowed on the same ground. Hence the petitioner brought this case. On the other hand defence contention is that the service of the petitioner was no longer required by the O.Ps and as such the competent authority of the Bank terminated the service of the petitioner with effect from 19.9.81. The petitioner was not terminated for trade union activities and his termination was termination simpliciter. He was allowed to draw his benefits from the Bank as admissible in law. Petitioner Md. Nurul Islam as P.W. 1 stated in his deposition that there was a trade union in the name and style 'Rupali Bank Karmachari Sramik Union' of Rupali Bank over

the country. He also stated that he was not a member of the trade union. The petitioner states in para 2 of the petition that he did not take part in the alleged strike or abstain himself from his duty as a participant of the alleged strike. The defence definite case is that the petitioner was terminated from his service as his service was not required and his termination was simpliciter and his termination was not for trade union activities. So on considering the cases of the parties we see that the petitioner was not terminated from the service for his trade union activities. Ext. 2, the termination letter shows that his services were terminated with immediate effect and he was to be paid salary in lieu of notice period and the petitioner was advised to collect his dues, if any, from Sikderhat Branch after adjustment of all outstanding dues. All these indicate that the employers of the petitioner terminated him from his employment as per provisions of section 19 of the Employment of Labour (Standing Orders) Act, 1965. Section 19 of the Employment of Labour (Standing order) Act, 1965 empowers the employer to terminate any of the employers with prior notice to him and if the employer fails to give him any notice the worker is entitled to wages for notice period. In this case we have seen earlier that the authority mentioned in the termination letter that the petitioner was entitled to salary of notice period. Having regard to my above findings and on considering all the facts and circumstances of the case I hold that the termination of the petitioner was not for his trade union activities and his termination was simpliciter.

The petitioner states in the petition that O.P. No. 3, (Managing Director, Rupali Bank Head office, Dhaka) was his appointing authority and O.P. No. 1 Asstt. General Manager, Rupali Bank Regional office, Dinajpur issued the termination order and O.P.No. 1 had no authority to issue his termination order P.W.1 Md. Nurul Islam stated that General Manager, appointed him, but the Regional Manager (Asstt. General

Manager) issued termination letter. It appears from the record that he has not made the General Manager, Rupali Bank Head Office party in this case. So the statement of P.W.1 goes to show that he did not make statement according to his pleading. Ext. 1 shows that General Manager, Rupali Bank, Head Office, Dhaka issued the appointment letter of the petitioner. Ext. 2 shows that Assistant General Manager, Regional Office, Rupali Bank, Dinajpur issued the termination letter. As per case of the petitioner Managing Director, Rupali Bank, Head Office, Dhaka was his appointing authority. But his appointment letter and his statement indicate that General Manager, Rupali Bank, Head Office, Dhaka was his appointing authority. So all these indicate that the petitioner has not brought this case against his appointing authority. If we concede that O.P.No. 1 had no authority to issue the termination order, a question arises as to why the petitioner did not bring this case against his appointing authority. So in this count the case has not been properly maintained. It is true that the appointing authority reserves the right of termination or discharge of an employee. The learned advocate appearing on behalf of the O.Ps contended that the Head Office of Rupali Bank instructed the Assistant General Manager to issue termination letter. We have seen earlier that the appointing authority is not a party in this case, a question arises as to who is to say whether the termination order is legal or not. However, it appears from the record that the petitioner has brought this case U/S. 25 of the Employment of Labour (Standing Order) Act, 1965. We have seen earlier that the petitioner was terminated as per provisions of section 19 of the said Act. In the case of G.M. Sonali Bank Versus Abul Khayer reported in 2 BLC (AD) (1997) at page 88 their lordships held that if there is a termination of a worker under section 19 of the employment of Labour (Standing Orders) Act, 1965, he has to follow the grievance procedure as laid down in section 25 of the said Act. Section 25(1) of the Employment of Labour (Standing Orders) Act, 1965 provides that any worker like the petitioner is to submit his grievance of the employer, in writing, by registered post within 15 days of the occurrence of the cause of such

grievance. In this case the petitioner pleads that he was terminated from his service by letter dated 14.9.81 (Ext.2). The petitioner has no case that he complied the grievance procedure as laid down in section 25 of the Employment of Labour (Standing Orders) Act, 1965. Since the petitioner did not comply the provisions of section 25 of the said Act, the case as filed by him before this court is not maintainable. We have seen earlier that the petitioner was terminated by O.P.No. 1 on 14.9.81. The petitioner brought this case on 5.10.94 i.e. long after 13 years. So the case is hopelessly barred by limitation.

Therefore, having regard to my above findings and On considering all the facts, circumstances of the case and material evidences on record I hold that the petitioner is not entitled to any relief.

The Learned Members have been discussed and consulted with Hence, it is

ORDERED

That the complaint Case is dismissed on contest against the contesting O.Ps 1 and 2 and ex parte against the rest (O.P. No. 3) without any order as to cost.

Sd/-
(Sudhendu Kumar Biswas)
Chairman.
Labour Court, Rajshahi.

শুন আদালত রাজশাহী বিভাগ, রাজশাহী

উপস্থিত:—সুধেন্দু কুমার বিশ্বাস
চেয়ারম্যান,

এম আদালত, রাজশাহী।

আই, আর, ও, নামলা নং-৯/৯৭

রেজিষ্টার অব ট্রেড ইউনিয়ন, রাজশাহী বিভাগ, রাজশাহী—১ম পক্ষ।

বনাম

সভাপতি/সাধারণ সম্পাদক,

সিরাজগঞ্জ ক্রান্তকল শ্রমিক ইউনিয়ন,

(রেজি: নং রাজ-১২২৪), শেরে বাংলা ফজলুল হক সড়ক, সিরাজগঞ্জ—২য় পক্ষ।

প্রতিনিধি :- ১। জনাব এস, এম সাইফুদ্দিন আহমেদ, ১ম পক্ষের প্রতিনিধি।

আদেশ নং-৪, তাং ২৩/৭/৯৭।

অদ্য মামলাটি একতরফা শুনানীর জন্য দিন ধার্য আছে। বাদী পক্ষের রেজিষ্টার অব ট্রেড ইউনিয়ন প্রতিনিধি মামলায় হাজিরা দাখিল করেন। প্রতিপক্ষগণ অদ্যও অনুপস্থিত আছেন। অন্য মালিক পক্ষের সদস্য জনাব মোঃ ইগমাইল হোসেন ও শ্রমিক সত্য জনাব মোঃ আবু সেলিম দ্বারা কোর্ট গঠিত হইল। মামলাটি একতরফা শুনানীর জন্য গ্রহণ করা হইল। বাদী পক্ষের মৌখিক বক্তব্য শূন্য হইল। বাদী পক্ষে মামলার কোন সাক্ষ্যদিবেন না বলিয়া মত ব্যক্ত করেন। বাদী পক্ষের দাখিলা কাগজাদী প্র-১ হিসাবে অন এভমিশন চিহ্নিত হইল। বাদী পক্ষের মৌখিক যুক্তিতর্ক শূন্য হইল। সদস্যগণের সহিত আলোচনা ও পর্যালোচনা করা হইল।

ইহা একটি ১৯৬৯ সনের শিল্প সম্পর্ক অধ্যাদেশের ১০ (২) ধারার মামলা।

১ম পক্ষ রেজিষ্টার অব ট্রেড ইউনিয়ন, রাজশাহী বিভাগ, রাজশাহী এর মামলার সংক্ষিপ্ত বিবরণ এই যে, ২য় পক্ষ সিরাজগঞ্জ ক্রান্তকল শ্রমিক ইউনিয়ন তাহাদের রেজিষ্ট্রেশনের জন্য প্রার্থনা করিলে ১ম পক্ষ ১৯৬৯ সনের শিল্প সম্পর্ক অধ্যাদেশের বিধান মতে রেজিষ্ট্রেশনের (রেজি: নং রাজ ১২২৪) প্রদান করেন। পরবর্তীকালে ২য় পক্ষ তাহাদের ইউনিয়নের সংবিধানের ২৪ নং ধারা অনুযায়ী ১৫-৯-৯৪ ইং তারিখে রেজিষ্ট্রেশন নাভের পত্র হইতে অদ্যবধি কোন শির্বাচন অনুষ্ঠান করেন নাই বা তাহার কোন ফলাফল ১ম পক্ষকে জানান নাই এবং তাহাদের ইউনিয়নের সংবিধানের ইং ১৯৯৪ ও ১৯৯৫ সনের আয়-ব্যয়ের বিবরণী ১ম পক্ষের নিকট দাখিল করেন নাই। তাই ১ম পক্ষ তাহার আফিসের ইং ৩০-১০-৯৬ তারিখের আর্টিকল ইউ/রাজ/১৪২৭ নং স্মারকমূলে ইউনিয়নের রেজিষ্ট্রেশন বাতিলের পূর্ব নোটিস জারি করেন কিন্তু তাহাতেও ২য় পক্ষ কোন পদক্ষেপ গ্রহণ না করায় ১ম পক্ষ ২য় পক্ষের রেজিষ্ট্রেশন বাতিলের অনুমতির প্রার্থনা করিয়া অত্র মামলা দায়ের করেন।

২য় পক্ষ অত্র নামলার প্রতিনিধিত্ব করিবার জন্য হাজির না হওয়ার নামলাটি একতরফা ভাবে নিষ্পত্তির জন্য লওয়া হইল।

১ম পক্ষের প্রতিনিধি বলেন যে, ২য় পক্ষ সিরাজগঞ্জ করাতকল শ্রমিক ইউনিয়ন ১৫-৯-৯৪ ইং তারিখে রেজিস্ট্রেশন লাভের পর হইতে আজ পর্যন্ত তাহাদের সংবিধানের ২৪ নং ধারার বিধান অনুযায়ী ২ বৎসরের অধিকাল কোন নির্বাচন অনুষ্ঠান করেন নাই বা ১ম পক্ষকে জানান নাই এবং ১৯৯৪ ও ১৯৯৫ সনের বার্ষিক রিটার্ন দাখিল করেন নাই।

১ম পক্ষ তাহার অফিসের ইং ৩০-১০-৯৬ তারিখের আর্টি ইউ/রাজ/১৪২৭ নং স্মারক দাখিল করেন যাহা প্রনশন ১ হিসাবে চিহ্নিত হয়। প্রদঃ-১ হইতে প্রতীয়মান হয় যে, ১৯৯৪ ও ১৯৯৫ সনের বার্ষিক রিটার্ন দাখিল না করায় ২ পক্ষের ইউনিয়নের রেজিস্ট্রেশন বাতিল করণের পূর্ব নোটিস জারি করা হয়।

অত্র নামলার ২য় পক্ষ তাহাদের গঠনতন্ত্র অনুযায়ী রেজিস্ট্রেশন লাভের পর হইতে কোন নির্বাচন করিয়াছেন এবং ১৯৯৪ ও ১৯৯৫ সনের বার্ষিক রিটার্ন ১ম পক্ষের নিকট দাখিল করিয়াছেন মর্মে কোন সাক্ষ্য প্রমাণ লইয়া আদালতে হাজির হন নাই বা কোন কাগজপত্র দাখিল করেন নাই। ইহাতে ১ম পক্ষের অভিযোগ সত্য বলিয়া প্রতীয়মান হয়।

উপরের আলোচনার প্রতি সন্মান রাখিয়া এবং অত্র নামলার সকল বিষয়াদি বিবেচনা করিয়া আনি এত সিদ্ধান্তে উপনীত হইল যে, ১ম পক্ষের মানবা প্রমাণিত হইয়াছে এবং তাই ১ম পক্ষ তাহাদের প্রার্থনা মোতাবেক প্রতিকার পাইতে হকদার।

বিজ্ঞ সদস্যদের সহিত আলোচনা ও পরামর্শ করা হইয়াছে।

অতএব,

আদেশ হইল

যে, অত্র আই, আর, ও, নামলা একতরফা বিচারে বিনা খয়চায় মঞ্জুর হয়।

১ম পক্ষকে ২য় পক্ষের সিরাজগঞ্জ করাতকল শ্রমিক ইউনিয়নের রেজিস্ট্রেশন (রেজিঃ নং রাজ-১২২৪) বাতিল করিবার অনুনতি দেওয়া গেল।

সুধেন্দু কুমার বিশ্বাস

২৩-৭-৯৬

চেয়ারম্যান

শ্রম আদালত রাজশাহী।

শ্রম আদালত, রাজশাহী বিভাগ, রাজশাহী।

উপস্থিত: সুধেন্দু কুমার বিশ্বাস

চেরারগ্যান,

শ্রম আদালত, রাজশাহী।

আই, আর, ও, নামলা নং-১২/৯৭

রেজিষ্টার অব ট্রেড ইউনিয়ন, রাজশাহী বিভাগ, রাজশাহী—১ম পক্ষ।

বনাম

সভাপতি/সাধারণ সম্পাদক,

সিরাজগঞ্জ বাঁশ ব্যবসায়ী মালিক সমিতি,

(রেজি: নং রাজ-১১০২); সিরাজগঞ্জ ফেরীঘাট, সিরাজগঞ্জ—২য় পক্ষ।

প্রতিনিধি: ১। জনাব এম, এম, সাইফুদ্দিন আহমেদ, ১ম পক্ষের প্রতিনিধি।

আদেশ নং-৪, তারিখ ২৭-৭-৯৭।

অদ্য মামলাটি একতরফা শুনানীর জন্য দিন ধার্য আছে। বাদী পক্ষে রেজিষ্টার অব ট্রেড ইউনিয়ন প্রতিনিধি মামলার হাজিরা দাখিল করেন। প্রতিপক্ষ সামান্য কোন পদক্ষেপ নেন নাই। অদ্য মালিক পক্ষের সদস্য জনাব মোঃ ইসমাইল হোসেন ও শ্রমিক পক্ষের সদস্য জনাব আবু সেলিম খাঁরা কোর্ট গঠিত হইল। মামলাটি একতরফা শুনানীর জন্য গ্রহণ করা হইল। বাদী পক্ষের মৌখিক বক্তব্য শুনা হইল। বাদী পক্ষ মামলার কোন সাক্ষ্য দিবে নাকি বলিরা ব্যক্ত করেন। বাদী পক্ষের দাখিলী কাগজাদী অন্য এডমিশন প্র-১ হিসাবে চিহ্নিত করা হইল। বাদী পক্ষের মৌখিক যুক্তিতর্ক শুনা হইল। সদস্যগণের গঠিত আলোচনা ও পর্যালোচনা করা হইল।

ইহা একাটি ১৯৬৯ সনের শিল্প সম্পর্ক অধ্যাদেশের ১০(২) ধারার নামলা।

১ম পক্ষ রেজিষ্টার অব ট্রেড ইউনিয়ন, রাজশাহী বিভাগ, রাজশাহী এর নামলায় সংক্ষিপ্ত বিবরণ এই যে, ২য় পক্ষ সিরাজগঞ্জ বাঁশ ব্যবসায়ী মালিক সমিতি তাদের রেজিষ্ট্রেশনের জন্য প্রার্থনা করিলে ১ম পক্ষ ১৯৬৯ সনের শিল্প সম্পর্ক অধ্যাদেশের বিধান নতে রেজিষ্ট্রেশন (রেজি: নং রাজ ১১০২) প্রদান করেন। পরবর্তীকালে ২য় পক্ষ তাহাদের সমিতির সংবিধানের ২৩ নং ধারা অনুযায়ী ৩০-৬-৯৩ ইং তারিখে রেজিষ্ট্রেশন লাভের পত্র হইতে অদ্যাবধি কোন নিরাচন অনুষ্ঠান করেন নাই বা তাহার কোন ফলাফল ১ম পক্ষকে জানান নাই এবং তাহাদের সমিতির ১৯৯৫ সনের আয় ব্যয়ের বিবরণী ১ম পক্ষের নিকট দাখিল করেন নাই। তাই ১ম পক্ষ তাহার অফিসের ৩০-৯-৯৬ ইং তারিখের আর্দাইউ/রাজ/১৩২৫ নং পত্র নারফত সমিতির রেজিষ্ট্রেশন বাতিলের পূর্বনোটিশ জারী করেন। কিন্তু তাহাতেও ২য় পক্ষ কোন পদক্ষেপ গ্রহণ না করায় ১ম পক্ষ ২য় পক্ষের রেজিষ্ট্রেশন বাতিলের অনুরূপ প্রার্থনা করিয়া অত্র মামলা দায়ের করেন।

২য় পক্ষ অত্র মামলার প্রতিনিধিত্বতা করিবার জন্য হাজির না হওয়ার মামলাটি এক-
তরফাভাবে নিষ্পত্তির জন্য লওয়া হইল।

১ম পক্ষের প্রতিনিধি বলেন যে, ২য় পক্ষ সিরাজগঞ্জ বাঁশ ব্যবসায়ী মালিক সমিতি
৩০-৬-৯৩ ইং তারিখে রেজিষ্ট্রেশন লাভের পর হইতে আজ পর্যন্ত তাহাদের সংবিধানের
২৩নং ধারার বিধান অনুযায়ী ২ বৎসরের অধিককাল কোন নির্বাচন অনুষ্ঠান করেন নাই
বা ১ম পক্ষের নিকট জানান নাই এবং ১৯৯৫ সনের বাষিক রিটার্ন দাখিল করেন নাই।

১ম পক্ষ তাহার অফিসের ৩০-৯-৯৬ ইং তারিখের আর টিইউ/রাজ/১৩২৫ নং
স্মারক দাখিল করেন যাহা প্রদর্শন-১ হিসাবে চিহ্নিত হয়। প্রদ: ১ হইতে প্রতীয়মান হয়
যে, ১৯৯৫ ইং সনের বাষিক রিটার্ন দাখিল না করায় ইউনিয়নের রেজিষ্ট্রেশন বাতিল
করণের পূর্ব নোটিশ জারী করা হয়।

অত্র মামলায় ২য় পক্ষ তাহাদের গঠনতন্ত্র অনুযায়ী রেজিষ্ট্রেশন লাভের পর হইতে
কোন নির্বাচন করিয়াছেন এবং ১৯৯৫ সনের বাষিক রিটার্ন ১ম পক্ষের নিকট দাখিল
করিয়াছেন নর্মে কোন সাক্ষ্য প্রমান লইয়া আদালতে হাজির হন নাই বা কোন কাগজপত্র
দাখিল করেন নাই। ইহাতে ১ম পক্ষের অভিযোগ সত্য বলিয়া প্রতীয়মান হয়।

উপরের আলোচনার প্রতি সন্ধান রাখিয়া এবং অত্র মামলার সকল বিষয়াদি বিবেচনা
করিয়া আমি এই সিদ্ধান্তে উপনীত হইলাম যে, ১ম পক্ষের মামলা প্রমাণিত হইয়াছে এবং
তাই ১ম পক্ষ তাহাদের প্রার্থনা মোতাবেক প্রতিকার পাইতে হকদার।

বিজ্ঞ সদস্যদের সহিত আলোচনা ও পরামর্শ করা হইয়াছে।

অতএব,

আদেশ হইল

যে, অত্র, আই, আর, ও মামলা এক তরফা বিচারে বিনা খরচার মঞ্জুর হয়।

১ম পক্ষকে ২য় পক্ষের সিরাজগঞ্জ বাঁশ ব্যবসায়ী মালিক সমিতির রেজিষ্ট্রেশন (রেজি:
নং রাজ-১১০২) বাতিল করিবার অনুমতি দেওয়া গেল।

সুধেশু কুমার বিশ্বাস

২৭-৭-৯৭

চেয়ারম্যান

শ্রম আদালত, রাজশাহী।

IN THE LABOUR COURT RAJSHAHI DIVISION
RAJSHAHI.

PRESENT :-Sudhendu Kumar Biswas.

Chairman,
Labour Court, Rajshahi.

MEMBERS :-1. Mr. Md. Ismail Hossain, for the Employer.

2. Mr. Md. Abu Selim, for the Labour.

Thursday, the 3/1st day of July/1997.

COMPLAINT CASE No. 11/93

Md. Saidur Rahman, S/o. Late Saber Ali Sarder.

Vill. P.O. Jangli, Dist. Natore, Petitioner.

Versus

General Manager, Natore Sugar Mills Ltd., Natore

Opposite Party.

Representatives :- 1. Mr. Mujibur Rahaman Khan, Advocate for
the petitioner.

2. Mr. Korban Ali, Advocate for the opposite
party.

JUDGMENT

This Complaint Case is U/s. 25 of the Employment of Labour
(Standing Orders) Act, 1965.

Facts leading for filing of this case are, in short, that petitioner Md. Saidur Rahman joined Natore Sugar Mills Ltd. as Junior Clerk on 1.1.1984 and he was then promoted to the post of senior Clerk. His monthly pay was Tk. 1850/-. The petitioner was incharge of Central Fertilizer Godown. The Mill authority brought four charges against the petitioner under Memo No. Nasumi/Byainathi: 192/1719, dated 3.1.91 on the ground that the petitioner did not submit the detailed report of receipt and disbursement of articles; he did not deposit Tk. 2,83,702/16, the price of short fertilizer, though he deposited Tk. 20,000/-; the petitioner left the station without permission of the authority and he misappropriated

Tk. 2,83,702/16. The petitioner was also suspended from 3.1.91. A committee was formed vide Memo No. Nasumi/Bya: Nathi: 92/1956 dated 31.1.91 for inquiry of the charges brought against the petitioner. The petitioner submitted written explanation on 5.1.91 denying all the charges. Another charge for misappropriation of Tk. 2,25,170/- for shortage of 19900 K.gs Urea, 1490 K.gs T.S.P and 30550 K.gs M.P. was brought vide Memo No. Nasumi/Bya: Nathi: 192/1151 dated 28.10.91 and he was directed to show cause and accordingly the petitioner submitted written explanation on 29.10.91 denying the charges. The inquiry committee without proper inquiry for shortage of fertilizer and giving the petitioner a chance to defend himself, submitted a report holding the petitioner guilty of the charges and the mill authority dismissed him from service vide Memo No. Nasumi/Bya: Nathi: 192/3935 dated 26.1.93. The petitioner submitted a grievance (appeal) on 23.1.93 and the office of the mill received it. But the mill authority did not reply to his grievance. The fertilizer was received from the godown without any weight and at this there was short of fertilizer from 1 K.g. to 4 K.gs in a bag. Sometimes the bags were torn and they were required rebagging and it caused shortage of fertilizer. The petitioner brought these aspects to the authority more than once, but the authority did not take step. The petitioner is not responsible for shortage of fertilizer. In every year the authority makes arrangement for audit of the godown and accordingly the same was done by 30.6.90. The authority did not make any charge of shortage of fertilizer. Senior D.C.C.D.O. Mr. Abdus Sattar Sarker realised Tk. 20,000/- from the petitioner on 5.12.90 by practicing fraud upon him. In 1992 Mr. Mir Siddiqur Rahaman A.C.D.O. (Credit) incharge took some signatures of the petitioner on a stamp of Tk. 50/- and some blank dami on false assertion. Senior D.C.S.O. Mr. Moazzem Hossain and account Officer Mr. Zakir Hossain took the signatures of the petitioner on 10/12 sheets of white paper on false allegation. The pe-

petitioner put his signatures on their press. The aforesaid Officers had illegal intention. A.C.D.O's (credit) stored the fertilizer in the godown. Hence the petitioner brought this case for declaration of the order of dismissal dated. 25.1.93 illegal, unlawful and inoperative and for reinstatement in the service with back wages.

O.P. General Manager, Natore Sugar Mills Ltd. Natore has contested the case by filing a written statement denying most of the material allegations made in the petition and contending inter alia that the petitioner has no right to file this case, that the case is not maintainable in its present form; the case is barred by limitation and the case is barred under principles of estoppel, waiver and acquiescence.

Defence case is, in short, that petitioner Mr. Saidur Rahman, Senior Clerk of Cane Department was incharge of Central Fertilizer Godown. In the year 1989-90 the petitioner made shortage of 27,730 K.gs Urea, 19009 K.Gs M.P., 272 Pound Furadon and 20,320 K.gs T.S.P. worth of Tk. 2,83,702/16 and as such a committee consisting of 3 members was formed vide Memo No. Nasumi/Gen.-106/1284 dated 2.12.90 for inquiry. The inquiry committee directed the petitioner to file the detailed report regarding receipt and distribution of the aforesaid articles, but the petitioner did not do so. The petitioner did not appear before the inquiry committee, though he was directed to appear before the inquiry committee. The petitioner on being asked by the inquiry committee promised to pay Tk. 2,83,702 16 being the amount of shortage of fertilizer and he deposited Tk. 20,000 in the accounts department of the Mill. Subsequently the petitioner did not deposit any further amount. The petitioner also would leave the station without any permission of the authority. Charges were brought against the petitioner under Memo No. Nasumi/Bya: Nathi: 192/1719 dated 3.1.91 for misappropriation of Tk. 2,83,702 16 the price of shortage of fertilizer and he was suspended. The

petitioner submitted a written explanation on 5.1.91. In the written explanation the petitioner admitted that the shortage of fertilizer if any, was due to his ignorance and against his wish and he prayed for mercy for the shortage. He also prayed for repay the amount at a monthly instalment of Tk. 1000 from his salary by approving 50% short of the fertilizer. The written explanation of the petitioner was not satisfactory and as such an inquiry committee was formed under Memo, No. Nasumi/Bya: Nathi: 192/1956, dated 31.1.91. The suspension order was withdrawn on 4.3.91 as the inquiry was not completed within statutory time. Again in 1990-91 the petitioner made shortage of 19900 K.gs. Urea, 1490 K.gs. T.S.P. and 30550 K. gs. M.P. worth of Tk. 2,25,170 and the petitioner was directed to show cause under Memo No. Nasumi/Bya: Nathi: 192/1151 dated 26.10.91. The petitioner submitted written explanation on 29.10.91. In the written explanation he stated that the shortage, if any, was his unwilling offence and he prayed for mercy. He also prayed for depositing the amount from his pay at the rate of Tk. 1000 per month by approving 1% shortage. The explanation given by the petitioner was not satisfactory and an inquiry committee was formed under Memo No. Nasumi/Bya: Nathi: 192/874, dated 19.8.92 for inquiry for the charges brought against the petitioner for shortage of fertilizer and insecticides. The inquiry committee held inquiry according to law. The petitioner was given chance to defend himself. In the inquiry the petitioner admitted his guilt and prayed for mercy. The petitioner also admitted before the inquiry committee that he would maintain the registers of fertilizer and insecticides. The petitioner also prayed for payment of the amount misappropriated by him by approving 1% shortage. The inquiry committee after proper inquiry opined that the petitioner misappropriated fertilizer and insecticides worth of Tk. 5,22,530. The petitioner was asked to deposit the aforesaid amount vide Memo, No. Nasumi/Bya: Nathi: 192/1412, dated 30.9.92. The petitioner failed to deposit the amount

and as such he was dismissed from service under Memo, No. Nasumi/Bya: Nathi: 192/3135, dated 25.1.93 with effect from 26.1.93. The petitioner did not follow the mandatory provisions for filing grievance petition. The petitioner has brought this case on false allegations to harass the O.P. So the petitioner is not entitled to get relief as prayed for and the case is liable to be dismissed with cost.

POINTS FOR DETERMINATION

1. Is the case maintainable in its present form ?
2. Was the petitioner dismissed from service under Memo, No. Nasumi/Bya: Nathi: 192/3135 dated 25.1.93 illegally ?
3. Is the petitioner entitled to get an order declaring the order of dismissal illegal, without jurisdiction, inoperative and for reinstatement in service with back wages as prayer for ?
4. What relief, if any, is the petitioner entitled to ?

FINDINGS AND DECISION

All the points have been taken up together for the sake of convenience of discussion and brevity.

At the time of trial of the case the petitioner examined 2 witnesses including himself as P.W. 1 who stated the case of the petition and documents filed by the petitioner were marked Exts. 1-1(Ka), 2-2(Cha), 3-3(Kha), 4-4(Gha), 5, 6-6(Eno), 7-7(Ka), 8-8(Kha), 9-9(Kha), 10-10(Kha), 11, 12, 13-13(Kha), 14-14(Ka), 15 and 16-16(Cha) on admission. On the other hand O.P. examined 2 witnesses including Md. Azizul Islam, Labour Officer, Natore Sugar Mills as O.P.W. 1 who stated the case of the written statement and documents filed by the O.P. were marked Exts. Ka, Kha-Kha(36), Ga, Gha, Uno-Unc(15), Cha-Cha(5), Chha-Chha(2), Ja-Ja(1), Jha-Jha(619), Eno, Ta, Tha, Da, Dha, Na, Ta, Tha-Tha (56) and Da on admission.

It is not disputed that petitioner Md. Saidur Rahman was senior Clerk and he was incharge of Central Fertilizer Godawn of Natore Sugar Mills Ltd. Under O.P. It is also admitted that the Mill authority brought charge of misappropriation of fertilizer worth of Tk. 2,83,702.16 and suspended him vide under Memo No. Nasumi/Bya: Nathi: 192/1719 dated 3.1.91 (Exts. 4 and Tha) and the petitioner submitted written explanation (Exts. 4 (Ka) and Da). It is not also disputed that further the Mill authority brought charge of misappropriation of fertilizers worth of Tk. 2,25,170 vide Memo No. Nasumi/ Bya: Nathi: 192/1151 dated 28.10.91 (Exts. 4(Kha) and Dha) and the petitioner on being directed to show cause submitted written explanation (Exts. 4(Ga) and Na). A committee was formed vide order dated 19.8.92 (Ext. Ta). It appears from the cases of the parties that the inquiry committee, after holding inquiry submitted a report against the petitioner and in the report the inquiry committee opined that the charges brought against the petitioner were proved and on the strength of that report the O.P. directed the petitioner to deposit the amount of Tk. 5.03630/- (excluding the amount of Tk. 20,000 deposited by the petitioner on 5.12.90) vide order dated 30.9.92 under Memo: No. Nasumi/Bya: Nathi: 192/1412 and since the petitioner did not deposit the same he was dismissed from his service vide Memo No. Nasumi/Bya: Nathi: 192/3135, dated 25.1.93 (Ext. 4(Cha). Petitioner's contention is that he submitted a grievance (appeal) to the O.P. and he did not get any reply of his grievance and he brought this case. Petitioner's further contention is that the inquiry committee did not hold inquiry properly and they failed to assess and ascertain the reason for shortage of fertilizer. At the time of receiving the fertilizer from B.A.D.C. godown the fertilizer was received without weight and there was a shortage of fertilizer weighing from 1 to 4 K.Gs in every bag. The inquiry committee did not give him opportunity to defend himself. On the other hand the O.P. contends that the inquiry committee held inquiry properly and the peti-

tioner was given chance to defend himself and at the time of inquiry the petitioner admitted his fault and he prayed for payment of the amount caused for shortage of fertilizer on monthly instalment from his pay. The petitioner did not bring this case in compliance of section 25 of the Employment of Labour (Standing Orders) Act, 1965.

From above findings it is clear that charges were brought against the petitioner for shortage of fertilizer of the Central Fertilizer G. d. w. n in which the petitioner was incharge and to prove the charges a committee was formed and the committee held inquiry. The petitioner Md. Saidur Rahaman as P.W. 1 admitted in his deposition that charges for misappropriation of fertilizer worth of Tk. 2,83,702.16 was brought against him on 3.1.91 and charge of defalcation of fertilizer worth of Tk. 2,25,170 was brought against him on 28.10.91 and he submitted the written explanation against the charges and he was directed to show cause and accordingly he submitted written explanations against the charges brought against him. We have seen earlier that an inquiry committee was formed for holding inquiry. O.P.W. 2 Md. Moazzem Hossain stated that he and others held inquiry against the petitioner for the charges brought against him and he submitted inquiry report. O.p.W. 2 also stated that the petitioner was given chance to defend himself. All these go to prove beyond reasonable doubt that the allegations for misappropriation of fertilizer were brought against the petitioner in writing and he was given the copy of the allegations to explain and he was given chance to personal hearing before the inquiry committee and on considering the report the Mill authority dismissed him from service on the strength of that report. All these go to prove that the Mill authority proceeded against the petitioner and he was dismissed from service according to the provisions of section 18 of the Employment of Labour (Standing Orders) Act, 1965.

The petitioner has filed this case for an order declaring the impugned dismissal order illegal, without jurisdiction and unlawful and for reinstatement in service with back wages. We have seen earlier that charges of misappropriation of fertilizer were brought against him, he was directed to show cause and his explanation was not satisfactory and accordingly the Mill authority formed an inquiry team which held inquiry and opined that the charges were proved against him and on the strength of that inquiry report the management dismissed him from service. In the case of Nurul Amin Chowdhury Vs. Chairman, Second Labour Court Dhaka and others reported in 42 D.L.R. at page 217 their lordships held that the Labour Court is not a Court of appeal, but it can interfere only when the inquiry Officer or the inquiry Committee, as the case may be, acts unfairly and against the principles of natural justice. In this case the petitioner submitted written explanation against written allegations brought by the management the management held inquiry by forming pro per inquiry committee which found the petitioner guilty of the charges brought against him. We have seen earlier that the petitioner admitted that he made appearance before the inquiry committee which interrogated him. The petitioner has not brought any specific allegation as to how the inquiry committee acted unfairly against him. The petitioner has no case that inquiry committee acted against the principles of natural justice. The Labour Court is not a Court of appeal and as such it can not reassess the evidences on record before the inquiry committee. In this case the inquiry committee found that the charges were proved against the petitioner though this Court has no power to reassess the evidences obtained by the inquiry committee, we can adduce some thing against the petitioner in this case. P.W. 1 Md. Saidur Rahman admitted in his deposition at the time of cross examination that he made statements at the time of inquiry that he inadvertently showed distribution of fertilizer in stock and

Despatch Register. The petitioner, in his written explanations against the charges, admitted for payment of misappropriated amount by way of installment from his monthly pay appointing certain portion shortage. Ext. Cha. The photostat copy of statements made by the petitioner Md. Saidur Raman before the inquiry committee appears to show that he admitted that he inadvertently showed distribution of 2500 K. Gs Urea, though he did not mention it in the chalan for distribution, on 10.11.89. In answering another question before the inquiry committee he admitted that he inadvertently showed distribution of fertilizer in Stock Register and Despatch Register. In answering another question before the inquiry committee the petitioner stated that the shortage was not done by him to satisfy his thirst, but it was happened inadvertently and it was happened for his inefficiency. All the above statements made by the petitioner before the inquiry committee speak a volume regarding his misappropriation of fertilizer and all these prove his inefficiency. So the inquiry committee correctly found the petitioner guilty of the charges brought against him and on the strength of that report of the inquiry committee the mill authority dismissed him from his service.

The petitioner has brought this case U/s 25(1) of the Employment of Labour (Standing Orders) Act, 1965. In a case like this the petitioner is to follow the grievance procedure as laid down in section 25 of the Employment of Labour (Standing Orders) Act, 1965. In this respect the petitioner states in para 5 of the petition that he sent grievance (appeal) to the authority and the office of the Mill authority received it. Section 25 (1) of the Employment of Labour (Standing Orders) Act, 1965, provides that any dismissed worker like the petitioner shall submit his grievance to his employer, in writing by registered post within 15 days of the occurrence of the cause of such grievance. The petitioner did not follow the grievance procedure as laid down in section 25(1)

of the said Act. The learned Advocate appearing on behalf of the petitioner contended that the letter was received by the authority and it proves that the petitioner properly sent the notice of grievance to the authority. We have seen earlier that the petitioner sent the grievance (appeal) to the authority and the petitioner did not send the grievance by registered post within statutory time as laid down in section 25(1) of the Employment of Labour (Standing Orders) Act, 1965. In the case of Sultan Ahmed vs. Chairman, Labour Court and others reported in 49 D.L.R. at page 215 it was held that the petition filed by hand could not be considered to be a grievance petition, at best, the same could be considered as an appeal or a petition of review of the order of dismissal passed by the employer but by no means a grievance as meant by section 25 of the Employment of Labour (Standing Orders) Act, 1965. So in view of my above findings it is clear that the grievance procedure was not followed by the petitioner as laid down in section 25 (1) of the said Act. So the case is not maintainable in its present form.

The learned Advocate appearing on behalf of the petitioner contended that the Mill authority brought money suit against the petitioner, referred the case to the Anti-corruption authority and argued that the Mill authority was not justified to proceed against the petitioner in many ways and the petitioner should not be liable to be punished twice for same offence as per provisions of section 26 of the General Clauses Act. Exts. 1 and 1(Ka) appear to show that the Mill authority brought Money suit bearing No. 13/95 in the First Court, Sub-Judge, Natore for realisation of the defalcated amount. It is also in evidence that the matter was also been taken up by the Anti-Corruption department to proceed against the petitioner. But this case is not brought by the Mill authority and we are adjudicating upon the case brought by the petitioner against the Mill authority. So we can not see here as to whether the

petitioner is liable to be punished twice for the same offence and as such I find no substance in the contention of the learned Advocate for the petitioner.

The learned Advocate for the petitioner referred me to a ruling reported in 42 D.L.R. at page 371 and contended that the Mill authority did not consider the previous record of the petitioner as per provisions of section 18(6) of the Employment of Labour (Standing Orders) Act, 1965 and as such the dismissal order of the petitioner was not proper and the authority could impose a lesser punishment. We have seen earlier that the specific allegations of misappropriation of huge quantity of fertilizer were brought against the petitioner and the petitioner was found guilty of the allegations brought against him on compliance of law. So the ruling referred to by the learned Advocate has no application in the case of the petitioner. So in this case the Mill authority found the petitioner guilty of misappropriation of Mill property after complying the provisions of section 18 of the said Act and the Mill authority rightly and properly punished the petitioner.

The learned Advocate for the petitioner took me through observations to the effect, The onus of proving misappropriation is on the prosecution and, though in the absence of explanation, there may be a presumption from non delivery that the goods have been misappropriated, the existence of facts which suggest an explanation would be sufficient for giving the accused the benefit of doubt of their lordships in the case of Gaisuddin Vs. State reported in 14 D. L. R. (SC) at page 94 and argued that the mill authority would not properly prove the allegation of misappropriation beyond reasonable doubt and as such the petitioner is entitled to get benefit of doubt. We have seen earlier that specific allegations were brought against the petitioner and a domestic inquiry was held against him and in consequence of the domestic inquiry the petitioner was found guilty of the charges brought against him. This court is not an Appellate Court and

as such this court can not reassess the evidences of the domestic inquiry committee. Without reassessing those evidences we are unable to see whether the mill authority succeeded improving the allegations beyond reasonable doubt. So the petitioner is not entitled to get the benefit of doubt, If any, at this stage.

Therefore, having regard to my above finding and on considering all the facts, circumstances of the case and material evidences on record and in light of my above observations. I hold that the petitioner has miserably failed to prove that the dismissal order was illegally passed and as such the petitioner is not entitled to get any relief in this case.

I therefore, reply the points under determination against the petitioner.

In the result, the case fails.

The learned member have been dismissed and consulted with Hence it is

ORDERED

That the complaint Case is dismissed on contest against the O.P. without any order as to cost.

Sudhendu Kumar Biswas
31-7-97
Chairman,
Labour Court, Rajshahi.

শ্রম আদালত, রাজশাহী বিভাগ, রাজশাহী।

উপস্থিত :- সুবেদু কুমার বিশ্বাস
চেয়ারম্যান,
শ্রম আদালত, রাজশাহী।

আই, আই, ও মানলা নং-২৮/৯৬

মোঃ আনহার আলী, পিতা-জফর উদ্দিন, মাং-গকুলপুর (পাগলাপীর),
থানা কোতরাণী, জেলা রংপুর, সদস্য নং-৬৭৮, পাগলাপীর শাখার

সভাপতি ও সদস্য, রংপুর জেলা ট্রাক ও ট্যাংকলরী শ্রমিক ইউনিয়ন,
 রেজিঃ নং রাজ-৯২১, কলেজ রোড ট্রাক ষ্ট্যাণ্ড রংপুর—দরখাস্তকারী।

বনাম

- ১। মোঃ আবু বকর, পিতা-মুঃ সাহাবুদ্দিন,
- ২। মোঃ শাহিদুল ইসলাম সাইদ, পিতা মহির উদ্দিন,
- ৩। মোঃ মহিউদ্দিন চিশতী, পিতা নবর উদ্দিন,
- ৪। মোঃ আবুল কালাম, পিতা আজিজুল ইসলাম,
- ৫। মোঃ আবদুল হানিদ, পিতা ইলিয়াছ আহমদ,
- ৬। মোঃ আমজাদ হোসেন, পিতা খোদা বকর,
- ৭। মোঃ রেজাউল ইসলাম, পিতা আঃ ওহাব,

সকলেই সদস্য, রংপুর জেলা ট্রাক ও ট্যাংকলরী শ্রমিক ইউনিয়ন এবং তথাকথিত
 আহ্বায়ক কমিটি, ত্রিবাধিক নির্বাচন/১৯৯৬ সন, রংপুর জেলা ট্রাক ও ট্যাংকলরী
 শ্রমিক ইউনিয়ন, রেজিঃ নং রাজ ৯২১, সর্ব পোঃ আলমগর, থানা কোত্তালী,
 জেলা রংপুর, জেলা রংপুর—প্রতিপক্ষগণ।

আদেশ নং ১৯ তাং ২৯-৭-৯৭

অন্য মামলাটি চূড়ান্ত শুনানীর জন্য দিন বাধা আছে। বাদী পক্ষ অনুপস্থিত
 আছেন। নিযুক্ত আইনজীবীও কোন পরক্ষেপ নেন নাই। প্রতিপক্ষে বিজ্ঞ কৌশলী
 মামলায় কোন পরক্ষেপ নেন নাই। প্রতিপক্ষগণও অনুপস্থিত আছেন। অন্য মালিক
 পক্ষের সদস্য জনাব পুলিন বিহারী বিশ্বাস ও শ্রমিক পক্ষের সদস্য জনাব মোঃ আবু
 সেলিম স্বারা কোর্ট গঠিত হইল।

বিজ্ঞ সদস্যদের সহিত আলোচনা ও পরামর্শ করা হইয়াছে।

অন্তএব,

আদেশ হইল

যে অত্র আই আর ও মামলা তদবীরের অভাবে বিনা খরচার খারিজ হয়।

সুবেন্দু কুমার বিশ্বাস

২৯-৭-৯৭

চেয়ারম্যান

শ্রী আদালত, রাজশাহী।

মোঃ আবদুল করিম সরকার (উপ-সচিব), উপ-নিয়ন্ত্রক, বাংলাদেশ সরকারী মন্ত্রণালয়,
 ঢাকা কর্তৃক মন্বিত।

মোঃ আমিন জুবেরী আলম, উপ-নিয়ন্ত্রক, বাংলাদেশ ফরমস্ ও প্রকাশনী অফিস,
 তেজগাঁও, ঢাকা কর্তৃক প্রকাশিত।