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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH  
MINISTRY OF HEALTH, POPULATION CONTROL AND LABOUR  
(Labour and Social Welfare Division)

*Section VI.*

NOTIFICATION

Dacca, the 29th April, 1976.

No. S.R.O. 161-L/76/S-VI/1 (9)/75/215.—In pursuance of the provisions of sub-section (2) of section 37 of the Industrial Relations Ordinance, 1969 (XXIII of 1969), the Government is pleased to publish the awards and decisions of the Labour Court, Khulna, in respect of the following cases, namely:—

- (1) Complaint Case Nos. 67 of 1975, 68 of 1975, 69 of 1975 and 70 of 1975.
- (2) I. R. O. Case No. 127 of 1975.
- (3) Complaint Case No. 87 of 1975.
- (4) I.R.O. Case No. 32 of 1975.
- (5) Complaint Case No. 115 of 1975.
- (6) Complaint Case No. 127 of 1975.
- (7) Complaint Case No. 53 of 1975.
- (8) I. R. O. Case No. 661 of 1973.
- (9) Complaint Case No. 113 of 1975.
- (10) I. R. O. Case No. 44 of 1975.
- (11) I. R. O. Case No. 63 of 1975.
- (12) I. R. O. Case No. 11 of 1975.
- (13) Misc. Case No. 7 of 1976.

By order of the President  
MOHAMMAD KHADEM ALI  
*Deputy Secretary.*

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(1453)

Price : Taka 1.75

## IN THE LABOUR COURT, GOVERNMENT OF BANGLADESH

92, Rupsa Strand Road, Khulna.

Complaint Case Nos. 67/75, 68/75, 69/75 and 70/75.

## PRESENT:

Mr. D. N. Chowdhury—*Chairman, Labour Court, Khulna.*

Mr. D. Hussain	...	--	---	...	} <i>Members.</i>
B.M. Sufian	---	---	---	---	

Abdur Rashid and three others, Ex-Watchman, Star Jute Mills, Chandanimohal, Khulna—*First Parties,**versus*The General Manager, Star Jute Mills Limited, Khulna and two others—*Second Parties.*

This case along with Case No. 68/75, 69/75 and 70/75 are taken up together for analogous disposal. These are the applications under section 25(I)(b) of the Bangladesh Employment of Labour (Standing Orders) Act, 1965. Briefly stated case of the petitioners is that they are appointed as security staff on casual basis with effect from 20th February 1972, on a monthly salary of Tk. 137.15. That 2nd party on 16-1-1975 disengaged the petitioners from their service for which they submitted grievance petition on 28th January 1975 and the second party by its letter dated 19th February 1975 terminated the service of the petitioners with retrospective effect. Petitioners contend that the order is a *malafide* and as such they pray for reinstatement in service with arrear wages.

Second party by filing written statement contends *inter alia* that the petitions are not maintainable under section 25(I)(b) of the Standing Orders Act, 1965 inasmuch as the orders were passed as termination simpliciter without any stigma. Further they contend after the liberation of Bangladesh due to worsening law and order some extra darwan on purely casual basis were appointed and when their services no longer required from service and as such 2nd party contends that the petitions are not maintainable and liable to be dismissed.

No oral evidence has been adduced but both the parties have filed documents in respect of their respective contentions.

Following are the points for determination—

- (1) Are the petitions maintainable u/s. 25(I)(b) of the Standing Orders Act, 1965?
- (2) To what relief, if any, are the petitioners entitled?

## FINDINGS

For the sake of convenience both the points are taken up together. From the appointment letter issued in favour of the petitioners, dated 7-3-1972 it will be seen that the petitioners were appointed as watchmen as casual workmen in the security department on 16-1-1975. That on 16-1-1975 they were informed that their temporary service were no longer required with effect from 17-1-1975. Admittedly, petitioners submitted grievance petitions u/s. 25(1)(b) of the Standing Orders Act, 1965 on 28-1-1975 and second party modified the order where the petitioners were given termination benefits as admissible under section 19(3) of the Standing Orders Act, 1965 as admissible in case of temporary workers. It has been urged by the Ld. Advocate of the second party that according to the nature of the work the petitioners the 2nd party could avoid any termination benefits but on purely compensationate ground the benefits available to temporary workers u/s. 19(3) of the Standing Orders Act, 1965 were given to them. There is substance in the contention and as such petitioners have no grievance to make. The matter does not stop here when the order of termination was passed. It was incumbent upon the petitioners to file a fresh grievance petitions u/s 25(1)(a) of the Standing Orders Act, 1965 without which they cannot come to the Labour Court u/s 25(1)(b) of the Standing Orders Act, 1965 and consequently the petitions are not maintainable according to law.

My attention has been drawn by the Ld. Advocate for the 2nd party to the decisions reported in 26 D.L.R. (SC) 33 wherein it has been held by their Lordships that definition of the term "worker" does not include a person whose services have been terminated under section 19 of the Standing Orders Act, 1965 and the order of termination simpliciter cannot be challenged in the Labour Court, and with full deference to the above decision I find that the petitions are not maintainable and petitioners are not entitled to any relief.

Considered the written opinion of the Ld. Members.

Accordingly it is

## Ordered

That the case be dismissed on contest but without costs. This award shall govern complaint case Nos. 68/75, 69/75 and 70/75.

D.N. CHOWDHURY  
Chairman.

Typed by Mr. A.B.M. Joinal Abedin,  
Stenographer, Labour Court, Khulna, at my  
dictation and corrected by me.

Labour Court, Khulna.  
6-4-1976.

D. N. CHOWDHURY  
Chairman,  
Labour Court, Khulna.  
6-4-1976.

## OFFICE OF THE CHAIRMAN, LABOUR COURT

92, Rupsa Strand Road, Khulna.

I. R. O. Case No. 127 of 1975

Deputy Registrar of Trade Unions, Government of the People's Republic of Bangladesh, Khulna Division, Khulna—*First Party*,*versus*Bangladesh Paribahan Sangstha Sramik Samity, Registration No. KLN-227, Jessore-Khulna Bus Stand, Jessore—*Second Party*.

## PRESENT:

Mr. D. N. Chowdhury—*Chairman*.

Begum Moonujan Sufian	..	..	..	} <i>Members.</i>
Mr. Delwar Hossain	..	..	..	

## AWARD

This is an application under section 10 of I.R.O., 1969 for cancellation of the Registration of the 2nd Party Union on the ground that the 2nd Party Union violating of Article 17 of the constitution showed cash in hands of cashier and General Secretary in the return of the year 1974. That the 2nd Party Union held general election of the union on 8-12-1974 without observing the formalities as envisaged in Article 21 of the constitution and hence the petition for cancellation of the registration of the Union.

2nd Party by filing W.S. contends *inter alia* that there was a mistake in the annual return of the year 1974 inasmuch as there was no cash in the hands of the cashier which was deposited in Bank and that without showing in the return in the hands of the General Secretary should have been shown as loan and that the explanation was given to the 1st Party. 2nd Party alleges that there was no violation of the provisions of Article 21 of the Constitution and that "words" নির্বাহিত ও সদস্য have been inserted by the 1st Party to harass the 2nd Party Union and that this plea was taken as and when the General Secretary of the Union came to take back the copy of the Constitution of the Union. 2nd Party alleges that there was other Union of the workers set up at the instance of the owners and that 1st Party has been played into the hands of the owner in damaging the interest of the workers and as such 2nd Party prays that the petition be rejected.

1st Party has examined 6 witnesses and the 2nd Party has examined 2 witnesses.

Following are the points for determination—

- (1) Is there any ground for cancellation of the Registration of the Union?
- (2) To what relief, if any, is the petitioner entitled?

## FINDINGS

For the sake of convenience both the points are taken up together. Section 10 of I.R.O., 1969 provides for cancellation of registration of the Union on a complaint made by the Registrar for any of the grounds enumerated therein and in this case we are concerned with Section 10(ii) of I.R.O., 1969 the relevant provision runs thus "contravened any of the provisions of its constitutions."

Now we are to see if there was any contravention of the provisions of the constitution and if there was any *mala fide* in the same. In the annual return of the year 1974 (Ext. 4) it is shown that cash of Taka 150.00 was in the hands of the cashier and cash of Taka 1,031.15 paisa was in the hands of the General Secretary which is undoubtedly a violation of Article 17 of the Constitution but it is seen that on 7-6-1975 *vide* Ext B, General Secretary explained the discrepancies inasmuch as Taka 150.00 was in the Bank *vide* receipt (Ext. G) and that cash shown in the hands of the General Secretary should have been shown as loan to him. It is seen after receipt of this letter 1st party apparently did not reply to the letter and instead filed the present Case on 2-7-1975. As such it is seen that there was no *mala fide* of the Union even if there was mistake in the return. Further for individual acts of misfeasance by the Union Executives the 1st Party could proceed against him under the provisions of I.R.O., 1969 and the idea of cancelling the registration of the Union on such pleas would be like throwing the crying baby along with the tubwater. As such, I am of opinion, that there is no real violation of the Art. 17 of the Constitution of the Union.

I shall now come to the point as to whether there was any violation of the provisions of Art. 21 of the Constitution in holding the annual election of the Union. The whole rub of the matter rests with the words "নির্বাচিত ও সদস্য" which according to 1st Party was in the constitution and which according to 2nd party was not with same. It is seen from the printed constitution that such words are not there and 2nd Party has filed copy of the constitution (Ext. D) which was attested by a Munsif of Jessore on 28-2-1975. The matter does not stop there inasmuch as from Ext. E we find that attention of Joint Director of Labour, Khulna was drawn in the matter that certain alterations were made in the Constitution in the Office of the Deputy Registrar of Trade Unions, Khulna. As such on a consideration of different copies of Constitution I find that Words "নির্বাচিত ও সদস্য" were not there in the constitution and consequently there was no violation of Art. 21 of the Constitution. 1st Party has examined some witnesses over the alleged malpractice of the Secretary of the Union and reference to the same is made in the complaint petition filed by the 1st Party but curiously enough First Party has not exhibited a single complaint petition allegedly submitted to them. Be that as it may, I find that there is no violation of the provisions of Article 21 of the Constitution.

It is alleged by the 2nd Party that this Case is a manipulation by the owners of Transports in damaging the Union but this is not the occasion for me to make any observation on the point as it is outside the scope of a petition under Section 10 of the I.R.O., 1969.

According I find that there is no substance in the petition which must be rejected.

Considered the written opinion of the learned members.

Hence it is—

**Ordered**

That the Case be dismissed on contest.

Typed by Mr. A.K.M. Moinuddin at my dictation and corrected by me.

D. N. CHOWDHURY  
*Chairman,*  
*Labour Court, Khulna.*  
18-2-1976.

D.N. CHOWDHURY  
*Chairman,*  
*Labour Court, Khulna.*  
18-2-1976.

**IN THE LABOUR COURT GOVERNMENT OF BANGLADESH**

92, Rupsa Strand Road, Khulna.

Complaint Case No. 87 of 1975.

PRESENT :

Mr. D. N. Chowdhury—*Chairman.*

B. M. Sufian

Mr. D. Hussain

} *Members.*

Abdus Samad, C/o. Master Mansur Ahmed, Star Jute Mills Gate No. 2, Chandanimahal, Khulna—*First Party,*

*versus*

General Manager, Star Jute Mills Limited, Chandanimahal, Khulna and one other—*Second Parties.*

This is an application under section 25(I)(b) of the Bangladesh Employment of Labour (Standing Orders) Act, 1965. Briefly stated case of the petitioner is that at the relevant time he was acting as an electrician in the 2nd party mill. That on 21-1-1975 petitioner was on duty from 6 p.m. to 10 p.m. and that after 3 p.m. while he was going to the canteen of the mill he found two ball bearing lying on the road near the mill and he thought that these two ball bearings could be used as toil for his children. That while the petitioner was going outside the mill alongwith the above ball bearings the security guard took the petitioner to the security officer where a statement from petitioner and retained these two ball bearings. That on 22-1-1975 petitioner was charge-sheeted wrongly for alleged theft of 2 ball bearing. That petitioner submitting his reply on 25-1-1975. That the date of enquiry was fixed on 23-1-1975. Petitioner

alleges that while he went to his witness he found that the security officer, Labour Officer, Electrical Supervisor A. Razzaque and Anamul Haque but he did not know who were the member of the enquiry committee. Petitioner further alleges that he was not given full opportunity to examine the witnesses examined on the side of the prosecution and that the witnesses taken by the petitioner were not allowed to enter into the Labour office while the enquiry proceeding was continued and as such petitioner alleges that there was no fair enquiry in respect of the charge brought against him. He further alleges that he deposed in favour of the worker S. Ali by name in I. R. O. case No. 411 of 1974 in this Court for which electrical supervisor threatened the petitioner with dire consequences and that he had also quarrel on one occasion with N. Sardar, gate keeper and as such these persons in collusion with the management has wrongly victimized the petitioner. That the petitioner received the order of dismissal effective from 5-2-1975 and that the petitioner in due course he submitted the grievance petition under section 25(1)(a) of the Standing Orders Act, 1965 and that the 2nd party company gave reply on 19-3-1975 denying any reconsideration of the decision already taken against him and hence the present case for reinstatement in service with all arrear wages.

Second party by filing written statement contends *inter alia* that on the night of 21-1-1975 Watchmen Abul Hussain and Nazir Hussain were on duty and at about 8.30 p.m. petitioner Abdus Samad was caught red-handed alongwith the stolen goods by the watchmen. That watchmen Abul Hossain produced him in the security officer where a statement of the petitioner was recorded and that these ball bearings were kept in the office of the security officer. That in due time charge-sheet was given against the petitioner and there was a fair enquiry held on 28-1-1975 where all reasonable opportunity were given to the petitioner to explain the charge brought against him. That the 2nd party denies that while petitioner went at the time of enquiry, they were not refused to entry of any witness at the Labour office. That the enquiry committee on a careful perusal recommended the dismissal to the general manager and the general manager gave a personal hearing to the petitioner and subsequently issued the order of dismissal which was passed on the ground of gross misconduct within the meaning of section 17(3) of the Standing Orders Act, 1965. That petitioner submitted grievance petition which was replied in time regretting their inability to consider the grievance of the petitioner and as such the 2nd party contends that the petitioner be dismissed.

Petitioner has examined 3 witnesses and 2nd party has also examined 2 witnesses.

Following are the points for determination :—

- (1) Is there any flaw in the order of dismissal passed against the petitioner?
- (2) To what relief, if any, is the petitioner entitled.

#### FINDINGS

*Point No. 1 and 2.* For the sake of convenience both the points are taken up together. There is no question of limitation in as such as the order of dismissal was dated 30-1-1975 effective from 5-2-1975 and petitioner submitted

grievance petition admittedly within 14 days *i.e.*, on 19-2-1975 *vide* Ext. I and second party company gave its decision on 19-3-1975 which is marked Ext. J and after that petitioner has filed this case on 5-4-1975, and as such the question of limitation does not at all arise.

Now coming the only point that falls to be decided whether there was a fair enquiry regarding the charges brought against the petitioner. It must be observed at the very outset following the Supreme Court Decision reported in 1960 P.L. C. 80 that it is not the province of the Tribunal, *i.e.*, the Labour Court to go into the merits of the allegations, its jurisdiction is only to see if there was a fair enquiry and the employee was given an opportunity to explain the charge. The charge against the petitioner as stated before is that petitioner was caught red-handed at about 8:30 p.m. on 21-1-1975 by the watchmen A. Hasem and Nazir Sardar while petitioner was stealing away 2 pieces of ball bearings through gate No. 2 concealing the same under his rapper. The contention of the petitioner is that he attempted to steal the ball bearing which according to him were rejected ball bearing and when he was taken by guards before security officer a statement of the petitioner Ext. A was recorded where he stated he got the ball bearing in front of workshop of the electrical department but from Ext. B which is the explanation submitted by the petitioner in respect of the charge brought against him he stated that he got the ball bearings near the wall closed to the residential areas. These two statements are unchallenged would show that there was enough discrepancies as to the source of the ball bearing as attempted to be made out by the petitioner in defence of the charge brought against him. It is also to be noted that there is no reason why two ball bearing were in active condition or out of commission would be lying in a place inside mill. As such it will be seen that there enough weakness attempted to be made out by the petitioner. As regards the enquiry the contention of the petitioner is that enquiry supervisor who was one of the member of the enquiry committee bears a grudge against the petitioner as the petitioner deposed in I. R. O. case No. 411 of 1974 in this court but curiously enough that Sakim Ali is still in service and there is no earthly reason as to why an employee of the mill would bear any personal grudge against the petitioner for deposing in that case against the petitioner. As regards the allegation against N. Sardar the petitioner could not give or make out any case of ill feeling against the Nazir Sardar and even the 2 witnesses examined by the petitioner also could not help the petitioner at all on the point. It will be seen from Ext. E that the initial report regarding the alleged theft of ball bearing were made by two persons and in this respect there is no explanation given regarding A. Hashem the other watchmen and as such the plea as made out by the petitioner regarding the ill feeling with Nazir Sardar an employee of the mill has also not at all substantiated. As regards the enquiry the 2nd party has produced the relevant papers of domestic enquiry which are marked Ext. D and it will be seen there that the deposition sheets of different witnesses contained the signature of A. Samad *i.e.*, the petitioner. At the time of hearing of the case it is alleged by the petitioner that he took defence witnesses and they were not allowed to enter into the venue of enquiry. The names of witnesses are not given in the complaint petition. The petitioner at the time of hearing produced two witnesses Bablu Mia and A. Sobhan and then even could not correctly give the time of domestic enquiry and their statements is that doors and windows were closed at the time of enquiry is hardly believable. The matter does not stop here. It will be seen from Ext. H that



the General Manager of the 2nd party after recommendation of the dismissal of the petitioner gave a personal hearing which is sufficient compliance with the provisions of section 18 of the Standing Orders Act, 1965. Accordingly it will be seen that the petitioner failed to prove his case and consequently he is not entitled to get any relief.

Considered the written opinion of the learned Members.

Accordingly it is—

**Ordered**

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

D. N. CHOWDHURY  
*Chairman,*  
*Labour Court, Khulna.*  
19-3-1976.

Typed by Mr. A. B. M. Joynal  
Abedin, Stenographer, Labour  
Court, Khulna at my dictation  
and corrected by me.

D. N. CHOWDHURY  
*Chairman,*  
*Labour Court, Khulna.*  
19-3-1976.

**IN THE LABOUR COURT GOVERNMENT OF BANGLADESH,**

**92, Rupsa Strand Road, Khulna.**

**I. R. O. Case No. 32 of 1975.**

**PRESENT ;**

Mr. D. N. Chowdhury—*Chairman.*

B. M. Sufian  
Mr. D. Hussain } *Members.*

Dy. Registrar of Trade Unions, Government of Bangladesh, Khulna Division,  
Khulna—*First Party,*

*versus*

Ajex Chatkal Karmachari Sangstha, Regn. No. KLN-60, Mirerdanga, P. O. Daulatpur, Khulna—*Second Party.*

This is an application under section 10 of the Industrial Relations Ordinance, 1969 for cancellation of the registration of the 2nd party union for its failure to submit the annual return of the year 1973 by 30-4-1974.

The 2nd party by filing written objection contends *inter alia* that the present executive committee of the union was elected on 20-3-1974 on defeating the *ex-general* Secretary. That I.R.O. Case No. 83 1974 was filed by certain person at the instance of the previous general secretary for setting aside the *aferesaid* general election but the case was ultimately dismissed. That with the best efforts the papers of the union could not be secured by the present secretary and that the papers are being seized by Anti-corruption for a case for allegedly defalcation of certain union's fund by him and as such there is no wilful latches on the part of the present secretary, and accordingly the present secretary could not submit the annual return for the year 1973 and as such the 2nd party contends that the petition be dismissed.

Petitioner has examined one witness and second party has also examined one witness.

Following are the points for determination—

- (1) Whether the petitioner can be allowed for cancellation of the registration of the union.

#### FINDINGS

The bone of contention in this is very simple and facts are not at all disputed. Admittedly the present executive committee of the 2nd party union came to office on the basis of general election held on 20-3-1974 and it undisputed that the previous general secretary was one Sardar Aminul Islam and the present secretary is Mr. S. Mahbubur Rahman. Admittedly the papers of the union was received by the present secretary from his predecessor office and the series of correspondences Ext. A to A (5) lend support of this. Present case for cancellation of the registration for non-submission of annual return was filed on 28-2-1975 and only from correspondence Ext. A(6) we find that the general secretary of the union has addressed a letter to the Anti-corruption Department, Khulna where a reference has been made of a case being filed by the 1st party against the union. Ext. A(7) is a similar letter dated 17-10-1975 where for the first time a reference has been made of I. R. O. case No. 32 of 1975. Admittedly before or after filing of the present case no prayer was made by the general secretary of the union to the Dy. Registrar of Trade Union, Khulna for extension of time to submit the annual return and as such it will be seen that while admittedly according to rules under the I. R. O. 1969 the annual return is to be submitted mandatorily by 30-4-1974 but the same has not been submitted and even at the time of evidence no promise or willingness is shown or made by D. W. 1 regarding the submission of the annual return for the year 1973 and 1974. In the above circumstances that falls to be decided whether there can be any extenuating circumstances which could prevent in passing the order of cancellation of the registration of the union for non-submission of the return. To appreciate this point I shall refer the relevant section 10 of the I.R.O. 1969 which reads as follows:—

“Sec. 10. Cancellation of registration—The Registrar may, on the application of registered trade union or on the direction of the Labour Court made on a written complaint from the Registrar for any

unfair labour practice as specified in section 15 and section 16 of the part of a trade union or for violation of any provision of this Ordinance, cancel its registration, unless

(i) contravened any of the provisions of this Ordinance or Rules.....”

I shall next refer to section 21 of the I. R. O., 1969 which reads as follows:—

- “21. *Return*—(1) There shall be sent annually to the Registrar, on or before such date as may be specified prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered trade union during the year ending on the 31st day of December, next preceding such prescribed date, and of the assets and liabilities of the trade union existing on such 31st day of December, as may be prescribed;
- (2) Together with the general statement there shall be sent to the Registrar a statement showing all changes of officers made by the trade union during the year to which the general statement refers, together also with a copy of the constitution of the trade union corrected up to the date of the despatch thereof to the Registrar;
- (3) A copy of every alternation made in the constitution of a registered trade union and of a resolution of the general body having the effect of a provision of the constitution, shall be sent to the Registrar within fifteen days of the making of the alteration or adoption of the resolution;
- (4) In case the registered trade union is member of a federation, the name of that Federation shall be given in the annual statement”.

Learned advocate for the 2nd party has referred to me the decision reported in 1970 P. L. C. 485 where the Honourable Labour Appellate Tribunal, West Pakistan, in a case u/s 11 of the I. R. O. were pleased to hold that certain circumstances latches in submitting some papers before the Registrar of Trade Unions can be condoned. In that case the matter arose out of sec. 11(b) (iii) of West Pakistan Trade Union Ordinance, 1968 where the relevant portion reads as follows:—

“wilfully contravene any provision of the Ordinance”.

It is to be noted that sec. 21 of the Industrial Relations Ordinance, 1969 begins with a mandatory provision regarding the submission of annual return to the Registrar of Trade Unions and sec. 10 of the I. R. O., 1969 provides for cancellation of the registration for contravention of any of the provisions of the Ordinance or the Rules. It is to be carefully noted that the word “wilfully” is not provided in either in sec. 10 or 21 of the Ordinance and as such the decision reported to by the Id. Advocate for the second party cannot have any application to the facts of the present case. Accordingly it will be seen that while admittedly the Annual Return for 1973-74 was not submitted within time by the union there is no option left with the Registrar of Trade Union but to file a case for cancellation of the union before the Labour Court and the latter also has no option to condone the latches on any ground

whatsoever which are not at all referred in the I. R. O., 1969 and as such from the above I find that it is a fit case whether here for non-submission of the annual return, the registrar of the union must be cancelled.

Considered the written opinion of the Ld. members.

Accordingly it is—

#### Odered

That the case be allowed and the registration of the 2nd party union is hereby cancelled.

D. N. CHOWDHURY  
*Chairman,*  
*Labour Court, Khulna.*  
 31-10-1975.

#### OFFICE OF THE CHAIRMAN, LABOUR COURT

92, Rupsa Strand Road, Khulna.

Complaint Case No. 115 of 1975.

Abul Hashem Munshi, Foreman, Mechanical Department, Ajax Jute Mills Ltd., P. O. Doulatur, District Khulna—*First Party,*

*versus*

- (1) Manager, Ajax Jute Mills Ltd., P. O. Daulatur, Khulna;  
 (2) Bangladesh Jute Industry, Motijheel Commercial Area, Dacca-2—*Second Parties.*

#### PRESENT :

Mr. D. N. Chowdbury—*Chairman.*

Begum Moonujan Sufian }  
 Mr. Delwar Hossain } *Members.*

This is an application under Section 25(1)(b) of Bangladesh Employment of Labour (Standing Orders) Act, 1965, hereinafter referred to as Act, for reinstatement in service with back wages. Briefly stated Case of the petitioner in that at the relevant time he was acting as Foreman in the Mechanical Department of the 2nd party Mill. That on 24-2-1975 at about 4-30 p.m. while the petitioner was not on duty entered into the Mill to request the Accountant over the deduction of an advance and that while going out he found two nut and bolts which he wanted to take out for repairing a tube-well of Mahatabuddin, with the permission of the men at the gate but that security staff refused to allow the petitioner who had to surrender the nut and bolts and was forwarded to put his signature on a Khata of Security department. That petitioner was charge-sheeted for alleged theft of above mentioned articles

to which he refused denying the charge and that an enquiry committee was formed to hold domestic enquiry where petitioner was not allowed to hear the evidence of the P. Ws. nor he was allowed to cross examine them and that petitioner was also not allowed to examine defence witnesses. That on the basis of a biased report petitioner was dismissed from service. That petitioner within the statutory period submitted grievance petition under Sec. 25(1) of the Act to which the 2nd party replied in negative and hence the Case for the relief stated above.

2nd Party by filing W. S. contends *inter alia* that petitioner not being a worker within the meaning of the Act, the present application under the Act is not maintainable. On denying all the allegations made in the petition, the 2nd party alleges that petitioner was caught at gate No. 3 while attempting to save out 2 nut and bolts and in due course was charge-sheeted and on holding proper domestic enquiry the petitioner was found guilty of misconduct and was in due course dismissed from service. The reply to the grievance petition was given to the petitioner and as such the 2nd party contends that the petition be dismissed. Petitioner has examined 2 witnesses and 2nd party has examined 1 witness.

Following are the points for determination :—

- (1) Is the petitioner a 'worker' within the meaning of the Act? Is the petition maintainable under the Act at the instance of the petitioner?
- (2) Is the petitioner legally dismissed from service?
- (3) To what relief, if any, is the petitioner entitled?

### FINDINGS

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

Admittedly petitioner was a foreman in the Mechanical Department of the Mill and his work is to supervise the works of Mistrys, helpers and oilmen and he has to work as and when his services are required. The contention of the 2nd party is that petitioner is not a 'Worker' within the meaning of the Act and as such the petition under the Act at the instance of the petitioner is not maintainable. Section 2(v) provides that worker does not include any such person "Who, being employed in a supervisory Capacity, exercises, either by nature of the duties attached to the Office or by reason of power vested in him, functions mainly of managerial or administrative nature". From the above definition read with the evidence of P.W. 1 it is clear that petitioner though a foreman having to supervise the work of certain category of worker actually does not fall the post of a person whose 'function' is mainly of managerial or administrative nature' and as such I find that the petitioner is a 'worker' within the meaning of the Act and as such petition at the instance of the petitioner is maintainable.

Now coming to the merit of the Case I shall refer to report of the Security Department (Ext. A) which would show that petitioner was caught at the gate while attempting to take away 2 nut and bolts. The explanation (Ext. C) submitted by the petitioner in replying to charge (Ext. B) is not at all substantiated.

As to holding of enquiry the contention of the petitioner is that he was not allowed to hear the evidence of the P. Ws. and that he was not allowed to examine D. Ws. The evidence of P. W. 2 on the part does not inspire any confidence. The contention of the petitioner is that his signature in the deposition sheets at the time of enquiry were obtained by force which is not at all proved. On the contrary, 2nd party has proved the paper of domestic enquiry (Ext. E) which would go to show that signatures of the petitioner were obtained in due course where petitioner was given full opportunity to explain away the charge brought against him. The evidence of D. W. 1 are of the members of the enquiry Committee is very clear on the point. Accordingly it will be seen that petitioner was found guilty of misconduct within the meaning of Sec. 17(3)(b) of the Act and was rightly dismissed from service. The learned Advocate for the petitioner has drawn my attention to Sec. 18(b) of the Act regarding previous record and extenuating circumstances but the wordings of the Section does not mean that in all cases simply because there was no previous punishment, the worker in spite of the charge being proved should be leniently dealt with. It is seen that security of the mill properties is an essential precondition for maintaining the discipline in the Industrial area and simply because the value of the articles involved was insignificant should not be a ground of letting off the petitioner.

It is seen that there is no legal flow regarding the submission of the grievance petition (Ext. 5) and the reply thereto.

Be that as it may, I find that the petitioner is not entitled to any relief.

Considered the written opinion of the learned members representing workmen. The opinion of the other member is not available as he is on leave.

Accordingly is

**Ordered**

That the case be dismissed on contest without cost.

**D. N. CHOWDHURY**

*Chairman,*

*Labour Court, Khulna.*

25-3-1976.

Typed by Mr. A. K. M. Moinuddin  
at my dictation and corrected  
by me.

**D. N. CHOWDHURY**

*Chairman,*

*Labour Court, Khulna.*

25-3-1976.

OFFICE OF THE CHAIRMAN, LABOUR COURT

92, Rupsa Strand Road, Khulna

Complaint Case No. 127 of 1975,

Muzzam Hossain Meah, Helper, Khulna Hard Board Mill, C/o. Sramik Bhavan,  
Town Khalishpur, Khulna—*First Parties*,

*versus*

Manager, Khulna Hard Board Mill, Town Khalishpur, Khulna and one another—  
—*Second Parties*.

PRESENT:

Mr. D. N. Chowdhury—*Chairman*.

Begum Moonujan Sufian	..	} <i>Members</i> .
Mr. Delwar Hossain	..	

This is an application Under Section 25(1)(b) of Bangladesh Employment of Labour Standing Order Act, 1965 (hereinafter referred to as Act). Briefly stated case of the petitioner is that he, as a permanent employee under the 2nd party went on 10 days' leave from 21st April 1975 and he was to resume duties on 2nd May 1975. That he fell sick at his home and was under the treatment of a doctor of Barisal Hospital and that he sent a M.C. to the 2nd party on 2-5-1975. That on 7-6-1975 petitioner received the order of dismissal, dated 27-5-1975 on charge of misconduct though no domestic enquiry was held nor any notice of enquiry was served upon the petitioner. That on 10-6-1975 petitioner submitted a grievance petition under Section 25(1) of the Act which was not considered favourably by order, dated 30-6-1975 and hence the case for reinstatement in service with back wages.

Second Party by filing W.S. contends *inter alia* that before the expiry of leave petitioner simply sent a M.C. on 1-5-1975 without any petition for extension of leave. That since a perusal of the service record of the petitioner it was found that it became a habit with the petitioner to extend leave on such M.C. a show cause notice along petition to appear before the doctor of the Mill was issued on 9-5-1975 but that since petitioner did not turn up as ordered petitioner was dismissed under section 17(3) of the Act, on charge of misconduct. That subsequently 2nd party came to know that petitioner at the relevant time used to stay and deal in soap in Khalishpur Industrial Area. That since there was no ground to revise the order of dismissal the grievance petition filed by the petitioner was rejected and as such 2nd party contends that the petition be dismissed.

Petitioner has examined 1 witness and the 2nd party has examined 3 witnesses. Following are the points for determination:—

(1) Is the petitioner legally dismissed from service on allegations as made against the petitioner ?

(2) To what relief, if any, is the petitioner entitled ?

## FINDINGS

For the sake of convenience both the points are taken up together. The bone of contention is this can be whether a worker can be dismissed on charge of "misconduct" without holding domestic enquiry and if it is so under what circumstances such action can be upheld.

Admittedly petitioner went on 10 days leave which was to expire on 30-4-1975 and since 1-5-1975 was a holiday, petitioner was to resume duties on 2-5-1975 but petitioner sent a M.C. (Ext. C), dated 1-5-1975 from a doctor of Medical College Hospital, Barisal. D.W. 1 does not challenge the genuineness of this certificate nor the subsequent fitness certificate sent along with the grievance petition (Ext. G). It is seen that petitioner did not submit any petition for extension of leave apart from the M.C. (Ext. C) and as such according to 2nd party the show cause notice (Ext. D), dated 9-5-1975 was sent to the admitted home address of the petitioner in Barisal district which was returned with the endorsement "মালিক চাকা তহায় ঠিকানা বাতানায় কেবং" dated 17-5-1975 and after that petitioner was dismissed *vide* order dated 27-5-1975 (Ext. F).

Section 18 of the Act provides that no order of dismissal or discharge of a worker shall be passed unless the provisions of Section 18(1) of the Act is complied with and all are concerned herewith the compliance of Section 18(1)(b) of the Act. The endorsement of the peon referred to above does not indicate that petitioner refused to take notice as envisaged in Section 18(5) of the Act and as such, in my opinion, the order of dismissal is not legally tenable.

Learned Advocate of the 2nd party has pleaded before me a series of decisions of Court of concurrent jurisdiction where the order of dismissal without holding of domestic enquiry had been upheld. Learned Advocate also has referred to me a decision of Calcutta High Court reported in 20 years Digest of Labour Law Cases edited by Mr. M. Shafi at page 152 but all these decisions only help us this much that Labour Court, on material being pleaded before him can examine if there was a misconduct on the part of the worker. In the present case, on the materials furnished for his conduct after he was granted 10 days leave it cannot be said that any chance was given to the petitioner to meet the allegations as made in the notice, dated 9-5-1975 which was not at all served upon the petitioner.

Much has been made in the case over the alleged stay of the petitioner with his brother in the Khalishpur Industrial Area but the stay of attempt of serving of notice upon the petitioner on 28-5-1975 as attempted to be made by Ext. K was not mentioned in the W. S. Further from the letter of dismissal (Ext. F) with 25 endorsements it could be seen that there was no copy to be served upon the petitioner in the way as attempted through D.W. 3 Sultan Ahmed with the endorsement appearing in the peon book. The evidence of D.W. 2 is also far from happy when he says that he used to know the stay of the petitioner in the Mill area and yet he made enquiry about the matter.

It is also seen that 2nd party constituted an enquiry board at the time of hearing of the grievance petition (Ext. G) but such enquiry is no substitute for the mandatory provisions of section 18(1) of the Act.



Accordingly from the above I find that the order of dismissal as passed by the 2nd party cannot be maintained on appraisal of the materials furnished before this Court and petitioner must be reinstated in service.

Considered the written opinion of the learned members.

Accordingly it is—

**Ordered**

That the petition be allowed on contest without costs and the petitioner be reinstated in service with back wages. The award is to be implemented within 60 days of the date of the order.

Typed by Mr. A. K. M. Moinuddin at my dictation and corrected by me.

D. N. CHOWDHURY  
*Chairman,*  
*Labour Court, Khulna.*  
16-2-1976.

D. N. CHOWDHURY  
*Chairman,*  
*Labour Court, Khulna.*  
16-2-1976.

**OFFICE OF THE CHAIRMAN, LABOUR COURT**

**92, Rupsa Strand Road, Khulna**

**Complaint Case No. 53 of 1975.**

Golam Rahman, son of Aminuddin Mena, Vill. Pariardanga, Damudor, P.S. Phultala, Dlst. Khulna—*First Party,*  
*versus*

The Manager, Aleem Jute Mills Ltd., Atra Industrial Area, Daulatpur, Khulna and others—*Second Parties.*

**PRESENT:**

Mr. D. N. CHOWDHURY—*Chairman.*

Begum Moonujan Sufian }  
Mr. Delwar Hossain } *Members.*

This is an application under section 25(I)(b) of the Bangladesh Employment of Labour Standing Order Act, 1965. (Hereinafter referred to as the Act). Briefly stated the case of the petitioner is that he was wrongfully dismissed from service on 4-5-1974 and that he filed I.R.O. Case No. 119/74 which he withdrew on the promise of favourable consideration by the 2nd party who, however, backed out and as such petitioner on filing a grievance petition under section 25(I) of the Act, has filed this case for reinstatement in service with back wages. On the date of hearing petitioner has submitted a petition under sections 5 and 14 of the Limitation Act for condonation of delay in filing the present case.

Second party by filing W. S. denies all the material allegations made in the petition and contends on challenging the petition under sections 5 and 14 of the Limitation Act that the petition itself is hopelessly barred by limitation.

The only question that falls to be decided is whether the petition is barred by limitation.

Admittedly the petitioner was dismissed from service on 4-5-1974 and he has filed the present case on 17-2-1975 which is barred under section 25 of the Act. The contention of the petitioner is that he earlier filed I.R.O. Case 119/74 under section 34 of I.R.O., 1969 which he withdrew on 23-12-1974 on promise of favourable consideration by the 2nd party and since 2nd party wait back with their promise, the petitioner on filing a fresh grievance petition, has filed this Case under section 25 of the Act.

Learned Advocate of the 1st party has pressed a petition under sections 5 and 14 of the Limitation Act. Section 5 of the Limitation Act deals with condonation of delay in right of any application made applicable under any enactment but section 29(2) of the Limitation Act contrass the provision that Sections 4, 9 to 18 and section 22 shall apply unless expressly excluded by special law and section 29(2) (b) provides that the remaining provision shall not apply. As such the question of applicaion of section 5 of the Limitation Act in this Case does not arise.

Now coming to Section 14 of the Limitation Act it is to be noted that this section provides for exclusion of period whereas the previous suit was not entertainable for want of jurisdiction which was not the point in I.R.O. Case 119/74 which petitioner himself withdrew and as such leaving aside other considerations the question of application of Section 14 of the Limitation Act does not arise.

Admittedly if there is no scope for condonation of delay, which cannot be made in this case, the present petition must be held to be barred by limitation and is liable to be dismissed.

Considered the written opinion of the learned members.

Accordingly it is—

**Ordered**

that the petition be dismissed on contest without costs.

Typed by Mr. A.K.M. Moinuddin at my dictation and corrected by me.

D.N. CHOWDHURY  
Chairman,  
Labour Court, Khulna.  
24-2-1976.

D. N. CHOWDHURY  
Chairman,  
Labour Court, Khulna.  
24-2-1976.

IN THE LABOUR COURT, GOVERNMENT OF BANGLADESH

92, Rupsa Strand Road, Khulna.

I. R. O. Case No. 661/73.

PRESENT

Mr. D. N. Chowdhury, Chairman, Labour Court, Government of Bangladesh,  
Khulna.

B.M. Sufian

Mr. D. Hussain

} Members.

Deputy Registrar of Trade Unions, Government of Bangladesh, Khulna Division,  
Khulna—*First Party*,

*versus*

Star Jute Mills Staff Union, Registration No. B-1053, Chandonimahal, Khulna—  
*Second Party*.

This is an application under section 10 of the I. R. O., 1969 for cancellation of the registration of the 2nd party union on the ground that the union failed to submit the annual return for the year 1972 in time and hence the case.

Second party by filing written statement contends *inter alia* that the General Secretary of the union was under custody for a long time which delayed submission of the annual return for the year 1972. That the acting General Secretary prepared the return and that was already submitted to the 1st party and as such 2nd party contends that the petition be dismissed.

First party has examined one witness and 2nd party has also examined one witness.

Only point for determination is whether the prayer for cancellation of the registration can be granted.

FINDINGS

There is no dispute that the annual return for the year 1972 was submitted on 1-11-1974. P. W. 1 states that he called for certain papers on 23-1-1975 from the 2nd party but the same were not submitted by the 2nd party and as such he could not examine the correctness of the return. It transpires from the evidence of D. W. 1 Md. Belal Hussain that there was a lot of difficulties in the way in submission of return in time. The ground alleged by the 2nd party is not controverted by the 1st party and as such the question arises whether there is any extenuating circumstances in this case. Section 10 of the Industrial Relations Ordinance, 1969 gives power to the Labour Court being petition filed by the Deputy Registrar of Trade Unions, for granting permission for cancellation of the registration of the union. It must be assumed that the Labour Court would not act merely as conduit pipe in respect of granting permission for cancellation of the registration of a union on the plea that it

has contravened any of the provisions of the Industrial Relations Ordinance, 1969 for the rules. In this case we find that the 2nd party union had no deliberate latches in delay in submitting the annual return. The purpose of putting a check upon the activities of a trade union is to promote healthy growth of trade unionism in the country and as such if sufficient generous view is not taken in promoting the legitimate trade union activities the very purpose of law would be frustrated and as such I find that the union executive should be careful in future in submitting the annual return and with this observation I find that the prayer for cancellation should be rejected.

Considered the written opinions of the Learned Members.

Accordingly it is

**Ordered**

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

D. N. CHOWDHURY  
*Chairman,*  
*Labour Court, Khulna.*  
28-2-1976.

Typed by Mr. A. B. M. Joynal Abedin, P. A.  
to Chairman, Labour Court, Khulna at my dictation  
and corrected by me.

D. N. CHOWDHURY  
*Chairman,*  
*Labour Court, Khulna*  
28-2-1976.

**IN THE COURT OF THE CHAIRMAN, LABOUR COURT**

92, Rupsa Strand Road, Khulna.

Complaint Case No. 115/75.

Aynal Hoque, son of late Mvi. Kudratullah Mollah, Security Guard, Afil Jute Mills Ltd., Atra, Khulna—*First Party,*

*versus*

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

PRESENT—

Mr. D. N. Chowdhury—*Chairman.*  
Begum Moonujan Sufian  
Mr. Delwar Hossain } *Members.*

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

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

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

Following are the points for determination—

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

#### FINDINGS

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

Ext. A is the instruction book where petitioner put his signature admitting that it was his duty to check bulb at the time of start of the duty. Ext. C is the charge-sheet against the petitioner alleging that he replaced a bulb with a fused bulb and Ext. B is the reply. Ext. D would show that the matter was initiated at the report of Security Subedar. Ext. F is the order of appointment of Enquiry Committee and the personnel of the committee. Ext. G is the notice of enquiry to be held on 28-3-1975. Ext H are the papers of the proceedings where it is seen that all the persons concerned with the matter were examined. It is the contention of the petitioner that at the enquiry he was asked to put one signature on a blank paper but from the papers it is seen that there are two signatures of the petitioner on the deposition sheet. Petitioner naturally denies his signature at the top but this is not at all substantiated. Accordingly it is seen that enquiry was held as per provisions of Sec. 18 of Standing Order Act and petitioner on the report of the enquiry Committee (Ext. 9) was dismissed *vide* order (Ext. J) on 16-4-1975. The grievance petition (Ext. 5) was submitted on 24-4-1975 and the reply (Ext. 6) was given on 15-5-1975. Accordingly it is seen that petitioner was rightly found guilty of misconduct. It is further seen that petitioner was earlier punished for misconduct on 24-1-1974, *vide* Ext. C and as such taking the past conduct of the petitioner into consideration I find that there is no extenuating circumstances in favour of the petitioner and petitioner was rightly dismissed from service. It is to be noted that if the personnel of the security department are not men of

integrity then it would be unsafe to keep them in charge of guarding the properties of the company and as such I find that petitioner should not be allowed to continue his service with the company.

Considering the written opinion of the learned members, Petitioner is not entitled to any relief

Hence it is—

**Ordered**

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

D. N. CHOWDHURY  
Chairman,  
Labour Court, Khulna.  
26-1-1976.

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

D. N. CHOWDHURY  
Chairman,  
26-1-1976.

**IN THE LABOUR COURT, GOVERNMENT OF BANGLADESH**

92, Rupsa Strand Road, Khulna.

I.R.O. Case No. 44 of 1975.

**PRESENT:**

Mr. D.N. Chowdhury—*Chairman, Labour Court, Khulna.*

B. M. Sufian           —           —           — } *Members.*  
Mr. D. Hussain       ..       ..       .. }

Deputy Registrar of Trade Unions, Khulna Division, Khulna—*First Party,*

*versus*

Khulna Kerosene Hawkers' Union, Registration No. KLN-284, Station Road,  
Khulna—*Second Party.*

This is an application under section 10 of the Industrial Relations Ordinance, 1969 on the allegation that the 2nd party, viz., Khulna Kerosene Hawkers' Union bearing registration No. KLN-284 did not submit the annual return of the year 1973 by 30-4-1974 and hence the case for cancellation of the registration of the union.

Second party by filing written statement denies the allegation and contends that the annual return was submitted though not within time as alleged by the petitioner and as such they pray that the prayer for cancellation of the registration by the 1st party be refused.

Petitioner has examined one witness whereas the 2nd party has not examined any witness but has cross-examined the petitioner.

Only point for determination is whether the cancellation of the registration of the union as prayed for can be granted?

### FINDINGS

It is admitted that the return of the year 1973 was submitted on 31-3-1975 though the receipt Ext. A shows that it was received on 31-3-1974 but obviously this is a mistake in as much as the papers of the 2nd party would show that the note of the Deputy Registrar of Trade Union was given on 2-4-1975 but in the same endorsement we find there is reference of date 28-3-1974 which is obviously done in the office of the Dy. Registrar of Trade Union, Khulna Division, Khulna and in the signature of the Union I find of a reference dated 28-3-1974. The present case was filed on 6-3-1975. The provision of law is for cancellation of the registration of the union for non-submission of the return but the instant case we find it was not a case of non-submission but it is a case of irregular submission of annual return. The 1st party has also drawn my attention towards the fact that the return was incomplete. In this connection I must say, if that was the position, it was incumbent upon the 1st party to ask the 2nd party to submit a correct and complete return which of course was not done. The provision of section 10 of Industrial Relations Ordinance, 1969 obviously grants some discretionery to Labour Court, in granting permission for cancellation of the registration of the union on the ground of contravention in any of the provisions of I.R.O. 1969. In the present case I do not find any wilful latches contravention on the part of the trade union in submitting the annual return. The ides in the present case is to regularise the submission of the return and for helping in the healthy growth of trade union activities in the country and in the circumstances some lenient view is to be taken for functioning the trade union activities properly. Accordingly from the above I find that there is no ground for according permission for cancellation of the registration of the union.

Considered the written opinion of the Ld. Members.

Accordingly it is—

**Ordered**

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

Typed by Mr. A.B.M. Joynal Abedin,  
Stenographer, Labour Court, Khulna at my  
dictation and corrected by me.

D.N. CHOWDHURY  
Chairman,  
Labour Court, Khulna.  
16-1-1976.

D.N. CHOWDHURY  
Chairman,  
Labour Court, Khulna.  
16-1-1976.

## IN THE LABOUR COURT, GOVERNMENT OF BANGLADESH, KHULNA

I.R.O. Case No. 63 of 1975.

## PRESENT:

Mr. D.N. Chowdhury—*Chairman, Labour Court, Khulna.*

B.M. Sufian	..	..	..	} <i>Members.</i>
Mr. D. Hussain	..	..	..	

Dy. Registrar of Trade Unions, Government of Bangladesh, Khulna Division,  
Khulna—*First Party*,*versus*Khulna Khudra Shilpa Sramik Union, Registration No. KLN-202, Sondnga,  
Khulna—*Second Party*.

This is an application under section 10 of the Industrial Relations Ordinance, 1969 for cancellation of the registration of the 2nd party union, *viz.* Khulna Khudra Shilpa Sramik, Union bearing registration No. KLN-202 on the ground that the 2nd party did not submit the annual return for the year 1973 by 30-4-1974.

Second party by filing written statement contends *inter alia* that the return was submitted on 29-8-1974 to the office of the 1st party and as such the 2nd party prays that the prayer of the 1st party be refused.

Only point for determination is whether the permission for cancellation can be granted?

## FINDINGS

It is admitted that the return for the year 1973 was submitted by the 2nd party on 28-9-1974. So it is not a case of non-submission of annual return beyond the schedule of date. The next contention of the 1st party is that the accounts were audited by 2 persons, *viz.*, Anisul Haque and A. Salam who are members of the executive committee of the union. The 1st party has drawn my attention to the regulation 22 of the Trade Union Regulation 1961. Regulation 22(3) provides where the membership of the trade union did not at any time during the year exceed 5 hundred the annual audit of the accounts may be conducted by any 2 persons of the union. The enabling provisions of the Regulation would indicate that there is no flow when the accounts were audited by 2 members of the executive committee. The ideas behind this section is for regularising the timely submission of annual return of the union and if any malpractice committed by the office bearer regarding the fund there is separate provisions for proceeding the individual but there is no ground while the entire union should be penalised for irregular submission of the annual return. We must remember trade unions in our country is still in an infant stage and any drastic measure will result unhealthy growth of trade union which by all means should be checked and as such I am of opinion when the return was submitted it was the duty of the



1st party to get the return corrected if there was any mistake. It is interesting while the return was submitted on 29-8-1974 no action was taken regarding the so-called incorrect return. If the 1st party so desired they could have in the meantime have the return corrected but no such step was taken and taking all the circumstances into consideration I am of opinion that the prayer for cancellation cannot be granted in this case.

Considered the written opinion of the Learned Members.

Accordingly it is—

**Ordered**

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

Typed by Mr. A.B.M. Joynal Abedin,  
Stenographer, Labour Court, Khulna, at my  
dictation and corrected by me.

D. N. CHOWDHURY  
*Chairman,*  
*Labour Court, Khulna.*  
16-1-1976.

D. N. CHOWDHURY  
*Chairman,*  
*Labour Court, Khulna.*  
16-1-1976.

IN THE LABOUR COURT, GOVERNMENT OF BANGLADESH,  
KHULNA.

I. R. O. Case No. 11 of 1975

PRESENT ;

Mr. D. N. Chowdhury—*Chairman.*

B. M. Sufian  
Mr. D. Hussain } *Members.*

Deputy Registrar of Trade Unions, Government of Bangladesh, Khulna—  
*First Party,*

*versus*

Prokosali-O-Anurup Sangha, Sramick Bhaban, Town Khalishpur, Khulna KLN  
-17—*Second Party.*

This is an application for cancellation under section 10 of the Industrial Relations Ordinance, 1969 by the Deputy Registrar of Trade Unions, Khulna Division, Khulna. Briefly stated case of the 1st party is that the 2nd party did not submit the annual return of the year 1973 by 30th April, 1974 and hence the application for cancellation of the registration of the trade union.

2nd party by filing written statement and additional written statements contends *inter alia* that the 1st party petitioner has no *locus standi* to file this case. Their next contention is that before filing the case the 1st party

did not issue any show cause notice upon the 2nd party for its failure to submit the annual return within 30th April, 1974. On the merit of the case the contention of the 2nd party is that this union could not submit the annual return in time as its own constitution and account of the union has got to be ratified in the annual general meeting and since the industries with which the union is concerned were in lay off condition, no general meeting could be called in time. However, the return was submitted on 31-3-1975 and since the return was accepted by the 1st party the question of cancellation of the registration of the union does not arise.

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

Following are the points for determination—

- (1) Has the petitioner *locus standi* to file this case?
- (2) To what relief, if any, is the petitioner entitled?

#### FINDINGS

*Point Nos. 1 and 2* For the sake of convenience both the points are taken up together. The instant case is filed by the Deputy Registrar of Trade Unions, Khulna Division, Khulna did not submit the annual for cancellation of the registration of the 2nd party union bearing registration No. KLN-17. It is contended by the Learned Advocate for the 2nd party that the Deputy Registrar of Trade Unions has no *locus standi* to file this case in as much as the word Registrar of Trade Union as used in section 10 does not include the present petitioner. This contention has no substance it as much as the 1st party has produced the relevant gazette notification dated February 27, 1973 and the notification, dated 4th May, 1973 wherein it is seen that the Deputy Registrar of Trade Union is the Registrar for the purpose of all Industrial Relations Ordinance i.e., Ordinance No. XXIII of 1969 and as such it will be seen that this contention of the second party must be rejected and the petitioner has *locus standi* to file this case.

The next contention of the 2nd party is that prior to the filing the case the petitioner should have issued a notice upon the 2nd party by the provisions of Industrial Relations Ordinance does not envisage any such procedure and in terms of section 10 of the Industrial Relations Ordinance, 1969 the petitioner can file under section 10 of the I. R. O. 1969 for cancellation of the registration of the union when it contravene the provisions of this Ordinance, i.e., Industrial Relations Ordinance or the Rules. The relevant rules would also show that under rule 21 the return is to be submitted by 30th April of the following year. It is undisputed that the return should have been submitted by 30-4-1974. It is seen that the 2nd party after the filing of the case submitted the return on 31-3-1975 which was also defective as it will be seen from the memo Ext. A issued by the Deputy Registrar of Trade Unions, Khulna on 12-4-1975. Be that as it may this letter issued by the petitioner does not automatically seen the acceptance of the return. D. W. 1 both in the written statement as well as at the time of evidence has given certain statements for delay in submitting the annual return which is of quire to be considered at all. Learned Advocate for the 2nd party has drawn my attention to the clause 28 Ext. B of the constitution of the 2nd party but that clause does not envisaged any bar in timely submission of annual return as required

under the Industrial Relations Ordinance, 1969. Consequently I find that there is contravention of the provisions of I. R. O. 1969 in submitting the annual return of the year 1973 and there is no scope for the arguments with compassionate view can be taken for retaining the registration of the union. Accordingly I find that the petitioner is entitled to relief?

Considered the written opinion of the Learned Members.

Accordingly it is—

**Ordered**

That the case be allowed on contest and the registration of the 2nd party viz., Prokoswali-o-Anurup Sangha bearing registration No. KLN-17 be cancelled.

D. N. CHOWDHURY  
*Chairman,*  
*Labour Court, Khulna.*  
17-12-1974.

Typed by Mr. A. B. M. Joynal Abedin,  
Stenographer, Labour Court, Khulna, at  
my dictation and corrected by me.

D. N. CHOWDHURY  
*Chairman,*  
*Labour Court, Khulna.*  
17-12-1974.

**IN THE LABOUR COURT, GOVERNMENT OF BANGLADESH,  
KHULNA**

**Miscellaneous Case No. 7 of 1976.**

**PRESENT :**

Mr. D. N. Chowdhury—*Chairman.*

B. M. Sufian  
Mr. D. Hussain } *Members.*

Mohsin Jute Mills Workers Union—*Complainant,*

*versus*

Deputy Registrar of Trade Unions—*Opposite Party.*

This is an application under section 9 Rule 13 C.P.C. for setting aside the *ex parte* order, dated 5-2-1976 passed in I.R.O. case No. 318 of 1974. Briefly stated case of the petitioner is that on the date of hearing the petitioner as General Secretary of the Union started from Mohsin Jute Mills limited by Baby Taxi which went out of order on the way and inspite of best affords the petitioner could not reach the court till 12-00 O'clock when he

came to learn that the case was decreed *ex parte* and hence the present petition for setting aside the order as mentioned before.

O. P. opposes the petition denying all the allegations made in the petition.

Petitioner has examined one witness whereas O. P. has not examined any witnesses.

Following are the points for determination :—

- (1) Was the petitioner prevented by sufficient reason from his failure to attend the court in time?
- (2) To what relief, if any, is the petitioner entitled?

#### FINDINGS

P. W. 1 A. Motin as General Secretary of the petitioner union states that on the date of hearing he started in time from Mohsin Jute Mills Workers' union office located at Shanganj within the Shiromoni in babytaxi which went out of order near the bus depot and after great difficulties he could reach the court at 12.30 when he came to learn that the case decreed *ex parte*. When Deputy Registrar of Trade Union was asked to cross-examine the witness he stated before the court he had nothing to cross-examine except what he has stated in the written statement. This attitude does not help the O. P. and as a matter of fact there is no traverse made by the petitioner and it is found that the case is fully made out by the petitioner that he has prevented by sufficient reasons. There is no question of limitation in this case and accordingly I found that the petitioner was prevented by sufficient cases from appearing in court on the date of hearing and as such the *ex parte* award is liable to be set aside.

Considered the written opinion of the Ld. Members.

Accordingly it is—

#### Ordered

That the Miscellaneous case is allowed on contest but without any costs and the *ex parte* order, dated 5-2-1976 is set aside and I. R. O. case No. 318 of 1974 is restored to file and number. To 11-5-1976 for hearing of the original case.

D. N. CHOWDHURY  
Chairman,  
Labour Court, Khulna.  
8-4-1976.

Typed by Mr. A. B. M. Joyal Abedin,  
Stenographer, Labour Court, Khulna,  
at my dictation and corrected by me.

D. N. CHOWDHURY  
Chairman,  
Labour Court, Khulna.  
8-4-1976.