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MINISTRY OF LABOUR, SOCIAL WELFARE, CULTURAL AFFAIRS AND
SPORTS

(Labour and Social Welfare Division)

Section VI

NOTIFICATION

Dacca, the 16th October, 1975.

No. S.R.O. 355-L/75/S-VI/1(50)/75/437.—In pursuance of sub-section (2) of section 37 of the Industrial Relations Ordinance, 1969 (XXIII of 1969), the Government is pleased to publish the awards and decisions of the Second Labour Court, Dacca, in respect of the following cases, namely:—

- (1) Complaint Case No. 9 of 1975.
- (2) Complaint Case Nos. 14, 15 and 16 of 1975.
- (3) Complaint Case No. 28 of 1975.
- (4) Complaint Case No. 35 of 1975.
- (5) Complaint Case Nos. 37, 38 and 39 of 1975.
- (6) Complaint Case No. 57 of 1975.
- (7) Complaint Case No. 72 of 1975.
- (8) Complaint Case Nos. 82, 83, 84, 85 and 86 of 1975.
- (9) Complaint Case No. 94 of 1975.
- (10) Complaint Case No. 97 of 1975.
- (11) I. R. O. Case No. 24 of 1975.
- (12) I. R. O. Case No. 46 of 1975.
- (13) I. R. O. Case No. 370 of 1974.

By order of the President.

MUHAMMAD KHADEM ALI

Deputy Secretary.

(2839)

Price; 1.80 Paisa.

IN THE SECOND LABOUR COURT AT DACCA OF BANGLADESH

338, Segun Bagicha.

Complaint Case No. 9 of 1975.

Bimal Chandra Das,

*Ex—Medical Officer, Kohinoor Jute Mills Ltd.,**P.O. and Vill. Dakhin Sadharchar, Dist. Dacca—First Party,**versus*

(1) Manager, Kohinoor Jute Mills Ltd.,

P.O. Kohinoor Jute Mills, Gouripur, Dacca.(2) Chairman, B.J.I.C., Adamjee Court, Motijheel, Dacca—*Second Party.*

PRESENT:

Mr Amin-ur-Rahman Khan—*Chairman.*

Mr Md. Mahbubul Alam

Mr S. M. Alfazuddin

} *Members.*
}

Dated the 22nd August, 1975:

By this application under section 25(1)(b) of the Employment of Labour (Standing Orders) Act, the first party who was a permanent worker under the Second party and whose services have been terminated on 9th December 1974 seeks a direction on the Second party to pay his termination benefits and legal dues upon the allegation that the same were not paid to him in spite of demands and submission of grievance petition.

The Second party pleaded the claims to be misconceived, inflated and unfounded in major portion and admitted only a part of the claim.

Point for decision.

To what extent the claim of the First party is allowable.

DECISION

The First party has laid 5 counts of claims. The first count of claim is 3 months' notice pay at the rate of Tk. 562.50. This claim has been admitted by the second party. The second count of claim is 25 days' leave salary at the same rate. This claim has also been admitted by the Second party. The Second party has further offered to pay 9 days' salary from 1st December, 1974 to 9th December, 1974 as his services were terminated on 9th December, 1974 though the First party omitted to lay this claim. The third count of claim is gratuity for 6 years' service at the rate of one month's pay for each year's service. The Second party denied this claim on the ground that there is no gratuity scheme in its establishment. In such position the claim for gratuity cannot be accepted. But the First party is legally entitled to compensation at the rate of 14 days' wage for each completed year's service, *i.e.*, for six years' service which comes to Tk. 1,575.00.

The fourth count of claim is 9 months' arrear pay for the period of liberation war, *i.e.*, from March to December, 1971. The Second party objected to this claim on the ground that as the First party did not join his duty within one month from the re-opening the Mill on 10th January, 1972, he is debarred from laying that claim. The Second Party's objection is consistent with the relevant circular regarding 9 months' wage of the period of liberation war. So this claim is not acceptable and it is also barred by limitation.

The fifth count of claim is the dues of provident fund. The Second party asserted that provident fund is managed by the Trustees of that Fund and the First party can get his dues by applying to the Trustees according to rules. This claim against the Second party is found untenable. So the First party is entitled to get the following dues;

	Tk.
(i) Three months' pay in lieu of notice	1,687.50
(ii) 25 days' leave salary	468.75
(iii) Salary for 9 days from 1-12-1974 to 9-12-1974 ..	163.35
(iv) Compensation at the rate of 14 days' wage for each completed year of service, <i>i.e.</i> , 6 years' service.	1,575.00
	3,894.60

Out of the above claim the Second party has his dues of Tk. 390 against the First party which shall be deducted. So the First party is entitled to get Tk. 3,505.00. Hence—

Ordered

That the case be allowed in part on contest. The second party is directed to pay Tk. 3,505.00 (Three thousand five hundred and five) by depositing the amount in Court within one month.

Members consulted.

Typed on my dictation by Md. Abdul Jalil and corrected by me.

AMIN-UR-RAHMAN KHAN
Chairman,
Second Labour Court, Dacca.

AMIN-UR-RAHMAN KHAN
Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

338, Segun Bagicha, Dacca—2.

Complaint Case Nos. 14, 15 and 16 of 1975 (Analogous).

Bacchu Miah,

C/o. Dacca Shahar Bakery-O-Confectionery
Sromik Union, 1/1, Shantibagh, Malibagh
Chowrastha, Dacca—*First Party of Case No. 14,*

Tajul Islam,

C/o. Dacca Shahar Bakery-O-Confectionery
Sromik Union, 4, Nimtali, Dacca—*First Party of Case No. 15,*

Md. Ismail,

C/o. Dacca Shahar Bakery-O-Confectionery
Sromik Union, 4, Nimtali, Dacca—*First Party of Case No. 16,**versus*

Md. Anwar Hossain,

Managing Director,
M/s. Paramount Bread and Biscuit Factory,
29, Shahjahanpur, Dacca-17—*Second Party.*

PRESENT:

Mr Amin-ur-Rahman Khan—*Chairman.*

Mr Md. Mahbulul Alam

Mr S. M. Alfazuddin

} *Members.*

Dated the 22nd August, 1975:

By these 3 separate applications under section 25(J)(b) of the Employment of Labour (Standing Orders) Act, the 3 first parties who were permanent workers under the second party seek direction on the latter to reinstate them in their former service with full back wages upon the allegations that they were illegally dismissed from service on 30-12-1974 verbally as they were not allowed to join duties on that day when they came to report for duties after expiry of Eid holidays and that their grievance petitions, dated 9-1-1975 were also not considered.

The Second party pleaded the cases to be false upon the assertion that the first parties themselves deserted from service and never came to report for duties and the second party never dismissed them from service.

Point for decision.

Whether the case is maintainable.

DECISION

The first parties deposed on oath that after the Eid holidays they returned to duties on 30-12-1974 but the second party stopped them from working saying that they were no longer in service. They also produced the copies of grievance petition which they despatched by registered post on 9-1-1975, *vide* Ex. 1, 2 and 3 series. They also produced the copy of the reply of second party on their grievance petition which is Ex. 4. This Ex. 4 which was admitted by the second party itself proved that the second party had verbally dismissed the first parties from services on the ground of their absence from duties without leave for 7 days, 3 days and 5 days and also on the ground that they were undesirable workers. Now evidently the second party did not comply with the mandatory procedures of section 18 of the Employment of Labour (Standing Orders) Act in as much as no show cause notice was issued with allegations of misconduct and no enquiry was held. So the verbal dismissal was illegal and that is why the second party itself pleaded a false case in the written statement that the second party did not dismiss the first party from service. In the circumstances the first parties are entitled to reinstatement in service with full back wages. Hence—

Ordered

That the case Nos. 14, 15 and 16 are allowed on contest. The Second party is directed to reinstate the 3 first parties in their former service with full back wages within one month. The same judgement shall govern all the 3 cases.

Members consulted.

AMIN-UR-RAHMAN KHAN
Chairman,
Second Labour Court, Dacca.

Typed on my dictation.

A. R. KHAN
Chairman.

IN THE SECOND LABOUR COURT AT DACCA OF BANGLADESH

338, Segun Bagicha.

Complaint Case No. 28 of 1975.

Mr Abdul Hossain, II—*1st Party,*

versus

The Chairman,
B.R.T.C. and others—*2nd Party.*

PRESENT:

Mr Amin-ur-Rahman Khan—*Chairman.*

Mr Md. Mahbubul Alam }
} *Members.*

Mr S. M. Alfazuddin }

Dated the 22nd August, 1975:

By this application u/s 25(I)(b) of the Employment of Labour (Standing Orders) Act, the First Party who was a truck operator under the Second party seeks a direction on the latter to reinstatae him in service with all back wages upon the allegation that he was illegally dismissed from service by order, dated 18-12-1974 without issuing him any charge-sheet or holding any enquiry and without providing him any opportunity to defend himself and that his grievance petition, dated 8-1-1975 was also not considered.

The Second party plead that the First party was legally removed from service for gross misconduct and he has no cause of action for this case.

Point for decision.

Whether the case is maintainable.

DECISION

Ex. 1 is the order, dated 18-12-1974 by which the First party was removed from service. It is an admitted fact that the First party was removed from service for misconduct without giving him any charge-sheet bearing allegation of misconduct and without holding any enquiry by giving him hearing or by giving him any opportunity to defend his case. According to section 18 of the Employment of Labour (Standing Orders) Act no order for discharge or dismissal of a worker shall be made unless the allegation against him are recorded in writing and he is given a copy thereof and time to explain and he is given a personal hearing if such a prayer is made. In this case the Second party violated all these mandatory provisions of Law in passing the order removing the First party from service. So the order being in violation of law as also the basic principles of natural justice cannot be sustained and the First party should be reinstated in service with all back wages. Hence—

Ordered

That the case be allowed on contest. The Second party is directed to reinstate the First party in his former service and pay him all back wages within one month.

Members consulted.

AMIN-UR-RAHMAN KHAN
Chairman,
Second Labour Court, Dacca.

Typed on my dictation by Md.
Abdul Jalil and corrected by me.

AMIN-UR-RAHMAN KHAN.
Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

338, Segun Bagicha, Dacca—2.

Complaint Case No. 35 of 1975.

M. Tofazuddin,
C/o. M. A. Majid Miah, 287/3, Mayatola, Bilques Villa,
Shahnori Lane, Maghbazar, Dacca—First Party,

versus

The Manager, Mill No. 2, Adamjee Jute Mills Ltd., Adamjeenagar, Dacca—
Second Party.

PRESENT:

Mr Amin-ur-Rahman Khan—*Chairman*.

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

Dated the 22nd August 1975

By this application under section 25(1)(b) of the Employment of Labour (Standing Orders) Act, the first party who was a permanent worker under the second party seeks a direction on the latter to reinstate him in his former service with full back wages upon the allegations that he was illegally dismissed from service on 1-1-1975 without any show cause or any enquiry and that his grievance petition, dated 9-1-1975 was also not considered.

The second party did not appear to contest the case. The first party was examined on oath and the documents produced by him were Ex. 1 and 2. On a perusal of the evidence it is found that the dismissal order was illegal as the mandatory provisions of section 18 of the Employment of Labour (Standing Orders) Act was not complied within as much as no show cause was issued and no enquiry was held. Hence—

Ordered

That the case be allowed *ex parte*. The second party is directed to reinstate the first party in his service with full back wages within one month.

Members consulted.

AMIN-UR-RAHMAN KHAN
Chairman,
Second Labour Court, Dacca.

Typed on my dictation and corrected by me.

AMIN-UR-RAHMAN KHAN
Chairman.

IN THE SECOND LABOUR COURT AT DACCA OF BANGLADESH

Complaint Case Nos. 37, 38 and 39 of 1975.

- (1) Abdul Kashem IV,
Helper, Maintenance Division, C/o. Mr S. A. Ansari, Labour Adviser,
91, B.C.C. Road, Dacca—1st Party No. 37 of 1975,
- (2) Mofizullah,
Helper, Maintenance Division, C/o. Mr S. A. Ansari, Labour Adviser,
91, B.C.C. Road, Dacca—1st Party No. 38 of 1975,
- (3) Abdus Sattar IV,
Helper, Maintenance Division, C/o. Mr S. A. Ansari, Labour Adviser,
91, B.C.C. Road, Dacca—1st Party No. 39 of 1975,

versus

The Manager,
Maintenance Division, Dacca Electric Supply, D. I. T. Building (1st Floor),
Dacca—Second Party.

PRESENT :

Mr Amin-ur-Rahman Khan—*Chairman*.

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

Dated the 21st August, 1975 :

These are three applications u/s 25(1)(b) of the Employment of Labour (Standing Orders) Act submitted separately by three permanent workers of the Second party seeking directions on the latter to reinstate them in their former services with full back wages upon the allegation that they were illegally removed from service by orders, dated 2-1-1975 upon false charges of misconduct though the alleged acts even did not institute misconduct and there was no proper and legal enquiry giving due opportunity to the First party to defend their cases and their grievance petitions, dated 11-1-1975 were also ignored.

The second party pleaded the cases to be false and unmaintainable upon the assertion that the first parties were legally dismissed from service after issuing them charge-sheets and after finding them guilty of gross misconduct upon a properly held enquiry in presence of the First parties. It was also pleaded that the First parties have no *locus standi* to bring these cases as they are guided by Government Servant Conduct Rules.

Point for decision.

Whether the cases are maintainable.

DECISION

All the three cases being inter-linked with common facts and issues involved they were heard analogously for the convenience of both parties.

The Second party referred to the Employment of Labour (Standing Orders) Act and pointed out that the provision of that Act shall not apply to any Commercial or Industrial establishment owned and directly managed by Government and the persons employed therein who are governed by the Government Servant Conduct Rules. Upon the said reference the Second party pleaded that the Dacca Electric Supply is an establishment owned and directly managed by Government and its employees are guided by Government Servant Conduct Rules and so the provisions of Employment of Labour (Standing Orders) Act are not applicable to First parties. In support of this plea the Bangladesh Water and Power Development Board's order, 1972, is referred to which provides formation of Power Board as a body corporate to have control and management of all power, i.e., electric supply. This shows that the Government does not directly own or manage the establishment of Second party and it is in all respect controlled and managed by Power Board. So the First parties are workers who can avail the provisions of Employment of Labour (Standing Orders) Act and they have *locus standi* to maintain the present applications u/s 25 of that Act.

Admittedly the First parties were issued with identical charge-sheets on 4-9-1974 alleging that "they have been found guilty of gross negligence and default in performance of duties as they proceeded to Gulshan in a Hydraulic Platform (Vehicle) No. DA-170 without any approval of competent authority and thus indulged in misuse of transport" and that they "made a calculated attempt to steal the distribution poles belonging to Alhaj Azizullah of M/S Builders Corporation." The said charge-sheets are Ex 2 series. The First parties pointed out that the aforesaid allegations of the charges do not constitute misconduct within the definition of section 17(3) of Employment of Labour (Standing Orders) Act. According to the allegations of the Second party Amanullah Driver was in charge of the said vehicle and he took the First parties in that vehicle to Gulshan without permission of authority. For that Amanullah alone would be guilty and the First parties cannot be found guilty of misconduct according to section 17 of Employment of Labour (Standing Orders) Act. The other allegation was that the First parties along with others made attempt to steal the distribution poles belonging to Alhaj Azizullah of M/S Builders Corporation. This also does not constitute misconduct within the meaning of section 17 of the Employment of Labour (Standing Orders) Act as there was no allegation of theft, fraud or dishonesty in connection with employers' business or property.

It is also significant to note that Alhaj Azizullah who was the owner of the distribution poles which the First parties are alleged to have attempted to steal did not make any complaint at any stage nor he was examined as witnesses in the enquiry.

Regarding the enquiry the First parties asserted that there was no proper enquiry as the First parties were not given any opportunity to cross-examine the witnesses for the prosecution as they were examined in their absence and without their knowledge.

The Enquiry notice Ex 4. proves that the First parties were called to attend enquiry on 30-9-1974. The statements recorded by the Enquiry Officer Ex C and D showed that on 30-9-1974 the Enquiry Officer simply examined and recorded the statements of the First parties and did not examine any of the prosecution witnesses. On the other hand the Enquiry Officer examined a number of prosecution witnesses on some later date, *i. e.*, on 11-10-1974, 13-10-1974 and 16-10-1974 without giving any notice on First parties to remain present on those subsequent dates. So the prosecution witnesses were all examined in the absence of the First parties and without their knowledge.

Thus the First parties were not given any opportunity to cross-examine the witnesses for the prosecution nor even to know or explain against what they had deposed against them. This proves that there was absolutely no proper or fair enquiry and the basic principles of natural justice was violated.

Even the Enquiry report itself, *i. e.*, Ex 6 shows that the findings of the Enquiry Officer was quite unreasonable and perverse. It appears that the Enquiry Officer instead of considering if the charges against the First parties were proved or not only went to consider that the First parties could not prove their innocence as if the onus was on the First parties to prove their innocence. In his own words he found the charges to have been proved only on three grounds—firstly that the explanations and reasons given by the First parties were very weak and without any foundation, secondly that the deposition of accused First parties as to obtaining their signatures on blank papers was not convincing and thirdly that as there were other similar incidents of theft by some of the employees. So it could be suspected that the First parties were also guilty.

In the result it is found that there was no proper enquiry and no proper finding in respect of the guilt of the First parties and their removal from service on the charge of misconduct on the basis of the so-called enquiry report cannot be sustained. The First parties are therefore found entitled to be reinstated in service.

Ordered

That the three Cases Nos. 37, 38 and 39 of 1975 are all allowed on contest. The second party is directed to reinstate the first parties in their former service and pay them all back wages within one month.

This order shall govern the three cases.

Members consulted.

Typed on my dictation by
Md. Abdul Jalil and corrected
by me.

AMIN-UR-RAHMAN KHAN
Chairman,
Second Labour Court, Dacca.

AMIN-UR-RAHMAN KHAN
Chairman.

IN THE SECOND LABOUR COURT AT DACCA OF BANGLADESH
338, Segunbagicha.

Complainant Case No. 57 of 1975.

Mohammed Abdur Rashid Bhuiyan, Guard, C/o. Mr. Mujibul Huq of Survey of Bangladesh, Tejgaon Industrial Area, Dacca-8—*First Party*,

versus

Eastern Tubes Ltd., represented by Project Manager, 374, Tejgaon Industrial Area, Dacca—*Second Party*.

PRESENT :

Mr. Amin-ur-Rahman Khan—*Chairman*.

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

Dated the 22nd August 1975 :

By this application u/s. 25(I)(b) of the Employment of Labour (Standing Orders) Act, the First Party who was a Security Guard under the Second party seeks a direction on the latter to reinstate him in service with all back wages upon the allegation that he was illegally dismissed from service on 1-2-1975 upon false charge of neglect of duty without holding any enquiry and without having any proof of the charge and that his grievance petition dated 4-2-1975 was also not considered.

The second party pleaded that the First party was legally dismissed from service for neglect of duty and he has on cause of action for this case.

Point for decision.

Whethdr the First party is entitled to be reinstated in service with all back wages.

DECISION

Admittedly the First party being a security guard was placed on duty in Gate No. 1 on 19-1-1975 and on a surprise checking at 1-10 in the midnight he was found absent from duty and was found at home. The First party explained this by saying that as he was attacked with diarrhoea he, at that time went to his quarters to answer the call of nature leaving the key of gate No. 1 to the other Guard who was on duty at Gate No. 3. A show cause notice Ex.2 bearing allegations of the aforesaid incident was issued to him on 21-1-1975 and quite unusually it was stated in the said show cause notice that the Second party has already taken the decision to dismiss him from service though even no preliminary enquiry was held before issuance of the show cause. The First party submitted his reply Ex.3 denying the charge and explaining the incidents by submitting that as he was attacked with diarrhoea so he went to his quarter to answer the call of nature leaving the key of Gate No. 1 to the other security Guard Hossain Ali and for that reason he was found away from duty on surprise checking at that particular time. The truth or false shoot of his explanation could be verified by examining the other Guard Hossain Ali. But the Second party held no kind of enquiry at any state but passed an abrupt order on 1-2-1975 dismissing the First party from service and even took the decision of dismissing him from service before issuing him the show cause.

notice. This was quite illegal and violated the basic principle of natural justice as there was not only no enquiry but also there was no proof of the charge. So the First party is found entitled to be reinstated in service.

Ordered

That the case be allowed on contest. The Second party is directed to reinstate the First party in his former service and pay him all back wages within one month.

Members consulted.

AMIN-UR-RAHMAN KHAN,
Chairman,
Second Labour Court, Dacca.

Typed on my dictation by Md. Abdul
Jalil and corrected by me.

AMIN-UR-RAHMAN KHAN,
Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

338, Segun Bagicha, Dacca—2.

Complaint Case No. 72 of 1975.

Abdur Rouf Hazera, 108, B.C.C. Road, 2nd Floor, Room No. 16, Dacca-3—
First Party,

versus

The Manager, Co-Operative Jute Mills Ltd., Polash, Ghorasal, Dist. Dacca—*Second Party.*

PRESENT :

Mr. Amin-ur-Rahman Khan—*Chairman.*

Mr. Md. Mahbulul Alam

S.M. Alfazuddin

} *Members.*

Dated the 11th September, 1975:

By this application under section 25(I)(b) of the Employment of Labour (Standing Orders) Act the first party who was a Head Sardar under the Second party seeks reinstatement in service with full back wages upon the allegations that he was illegally retrenched from service by an order dated 31-1-1975 as a surplus hand by retaining in service several other workers of his category who were junior to him and that his grievance petition dated 14-2-1975 was also illegally rejected.

The second party pleaded the case to be unmaintainable upon the assertion that the first party was legally retrenched from service according to the direction of BJIC to retrench surplus hand found in excess and also because the first party was an undesirable and indisciplined worker.

Point for decision.

Whether the first party is entitled to be reinstated in his service with back wages

DECISION

Admittedly the first party joined as Lines Sardar under the Second party on 15-7-1975, and he was later promoted as Head Sardar in the weaving section. The first party asserted in his deposition on oath that at least 3 employees who are also Head Sardar and are junior to him have been retained in service still while he has been retrenched and he named those 3 who are Head Sarders junior to him. The second party did not dispute or challenge this fact. But the second party pleaded that because he was undesirable and indisciplined so he was retrenched out of turn. The retrenchment order Ex.2 simply said that as surplus hands were required to be reduced where found excess as per instruction of the B.J.I.C. so the second party ordered the retrenchment of the first party. There was absolutely no mention that the first party was retrenched for any other reason or that he was an undesirable worker for his past indisciplined action and conduct. It was for the first time in the reply of the second party to the grievance petition of the first party that it was explained that the first party may be a senior Head Sardar in the weaving section but the employer can retrench a Senior worker in place of junior worker if he is of the opinion that the junior worker is a better worker than the senior worker. But neither in the retrenchment order nor in any other document the Manager of the second party who passed the retrenchment order mentioned that the Head Sardar who was junior to the first party was a better worker than him. It was further stated in the reply Ex. 6 that the past activities of the first party was not satisfactory. But the Manager who passed the retrenchment order did not give such reason anywhere while passing the retrenchment order. According to section 13 of the Employment of Labour (Standing Orders) Act the employer shall retrench the worker who is the last personnel in that category unless for reasons to be recorded in writing the employer retrenches any other worker. The Manager who passed the retrenchment order in respect of the first party did not record any reason for his retrenching the first party out of turn by retaining several junior hands of his category. Though the Second party produced some past records and report to show some past activities of indiscipline of first party but so long the Manager himself did not record his reasons for retrenching the first party, the retrenchment order must be held to be illegal being in violation of the provision of section 13 of the Employment of Labour (Standing Orders) Act.

Hence—

Ordered

That the case be allowed on contest. The second party is directed to reinstate the First party in his former service and pay him all back wages within one month.

Members consulted.

AMIN-UR-RAHMAN KHAN,
Chairman,
Second Labour Court, Dacca.
11-9-1975.

Typed on my dictation and corrected
by me.

AMIN-UR-RAHMAN KHAN,
Chairman.
11-9-1975.

IN THE SECOND LABOUR COURT AT DACCA, BANGLADESH

338, Segun Bagicha.

Compl'nt Case Nos. 82, 83, 84, 85 and 86 of 1975.

- (1) A. K. M. Abdul Ali Meah, Senior Labour Office Assistant., Bawa Jute Mills Ltd., Madanganj, Narayanganj, Dacca—*1st Party of Case No. 82.*
- (2) Ansar Ali, Jamadar, Security Department, The Bawa Jute Mills Ltd., Madanganj, Narayanganj, Dacca—*1st Party of Case No. 83.*
- (3) A.K. M. Shamsuddin Ahmed, Report Clerk, Mill No. 4, Bawa Jute Mills Ltd., Madanganj, Narayanganj, Dacca—*1st Party of Case No. 84.*
- (4) Shah Alam, son of Abu Bakker Bepari, Carpenter, P. o. No. 3663, Mill No. 2., The Bawa Jute Mills Ltd., Madanganj, District Dacca—*1st Party of Case No. 85.*
- (5) Ashimuddin, S/o. Zahed Ali Mistry, P. P. No. 6043, Mill No. 4, The Bawa Jute Mills Ltd., Madanganj, Narayanganj, Dacca—*1st Party of Case No. 86.*

*versus*The Bawa Jute Mills Ltd., Madanganj, Narayanganj, District Dacca—*Second Party.*

PRESENT :

Mr. Amin-ur-Rahman Khan—*Chairman.*

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

Dated Dacca the 24th July 1975:

By these five separate applications u/s 25(1)(b) of Employment of Labour (Standing Orders) Act the First parties who were permanent workers under the Second party seek directions on the latter to reinstate them in their former service with full back wages upon the allegation that their services were illegally terminated to victimise them for their trade union activities and their grievance petitions were also not considered.

The Second party pleaded the cases to be false and legally unmaintainable upon the assertion that the services of the First parties were legally terminated by offering them full termination benefits and it was a termination simplicitor and it was in no way any victimisation for their trade union activities.

Point for decision.

Whether the cases are legally maintainable.

DECISION

All the five cases were heard anologously as they were interlinked.

First parties pleaded that as they took active parts in the trade union activities so to victimise them their services were terminated and this was illegal. Second party denied this. First parties could not prove any trade union activities. They only produced a representation that was submitted by the president of the Union on 23-8-1974 and 23-5-1975 in which the services of the First parties were terminated on 14-2-1975. So these representations had no bearing or concern with the termination of services of the First parties. There is absolutely no proof that the First party took part in trade union activities. Three of them were not office bearers of the Union and two were executive members. The orders terminating their service show that these were termination simpliciter without making any charge of casting any aspersion. So the orders were legal and competent according to the provision of Section 19 of Employment of Labour (Standing Orders) Act. Besides that according to the ruling of the Supreme Court reported in 26 DLR (SC) (1974) at Page 33 a worker whose services have been terminated is not a worker within the meaning of section 2(5) of Employment of Labour (Standing Orders) Act and cannot move the court u/s 25 of that Act. So the cases are found to be legally unmaintainable, Hence—

Ordered

That all the 5 cases be dismissed on contest. Same judgement shall govern all the 5 cases.

Members consulted

Typed is on my dictation by
Md. Abdul Jalil and corrected
by me.

AMIN-UR-RAHMAN KHAN,
Chairman,
Second Labour Court, Dacca.

AMIN-UR-RAHMAN KHAN.
Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH
338, Segun Bagicha, Dacca-2.
Complaint Case No. 94 of 1975.

Md. Abdul Mannan Miah, S/o., Abdul Latif Miah, Vill. and P. O. Mahanpur
Via Chandpur, District Comilla—*First Party,*

versus

The Manager, Fauzi Chatkal, Palash, Ghorashal, District Dacca—*Second Party.*

PRESENT :

Mr. Aminur-Rahman Khan—*Chairman.*

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

Dated the 5th September, 1975.

By this application under section 25(1)(b) of the Employment of Labour (Standing Orders) Act the first party who was a permanent worker being a Senior Accounts Clerk under the second party seeks a direction on the latter to reinstate him in his service with all back wages upon the allegations that he was illegally dismissed from service on 31-3-1975 upon false charges which were not proved and in respect of which there was no proper enquiry and that his grievance petition dated 4-4-1975 was also rejected. It was also pleaded that he was actually victimised for his trade union activities.

The second party pleaded the case to be false and legally unmaintainable upon the assertion that the first party was legally dismissed from services upon a charges of gross misconduct and dishonesty in connection of the employers business after issuing him charge-sheet and after holding a proper enquiry in his presence. It was also denied that the first party was victimised for his trade union activities.

Point for Decision.

Whether the first party is entitled to be reinstated in his service with back wages.

DECISION

Ex-1 is the charge-sheet, dated 2-12-1975 issued on the first party alleging that he prepared overtime bills in favour of Khurshed Miah, a worker, falsifying and tampering the original timing that was sanctioned by authority with intent to make monetary gains by drawing access amount. Ex-2 is the reply submitted by the first party in which he denied the charge pleading that the tamperings were made by the worker concerned and that due to rush of works he could not check them properly. Ex-3 is the enquiry notice issued on the first party. The first party admitted all those documents and also admitted that he had appeared in the enquiry and the enquiry was held in his presence by examining him and his witness Khurshed Miah. Ex-E is the enquiry report finding the first party guilty of the charges. Ex-4 is the dismissal order passed against the first party on the basis of the enquiry report after giving a personal hearing to the first party. Thus it is found that all the legal procedures as enjoined by section 18 of the Employment of Labour (Standing Orders) Act were duly followed in as much as show-cause notice bearing the allegations of the charge were given to the first party and upon his reply he was called to attend enquiry and the enquiry was held in his presence and he was also given personal hearing before passing the dismissal order on the basis of the enquiry report finding him guilty of the charges. The enquiry report was passed on the evidence recorded by the enquiry committee in presence of the first party and other documents that were made available to the enquiry committee including the explanation of the concerned worker which alleged that the first party made the tamperings and took the access amount drawn by tampering the overtime bills. The audit reports and the bills proved the tamperings of the over time bills and the first party himself also admitted the said fact. It was also admitted that it was his duty to check the bills but he pleaded that due to rush of work he overlooked the same. Thus the findings of the enquiry committee were based on the materials on record and there is absolutely no reason to held the report to be without basis, perverse or even unfair. There is also no

evidence to prove that the first party was victimised for his trade union activities or that there was any want of good faith in the matter of bringing the charge or conducting the enquiry. So this court having no appellate authority has no scope to interfere with the dismissal order which was legally passed after following all the legal procedures. Hence—

Ordered

That the case be dismissed on contest.

Members consulted.

Typed on my dictation
and corrected by me.

AMIN-UR-RAHMAN KHAN
Chairman,
Second Labour Court, Dacca.

AMIN-UR-RAHMAN KHAN
Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH
338, Segun Bagicha, Dacca—2.

Complaint Case No. 97 of 1975.

Mrs Ayesha Salahuddin,
I. D. No. 1071, Stewardess,
C/o., Mr. S. A. Ansari,
Labour Adviser,
91, B. C. C. Road, Dacca-3—*First Party.*

versus

The General Manager,
Hotel Inter-Continental, Dacca-2—*Second Party.*

PRESENT :

Mr Amin-ur-Rahman Khan—*Chairman,*

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

Dated the 4th September, 1975 :

By this application under section 25(1)(b) of the Employment of Labour (Standing Orders) Act the first party who was a permanent worker being a Stewardess under the second party seeks a direction on the latter to reinstate her in her former service with full back wages upon the allegations that she was illegally dismissed from service on 5-4-1975 upon false charges which were not proved and which did not constitute misconduct without holding any proper enquiry and that she was virtually victimised for her trade union activities and her grievance petition against the illegal dismissal was also rejected.

The Second party pleaded the case to be false and legally unmaintainable upon the assertion that the first party was legally dismissed from service for gross misconduct which was proved in a duly held enquiry after observing all the legal procedures.

Point for Decision.

Whether the first party is entitled to be reinstated in her former service with full back wages.

DECISION

Ex. 5 is the charge-sheet issued on the first party on 17-2-1975 wherein it was alleged that the first party while on duty along with Mr Serajul Haque, House-man stole away Taka 123.00 belonging to a foreign guest from the room occupied by him which was a dishonesty in connection with the employers' business. Ex. 6 is the reply submitted by the first party on 21-2-1975 denying the charges. Ex. 7 is the enquiry notice issued on the first party informing her that an enquiry will be held on 7-6-1975 by Mr Mohiuddin Ahmed who was appointed enquiry officer and advising the first party to be present in the enquiry. Ex.-A is the enquiry proceeding that is the recording of statements of the first party and two witnesses were examined and the first party admitted that she signed all the statements that were recorded by the enquiry officer. Ex.-B is the enquiry report finding the first party guilty of misconduct for dishonesty in connection of the business of the hotel and recommending her dismissal. Ex. 8 is the dismissal order signed by the General Manager whereby the first party was dismissed from service with effect from 7-4-1975. All the aforesaid documents were admitted by the first party. These documents proved that all the formalities as required by the section 18 of the Employment of Labour (S.O.) Act were duly followed as the allegations in respect of the charge of misconduct were recorded in writing and copy given to the first party asking her to give her reply. Then, upon the reply of the first party denying the allegations she was advised to appear before the enquiry officer and she appeared before the enquiry officer and the enquiry was held in her presence giving her hearing and also giving her opportunity to cross-examine the witnesses who deposed against her. Then the enquiry officer laid his report finding her guilty of the charge on the basis of the evidence recorded by him and other documents and circumstances that were made available to him in course of enquiry. There is no good reason to find the enquiry report to be perverse or without any basis. The allegations of the charge was that Taka 123.00 in Indian currency belonging to an Indian guest was stolen from the room in which he was boarding by the first party along with another Serajul Haque. The first party herself admitted that the money of that Indian guest was stolen but she submitted that the amount was not Taka 123.00 but Taka 13.00 and that she had found that money on the table of the room in the absence of the guest and she herself picked up the same and kept it in the pocket of the guest's coat that was hanging in the room where from it was missing and her plea was that Mr Serajul Haque had stolen the same. The enquiry officer has given elaborate reasonings to hold that it was the first party who committed

the theft of the money and falsely threw the blame on Mr Serajul Haque and his findings were based on the evidence recorded by him and on the basis of other materials and circumstances that were available to him in course of enquiry. Throughout the evidence on record there is found no motive or malice against the first party or any want of good faith in the matter of conducting the enquiry and in the matter of findings of the enquiry officer. There is no reason to hold the enquiry report to be perverse, without basis or unfair. So this court having no appellate authority has no scope to interfere with the report of the enquiry officer and the dismissal order that was legally passed after following the legal procedures.

The first party pleaded that she has been victimised for her trade union activities but there is no corroborative evidence to prove her trade union activities or of her being victimised for that. Again it was pleaded that the allegations of the charge did not constitute misconduct. This plea is quite unacceptable. When the allegation was that the first party while on duty stole away the money of a foreign boarder while boarding in the hotel that was certainly dishonesty in connection with the business of the employer and it amounted to misconduct. In the result I find that the first party is not entitled to reinstatement in service. Hence—

Ordered

That the case be dismissed on contest.

Members consulted.

AMIN-UR-RAHMAN KHAN
Chairman,
Second Labour Court, Dacca.

Typed on my dictation and corrected by me.

AMIN-UR-RAHMAN KHAN
Chairman.

IN THE SECOND LABOUR COURT AT DACCA OF BANGLADESH

338, Segun Bagicha

I. R. O. Case No. 24 of 1975

Mr. Bikas Ranjan Das, Office Asstt., Pubail Jute Mills Ltd., P.O. Ghorasal.
P.S. Kaliganj, Dacca—*First Party*,

versus

(1) Pubail Jute Mills Ltd., P.O. Ghorasal, P.S. Kaliganj, Dacca.

(2) Bangladesh Jute Industries Corporation, Adamjee Court Building, P.S. Ramna, Motijheel C/A, Dacca—*Second Party*.

PRESENT:

Mr Amin-ur-Rahman Khan—*Chairman*.

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

Dated the 22nd August, 1975.

By this application u/s 34, I.R.O. the First party who was a permanent worker under the Second party seeks a direction on the latter to reinstate him in his former service with all back wages upon the allegation that he was illegally dismissed from service on 29-11-1974 on false charges without holding proper enquiry and without giving him full opportunity to defend his case and his grievance petition was also rejected.

The Second party pleaded the case to be false and unmaintainable and asserted that the First party was legally dismissed from service after following all the legal procedures.

Point of decision

Whether the case is maintainable.

DECISION

Admittedly First party has been dismissed from service on 29-11-1974 *vide* Ex. 8. He being a dismissed and not a serving worker cannot be regarded as worker within the meaning of section 34, I.R.O. and cannot maintain this application u/s 34, I.R.O. in respect of his individual dispute when there was no industrial dispute in that regard. So the case is found to be legally unmaintainable.

On the other hand it is found from the evidence on record that the First party was issued with charge-sheet, dated 22-11-1974 bearing allegations of misconduct *vide* Ex. 1/1 and he gave his reply on 25-11-1974 *vide* Ex. 2/1. He was also admittedly called to attend enquiry and he appeared before the enquiry committee and made statements. The enquiry report shows that the enquiry committee found the First party guilty of the charges on proper materials including the confession of the First party in respect of the Second charge. The dismissal order was therefore passed legally and properly after following the legal procedures. So on that ground also the case is not maintainable for want of cause duses of action.

Ordered

That the case be dismissed on contest.

Members consulted.

AMINUR-RAHMAN KHAN
Chairman,
Second Labour Court, Dacca.

Typed on my dictation by Md.
A. Jalil and corrected by me.

AMINUR-RAHMAN KHAN
Chairman.

IN THE SECOND LABOUR COURT AT DACCA OF BANGLADESH

338, Segun Bagicha

I. R. O. Case No. 46 of 1975.

G. Rahman, C/o. Aain Upodesta Kendra, 33, Bangabandhu Avenue (1st floor),
Dacca—*First Party*,

versus

- (1) Manager, Hussain, Jute Mills Ltd., Fatullah, Narayanganj,
- (2) Administrative Officer, Hussain Jute Mills Ltd., Fatullah, Narayanganj,
Dacca,
- (3) Chairman, B.J.M.C., Motijheel C/A., Dacca—*Second Party*.

PRESENT :

Mr Amin-ur-Rahman Khan—*Chairman*.

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

Dated the 20th August, 1975:

By this application u/s. 34, I.R.O. the First party who claims to be a permanent worker under the Second party seeks a direction on the latter to withdraw the suspension order and to allow him to resume duties and also to pay him half wage for the First sixty days of his suspension and full pay for remaining period upon the allegation that he has been illegally kept under suspension. Since 24-10-1972 up to this day upon false charges without holding any enquiry.

The Second party pleaded the case to be false and unmaintainable upon the assertion that the First party being a supervisor having administrative, managerial and supervisory duties he is not a worker and cannot maintain this application and also that he having been already dismissed from service after finding him guilty of misconduct on duly framed charges and upon proper enquiry his application u/s. 34, I.R.O. cannot be maintained as there is no cause of action.

Point for decision.

Whether the case is maintainable.

DECISION

Admittedly the First party was issued with charge-sheet bearing allegation of misconduct and was placed under suspension on 24-10-1972. The First party asserted that though he gave his reply and got an enquiry notice and though he appeared for the enquiry but no enquiry was held and still the suspension is being illegally continued. The Second party pleaded that a proper enquiry was held and he was found guilty was legally dismissed from service. But

the Second party utterly failed to prove that any enquiry was held or that the First party was ever dismissed from service. Even the Second party could not state in the W.S. when the enquiry was held and when the dismissal was ordered and could not lay any kind of evidence in this regard. So it must be held that the First party was never dismissed from service nor any enquiry was held in respect of the charges drawn up against him on as early as 24-10-1972. On the other hand it is proved by Ex. 2 that the criminal case brought against the First party over the matter in respect of which charges of misconduct were brought against him was disposed of on 5-2-1975 when the First party was discharged by the Cr. Court. In such position the suspension order could not be legally continued after 5-2-1975 if the First party is a worker. Now it is to be decided whether the First party is a worker. The Second party asserted that First party was a supervisor and his duty was of administrative, supervisory and Managerial nature and so he is not a worker and cannot maintain this application. First party himself admitted that he was a supervisor and that he used to supervise the works of 100 or 150 workers. The Second party produced documents Ex. A series to show that the First party used to grant leave to workers. Ex. B series show that he issued gate passes in respect of movement of produced articles. Ex. C & D shows that he signed Export documents and central excise documents. All these documents are admitted and they prove that the First party had his duty of management, supervision and control over the workers. And had administrative function. So he cannot be regarded as worker *vide* ruling reported in 1970 P.L.C. page 727. So, he has no *locus standi* to maintain this application. Hence—

Ordered

That the case be dismissed on contest.

Members consulted.

AMIN-UR-RAHMAN KHAN
Chairman,
Second Labour Court, Dacca.

Typed on my dictation by
Md. Abdul Jalil and corrected by me.

AMIN-UR-RAHMAN KHAN
Chairman.

IN THE SECOND LABOUR COURT AT DACCA IN BANGLADESH

338, Segun Bagicha, Dacca—2

Industrial Relations Ordinance Case No. 70 of 1974.

Nazir Ahmed (Glaizer), C/o., Bangladesh Srama Aainjibi Parishad, 40/R, Satish Sarker Road, Gandaria, P.S. Sutrapur, Dist. Dacca—*First Party*,

versus

The General Manager, Bangladesh Machine Tools Factory, Gazipur, Joydebpur, Dacca—*Second Party*.

PRESENT:

Mr Amin-ur-Rahman Khan—*Chairman.*

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

Dated the 21st August, 1975.

By this application under section 34 of I.R.O. the First party who was a permanent worker under the second party seeks a direction on the latter to reinstate him in his former service with full back wages upon the allegations that the second party passed an illegal order on 17-8-1974 declaring his loss of lien to his appointment due to his failure to return to duties though he had submitted application for leave on the ground of his serious illness.

The second party pleaded the case to be unmaintainable upon the assertion that the order declaring loss of lien to his appointment was legally passed.

Point for Decision

Whether the case is maintainable.

DECISION

Admittedly the first party was granted 3 days' casual leave from 4-7-1974 to 6-7-1974 and he did not return to his duties until 9-8-1974 that is over one month after. According to section 5(3) of the Employment of Labour (S.O.) if the worker remain absent beyond the period of leave originally granted or subsequently extended he shall be liable to lose his lien to his appointment unless he returned within 10 days of the expiry of his leave and explain to the satisfaction of the employer his inability to return earlier. In this case when admittedly the first party did not return to his duties within 10 days after expiry of the sanctioned leave the second party passed the order declaring loss of lien to his appointment legally and there is no scope for this court to interfere with the same. Hence—

Ordered

That the case be dismissed on contest.

Members consulted.

AMIN-UR-RAHMAN KHAN
Chairman,
Second Labour Court, Dacca.

Typed on my dictation and corrected by me.

AMIN-UR-RAHMAN KHAN
Chairman.

MINISTRY OF LABOUR, SOCIAL WELFARE, CULTURAL AFFAIRS AND
SPORTS.

(Labour and Social Welfare Division).

Section VI.

NOTIFICATION

Dacca, the 30th September, 1975

No. S.R.O. 356-L/75/S-VI/1(16)/75/433.—In pursuance of sub-section (2) of section 37 of the Industrial Relations Ordinance, 1969 (XXIII of 1969), the Government is pleased to publish the awards and decisions of the Labour Court, Rajshahi, in respect of the following cases, namely:—

- (1) I. R. O. Case No. 6 of 1975.
- (2) I. R. O. Case No. 47 of 1975.
- (3) I. R. O. Case No. 48 of 1975.
- (4) I. R. O. Case Nos. 51, 52, 53 and 54 of 1975.
- (5) I. R. O. Case No. 55 of 1975.
- (6) Complaint Case No. 8 of 1975.
- (7) Complaint Case No. 9 of 1975.
- (8) Complaint Case No. 10 of 1975.
- (9) Complaint Case No. 12 of 1975.
- (10) Complaint Case No. 13 of 1975.
- (11) Complaint Case No. 14 of 1975.
- (12) I. R. O. Case Nos. 27 and 28 of 1974.
- (13) I. R. O. Case No. 58 of 1974.
- (14) I. R. O. Case No. 66 of 1974.
- (15) I. R. O. Case No. 89 of 1974.

By order of the President
MUHAMMAD KHADEM ALI
Deputy Secretary.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

I. R. O. Case No. 6 of 1975.

(1) Md. Dulal Mia,
 (2) Md. Afzal Hossain,
 (3) Md. Yad Ali.
 All of village Oran Khola,
 P. O. Ishurdi,
 Dist. Pabna—*Petitioners*,

versus

Assistant Botanist (Pulse and Oils),
 Agriculture Research Sub-Station,
 Ishurdi, Pabna—*Opposite Party*.

PRESENT:

Mr S. M. Serajul Mawla—*Chairman*.

Mr Md. Amjad Ali

Mr S. K. Paul

.. }
 .. } *Members.*

Dated the 18th August, 1975 :

This is an application under section 34, I. R. O., dated 20-2-1975. Petitioners were the workers of Ishurdi Agricultural Research Sub-Station. They claimed that they were permanent employees under the Opposite Party (Asstt. Botanist, Agricultural Research Sub-Station, Ishurdi, Pabna). Petitioner No. 1 Md. Dulal Mia was dismissed with effect from 13-7-1974 by order dated 12-7-1974, *vide* exbt. Kha 11; petitioner Afzal Hossain Talukdar was dismissed with effect from 10-9-1974 by order, dated 31-10-1974 and petitioner Md. Yad Ali was dismissed with effect from 4-7-1974 by order dated 19-8-1974 *vide* exbt. Ka 6 and Ka 5 respectively. Hence they unitedly brought this case for an order of reinstatement. Their orders of dismissal were preceded by departmental enquiries on specific charges of misconduct and misbehaviour. The Enquiry Officer examined several witnesses including the petitioners. The only mistake committed by him is that he did not ask the petitioners to cross-examine the witnesses or to produce their own witness, if any.

The contention of the second party O.P. is that the petitioners were workers under the second party on Muster roll basis, *i.e.*, no work no pay. They used to get Tk. 5 per day if engaged by the second party. They were not bound to work under the second party on the next day or successive days and the second party had no right to compel them to work on each successive days after their first engagement as a daily rated worker in the farm. Hence the only question for decision of this case is, if the petitioners are entitled to any relief under any of the existing Labour Laws.

It appears that the petitioner did not submit any grievance petition as required under section 25 of the Employment of Labour (Standing Orders) Act. The case is also bad for misjoinder of parties and cause of action and is also barred by limitation.

Workers have been classified in six groups under section 4 of Employment of Labour (Standing Orders) Act. The petitioners can, if at all, be grouped in the class of casual workers. Casual workers have been defined in section 2 (c) as a worker whose employment is of a casual nature. Hence this definition is too wide and vague. Even if the petitioners be classified as casual workers, I think the Law as it exists now provides no remedy against an order of dismissal of such worker. There is no relationship of employer and employee between the parties like other groups of industrial workers. The relationship of master and servant is also practically non-existent in the absence of any contract express or implied. They are only entitled to recover Tk. 5 after each day's work. They have got no other right. I am, therefore, of the opinion that the petitioners or workers of these group have got no remedy against an order of dismissal under existing Labour Laws. The contention of the Learned Advocate for the second party that this Court is out of bound for "Agricultural worker" is, however, wrong. The Learned Advocate is labouring under wrong conception of law. He read out section 2(C) of Act X of 1974 wherein "workers" has been defined for the purpose of that Act. Act X of 1974 was enacted to implement certain recommendations of the Industrial Workers Wages Commission's Report. Agricultural workers are not covered by the Industrial Workers Wages Commission's Report or by Act X of 1974. They are governed by Pay Commission's Report, Shops and Industries Act and other connected Labour Laws. With these observations the case be dismissed on contest without cost.

Learned Members consulted.

Sd/- M. I. Anjad Ali,
Sd/- S. K. Paul.
18-8-1975.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
18-8-1975.

Note taken and transcribed by
Mr Md. Nural Hoque, at my
dictation and corrected by me.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
18-8-1975.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

I. R. O. Case No. 47 of 1975.

- (1) Abdul Khaleque Sk.,
Son of late Kazemuddin Sk.,
Machineman, Spinning Section C,
Token No. 590,
- (2) Emdadul Hoque,
Son of Alimuddin Mondal,
Helper, Spinning Section B,
Token No. 527,

Both

C/o. General Secretary,
Bogra Cotton Spinning Workers' Union,
Kalitola Hat, College Road,
P. O. and Dist. Bogra—*First Party*,

versus

General Manager,
Bogra Cotton Spinning Co. Ltd.,
Kalitola Hat, College Road,
P. O. and Dist. Bogra—*Opposite Party*.

PRESENT:

Mr S. M. Serajul Mowla—*Chairman*.

Mr Md. Amjad Ali

Mr S. K. Paul

} *Members.*

Dated the 29th August, 1975:

Petitioners Abdul Khaleque Sk. and Emdadul Hoque are workers serving under the opposite party as Machineman and Helper. During the war of liberation in 1971 petitioners with others left their jobs in support of the liberation movement. During the nine months of liberation war they did not work and did not receive any wages. They joined their duties after the war and as per Government Circular No. Estab. 9/73/310(8), dated 26-9-1973 they were given 4 months' salary and were refused 5 months' salary on the plea that they have worked for three days in the month of July, 1971. It is alleged that the opposite party has created false record to show their presence and false bills of payment of wages and has also obtained written admission from the first party to the effect that they actually worked for three days in July, 1971.

The contention of the opposite party is that the abovementioned Government Circular is not applicable in the present case and that the petitioners worked in July, 1971 and as such are not entitled to the benefits of said Government Circular. Only question for decision in this case is if the petitioners are entitled to the salary of 9 months of war of liberation. The opposite party has produced the Attendance Register and Acquittance Roll which was thoroughly examined by the Learned Advocate for the petitioners and as well as by the Court. We find no reasons to think that these are fraudulent creation by the opposite party for the purpose of this case. These are official records maintained in the ordinary course of business. Petitioners could not prove that they were absent for the whole period of liberation war. Besides the Government Circular on which this case is based is neither a Law nor it has got the force of Law, as such a Court of Law cannot be enforced.

Learned Members consulted.

Hence Ordered

That the case be dismissed on contest without cost.

Sd/—Md. Amjad Ali,
Sd/—S. K. Paul,
29-8-1975.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
29-8-1975.

Note taken and transcribed by
Mr. Md. Nural Hoque, at my
dictation and corrected by me.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi,
29-8-1975.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

I. R. O. Case No. 48 of 1975.

Md. Khorshed Alom,
C/o. Jatiyo Sramik League,
J. L. Roy Road,
P. O. Alomnagar,
Dist. Rangpur—*First Party,*

versus

(1) The Chief Executive,
Rahatin Industries Ltd.,
P. O. Alomnagar, Dist. Rangpur,

and

(2) The Secretary,
Bangladesh Food and Allied Corporation,
Motijheel, Dacca-2—*Second Parties.*

PRESENT:

Mr S. M. Serajul Mawla—*Chairman.*

Mr Md. Amjad Ali—*Member.*

Order No. 5, dated the 19-8-1975:

First party absent on repeated calls and took no step. Second party present.

Ordered

That the case be dismissed for default.

Sd/—Md. Amjad Ali.
19-8-1975.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
19-8-1975.

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

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
19-8-1975.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

I. R. O. Case Nos. 51, 52, 53 and 54 of 1975

- (1) Abul Kalam Azad, Water Man (Case No. 51 of 1975);
- (2) A. K. Azad, Pump Driver (Case No. 52 of 1975);
- (3) Md. Siddique Hossain, Temp. Security Guard (Case No. 53 of 1975);
- (4) Abdul Kader, Pump Driver (Case No. 54 of 1975);

C/o. General Secretary, Rajshahi Chinikal Sramik Union, P. O. Shyampur,
Dist. Rajshahi—*Petitioners,*

versus

General Manager, Rajshahi Chinikal, P.O. Shyampur, Dist. Rajshahi—*Opposite Party.*

PRESENT :

Mr S. M. Serajul Mawla—*Chairman.*

Mr Md. Amjad Ali

Mr S. K. Paul

.. }
.. } *Members.*

Dated the 25th August 1975:

These four cases by different petitioners against the same second party opposite party were taken up for analogous hearing as all the cases involve same fact and questions of law. Petitioners are casual labourers under the second party O.P., General Manager, Rajshahi Sugar Mills. They were not given any written letter of appointment though they are working since long and they are paid the lowest scale of pay prescribed by the Minimum Wages Commission, but the O.P. denied Festival Bonus, Production Bonus, etc. Hence these cases for formal letter of appointment and all other benefits as per recommendation of the Minimum Wages Board.

The contention of the second party is that these cases under section 34, I.R.O. are not maintainable as they are not workers within the meaning of I.R.O., 1969. They were never paid any salary in any pay scale recommended by the Wages Commission. They were allowed to work as casual workers purely on "no work no pay" basis as and when their services were required. None of them was appointed to any particular post nor any particular and definite work was assigned to them for any particular or definite period. They were never workers of the Mill nor they are entitled to claim the benefits attached to the probationer workers.

The definition of casual workers appearing in section 2(C) of Employment of Labour (Standing Order) Act is too wide and vague. The Employment of Labour (Standing Order) Act or the I.R.O. nowhere made mention of their rights and obligation. The service conditions of seasonal workers who cannot also be grouped as casual workers are determined by agreement, convention and practice but workers who work on the basis of "no work no pay" can not claim any right under existing Labour Laws accepting right to have the daily wages paid after the completion of days work. Practically in the absence of any express or implied contract as to the period or duration of employment, scale of pay, etc., the relationship of employer and employee or master and servant is practically non-existent. Such a worker is not bound to turn up on the next day nor the employee can enforce his attendance like other classes of workers. I am, therefore, of the opinion that these workers who worked for uncertain period from time to time as and when required have got no right under existing Labour Laws accepting the right to receive the wages on completion of each day's work.

Learned Members consulted.

Hence ordered

That the case be dismissed on contest without cost. This judgement shall govern Case Nos. 51 to 54 of 1975.

Sd./ Md. Amjad Ali,
Sd./ S. K. Paul.
25-8-1975.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
25-8-1975.

Note taken and transcribed by Mr. Md.
Nurul Hoque, at my dictation and
corrected by me.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
25-8-1975.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

I. R. O. Case No. 55 of 1975.

Md. Kashem Ali, C/o. Md. Hosheni Mia, Babupara, P. O. Alamnagar,
Dist. Rangpur—*First Party*,

versus

(1) The Chief Executive, Rahatin Industries Ltd., P.O. Alamnagar, Dist. Rangpur
and

(2) The Secretary, Bangladesh Food and Allied Industries Corporation, Amin
Court, 4th Floor, Motijheel, Dacca-2—*Second Parties*.

PRESENT :

Mr S. M. Serajul Mawla—*Chairman*.

Mr Md. Amjad Ali—*Member*.

Order No. 3, dated the 19th August 1975:

Parties present. Heard the petitioner and the learned advocate for the O.P.
It is a case of termination simpliciter and as such is not maintainable.

Hence ordered

That the case be dismissed on contest without cost.

Sd./ Md. Amjad Ali,
19-8-1975.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
19-8-1975.

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

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
19-8-1975.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

Complaint Case No. 8. of 1975.

Md. Aman Ali, S/o. late Derajuddin Sk., Vill. Katnarpara, P.O. & Dist. Bogra—
Petitioner,

versus

General Manager, Bogra Cotton Spinning Co. Ltd., College Road, Bogra—
Opposite Party.

PRESENT:

Mr S. M. Serajul Mawla—*Chairman.*

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

Dated the 30th August 1975:

Petitioner was a Security Guard under the second party, the General Manager, Bogra Cotton Spinning Co. Ltd. On 16-1-1975 petitioner, Aman Ali and Md. Mazhar Ali were on duty in the main gate. At about 5 p.m. petitioner entered the office to lock and check the office doors when a worker named Mazed Ali suddenly appeared in the office of the General Manager. Mazed Ali was a drunkard and was under the influence of alcohol. He started talking in obscene and filthy languages in presence of the Manager and other officers. The General Manager asked the petitioner to catch Mazed Ali but he adopted dilatory tactics and let the man escape. Hence he was charge-sheeted for his disobedience and wilful insubordination. Petitioner submitted explanation denying the charges but the Enquiry Committee held that the petitioner helped Mazed Ali to escape and found the charges established against him and recommended for his immediate dismissal from service. Accordingly he was dismissed on 8-3-1975 with effect from 6-3-1975. Hence this case for an order of reinstatement on the ground that he was not personally heard by the Enquiry Committee and no notice was issued to him to appear before the Enquiry Committee. From the papers produced by the second party it appears that the petitioner was given notice exbt. Kha (4) to appear before the Enquiry Committee with his witnesses on 25-1-1975. Exbt. Kha 2(3) is the statement of the petitioner. Hence it is not a fact that he was not personally heard by the Enquiry Committee. I am, therefore, of the opinion that all legal formalities were duly observed before the order of dismissal was passed. Hence the petitioner is not entitled to any relief.

Learned Members consulted.

Hence ordered

That the case be dismissed on contest without cost.

Sd/-Md. Amjad Ali.
Sd/-S. K. Paul.
30-8-1975.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
30-8-1975.

Note taken and transcribed by
Mr. Md. Nurul Hoque, at my dictation
and corrected by me.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
30-8-1975.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

Complaint Case No. 9 of 1975.

Md. Munsur Rahman, S/o. Md. Nazabat Ali Pk., Vill. Ishabpur, P.O. Kaha'u,
Dist. Bogra—*First Party*,

versus

General Manager, Bogra Cotton Spinning Co., Ltd., College Road, Bogra—
Second Party.

PRESENT :

Mr. S. M. Serajul Mawla—*Chairman*.

Mr. Md. Amjad Ali

Mr. S. K. Paul

} *Members.*

Dated the 29th August 1975:

This is an application under section 25 of the Employment of Labour (Standing Order) Act, 1965. Petitioner was a Machine Man under the second party, the General Manager, Bogra Cotton Spining Co. Ltd. He was charge-sheeted on 21-1-1975 for creating Law and Order situation on 21-1-1975 within the Mill and for assaulting Supervisor, Mr. Hazrat Ali in the following night at 1-40 a.m. Exbt. Kha(10) is the charge-sheet. Petitioner submitted his explanation, marked Exbt. Kha(9), denying the charges. His explanation was not accepted and by notice Exbt. Kha(8), he was asked to appear before the Enquiry Committee on 29-1-1975 with his witnesses. On this date the Enquiry Committee examined several witnesses and also the petitioner, Munsur Rahman. Exbt. Kha(1) is the report of the Enquiry Committee. The Committee found that petitioner abused and assaulted Supervisor, Hazrat Ali and incited other workers to create law and order situation within the Mill. Considering the facts of this case and evidences on record, I am of the opinion that the petitioner has been rightly dismissed after observing all the legal formalities.

Learned Members consulted.

Hence ordered

That the case be dismissed on contest without cost.

S. M. SERAJUL MAWLA

Chairman,

Labour Court, Rajshahi.
29-8-1975.

Sd./ Md. Amjad Ali

Sd./ S. K. Paul

29-8-1975.

Note taken and transcribed by

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

S. M. SERAJUL MAWLA

Chairman.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

Complaint Case No. 10 of 1975.

Md. Abdur Rashid (2), S/o. late Samat Mamud Kabiraj, Vill. Sialson, P.O. Adamdighi, Dist. Bogra—*Petitioner.*

versus

General Manager, Bogra Cotton Spinning Co. Ltd., College Road, Bogra—*Opposite Party.*

PRESENT:

Mr. S. M. Serajul Mawla—*Chairman.*

Mr. Md. Amjad Ali

Mr. S. K. Paul

} *Members.*

Dated the 20th August 1975:

This is an application under section 25 of the Employment of Labour (Standing Order) Act, 1965. Petitioner was a Machine Man under the opposite party, the General Manager, Bogra Cotton Spinning Co. Ltd. He was charge-sheeted on 18-1-1975 for unauthorised absence for 77 days from July 1974 to January 1975. He submitted his explanation denying the charges. The explanation was rejected as unsatisfactory and he was asked to appear before the Enquiry Committee on 17-2-1975 *vide* exbt. Kha(3). The Enquiry Committee submitted its report on 4-3-1975 *vide* exbt. Kha(2) and thereafter the petitioner was dismissed with effect from 4-5-1975 by order exbt. Kha(1). The contention of the petitioner is that on account of the visit of the Honourable Minister for Industry no enquiry could be held on 17-2-1975 and he has been dismissed without giving him an opportunity to defend himself or to prove his innocence. The report of the Enquiry Committee bearing signature of all the members of the committee shows that the enquiry was held on 17-2-1975 at 1 p.m. From the papers produced by the second party it appears that once before he was charge-sheeted for negligence of duty and misconduct but was let off with an warning *vide* exbt. Kha(12) and (10). The opposite party has produced all his leave application and Attendance Register which shows that he was absent for 61 days from July, 1974 to December, 1974 including 19 days of absence on Casual Leave. Hence it is quite clear that he is habitually negligent and remains absent habitually without any authority or permission causing severe loss to the Mill. This charge has been proved by

documentary evidence beyond doubt. Considering the facts of the case and the evidence on record I am of the opinion that the petitioner has been rightly dismissed.

Learned Members consulted.

Hence ordered

That the case be dismissed on contest without cost.

Sd/ Md. Amjad Ali
Sd/ S. K. Paul
28-8-1975.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
28-8-1975.

Note taken and transcribed by
Mr. Md. Nural Hoque, at my dictation and
corrected by me.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
28-8-1975.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Qazi Nazrul Islam Road, Rajshahi.

Complaint Case No. 12 of 1975.

Sarwar Hossain, S/o. Mosharaf Hossain, Helper, Spinning Section, A Shift,
Token No. 379, Bogra Cotton Spinning Co. Ltd., C/o. General Secretary, Bogra
District Sramik Federation, Kalitola Hat, College Road, P.O. and Dist.
Bogra—*Petitioner,*

versus,

General Manager, Bogra Cotton Spinning Co. Ltd., College Road, Kalitola
Hat, P.O. and Dist. Bogra—*Opposite Party.*

PRESENT :

Mr S. M. Serajul Mawla—*Chairman.*

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

Dated the 28th August 1975:

This is an application under section 25 of the Employment of Labour (Standing Orders) Act, 1965. Petitioner was a Helper, Spinning Section, Bogra Cotton Spinning Co. Ltd. He was charge-sheeted on 3-2-1975 for habitually

absenting from duty for a total period of 83 days during the period of July, 1974 to January, 1975. He submitted explanation denying the charges. An Enquiry was held on 10-2-1975 after due notice to the petitioner (*vide* Exbt. Ka 2). Exbt. Kha 2 is the report of the Enquiry Committee consisting of three members. The Enquiry Committee found that during the period July, 1973 to June, 1974 he was absent for 158 days and during the period of July, 1974 to December, 1974 he was absent for 88 days. He was given a last warning on 28-9-1974 to rectify himself. But to no effect. It appears from papers produced that he was charge-sheeted twice before and was let off with an warning. Admittedly the enquiry was held in presence of the petitioner but he contends that the O.P. could not prove on what date or dates the petitioner absented himself. The Attendance Register produced by the opposite party shows that he was absent for 61 days from July, 1974 to December, 1974 including 14 days of absence on Casual Leave. Considering the evidence on record I am of the opinion that the charge brought against the petitioner has been well-proved and he was not denied the right to defend himself. I am, therefore, of the opinion that he has been rightly dismissed.

Learned Members consulted.

Hence ordered

That the case be dismissed on contest without cost.

Sd/- Md. Amjad Ali,
Sd/- S.K. Paul,
28-8-1975.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
28-8-1975.

Note taken and transcribed by
Mr Md. Nural Hoque, at my
dictation and corrected by me.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
28-8-1975.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

Complaint Case No. 13 of 1975.

Ashraf Ali,
son of Nazimuddin. Machineman,
Token No. 348,
Bogra Cotton Spinning Co. Ltd.,
A Shift, Spinning Section,
C/o. General Secretary, Bogra
Dist. Sramik Federation, P. O.
and Dist. Bogra—*Petitioner,*

versus

General Manager,
Bogra Cotton Spinning Co. Ltd.,
College Road, Kalitola Hat,
P. O. and Dist. Bogra—*Opposite Party.*

PRESENT :

Mr S. M. Serajul Mawla—*Chairman.*

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

Dated the 27th August, 1975 :

Petitioner Ashraf Ali was a permanent worker of the Bogra Cotton Spinning Co. Ltd. He was charge-sheeted on 28-2-1975 for habitually absenting himself from duty for a total period of 78 days from July, 1974 to January, 1975. Exbt. Kha 6 is the charge-sheet. Petitioner submitted explanation denying charges but after enquiry he was dismissed on 9-3-1975 with effect from 8-3-1975. Admittedly the enquiry was held in presence of the petitioner but he contends that the opposite party could not prove on what date or dates the petitioner was absent without submitting application for leave. He submitted grievance petition on 25-3-1975 and instituted this case on 14-5-1975.

The contention of the opposite party is that the petitioner was entrusted with the work of operating machines and his sudden absence hampered the working of the mill causing deadlock and loss. He absented for 182 days from July, 1973 to June, 1974 and from July, 1974 to December, 1974 for 78 days without previous intimation or leave application as required under the rules. He was charge-sheeted twice for habitual and wilful absence and negligence of duties but was subsequently let off with warning. He was given a last warning on 27-9-1974 but he did not amend his ways. Hence a proceeding was drawn up against him and after proper enquiry, giving him full opportunity to defend himself, he was dismissed as charge was proved and well-established against him.

In his petition petitioner nowhere stated that he was not given an opportunity to defend himself or to prove his innocence. The opposite party has produced all his leave application and the Attendance Register. It appears he was warned twice for misconduct and unauthorised absence, *vide* Exbts. Kha 7 and 7(i). The Attendance Register shows that he absented for 77 days from July to December, 1974 besides the absence on Casual Leave. I am, therefore, of the opinion that the petitioner has been rightly dismissed.

Learned Members consulted.

Hence Ordered

That the case be dismissed on contest without cost.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
 27-8-1975.

Sd/-Md. Amjad Ali,
 Sd/- S. K. Paul,
 27-8-1975.

Note taken and transcribed by
 Mr. Md. Nural Hoque, at my
 dictation and corrected by me.
 S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
 27-8-1975.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

Complaint Case No. 14 of 1975.

Habibur Rahman,
Son of Nasiruddin,
C/o. Rangpur Motor Sramik Union,
Station Road, P. O. Alamnagar,
Dist. Rangpur—*First Party*,

versus

Administrator,
Rangpur, Dinajpur Rehabilitation Service,
Construction Programme,
Baptist Mission Comp.,
Rangpur—*Second Party*.

PRESENT :

Mr S. M. Serajul Mawla—*Chairman*.

Mr Md. Amjad Ali—*Member*.

Order No. 9, dated the 4th August, 1975 :

Petitioner a dismissed driver of the Rangpur-Dinajpur Rehabilitation Service instituted this case for his reinstatement in the service on the ground that the order of dismissal is illegal. The opposite party is a Relief Organisation and does not work for profit or monetary gain. It is neither an Industry nor a shop and establishment. No case lies in this Court against such Institution.

Learned Member consulted.

Ordered

That the case be dismissed without cost.

Sd/-Md. Amjad Ali.
4-8-1975.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
4-8-1975.

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

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
4-8-1975.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

I. R. O. Case Nos. 27 and 28 of 1974.

Md. Fazar Ali Mollah,
Vill. Kathalbaria,
P. O. and P. S. Natore,
Dist. Rajshahi;

AND

Md. Sekendar Ali,
Vill. Bangajal,
P. O. and P. S. Natore,
Dist. Rajshahi—*Petitioners*,

versus

Project Officer,
Thana Kendrio Samabaya Samity,
Vill. Bangajal,
P. O. and P. S. Natore,
Dist. Rajshahi—*Opposite Party*.

PRESENT :

Mr S. M. Serajul Mawla—*Chairman*.

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

Dated the 17th December, 1974 :

Both the cases arising out of the same facts were heard analogous on the request of the parties. Petitioners in both the cases were Night Guards under the O. P., the Project Officer, Natore Thana Central Co-operative Society Ltd. This society carries on business for profits. This is evident from its balance-sheet and annual report for the year 1972-73. Petitioners were charged with theft of sugar from the Godown of the O. P. on 12-4-1974. Petitioners submitted explanation denying the charge. O. P. did not follow the procedure laid down in section 18 of the Employment of Labour (Standing Orders) Act, but dismissed the petitioners on 9-5-1974 by a resolution of the Managing Committee. The ground of dismissal as stated in the order of dismissal is utter negligence of duty. Hence this is also not a case of termination simpliciter. Petitioners submitted grievance petition but came to Court on 8-6-1974 before expiry of 30 days from the date of submission of the grievance petition. Considering these peculiar circumstances of the case myself and learned members are of the opinion that the order of dismissal should be accepted as an order under section 19 of the Employment of Labour (Standing Orders) Act and the O. P. should give the benefits of that section to the petitioners.

Hence Ordered

That the orders of dismissal of the petitioners by the O. P. are hereby upheld and O. P. is hereby directed to pay the petitioners their wages and compensation as provided by section 19 of the Employment of Labour (Standing Orders) Act in respect of monthly rated workers.

Sd/-Md. Amjad Ali,
Sd/-S. K. Paul.
17-12-1974.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
17-12-1974.

Next Order

No. 3, dated the 1st February, 1975:

Petitioners filed a petition stating that the second party is not paying their dues as per judgement of this Court possibly because there is no time limit fixed in the judgement for payment of the same. Perused the judgement and the petition. The second party is hereby directed to pay the petitioners their dues as per judgement of this Court by 15-2-1975. This order shall form part of the judgement.

Inform the second party.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
1-2-1975.

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

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
1-2-1975.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

I. R. O. Case No. 58 of 1974.

Md. Shahjahan,
C/o. Post Master,
Kushtia Bazar,
P. O. and Dist. Kushtia—*First Party,*

versus

(1) The General Manager,
North Bengal Paper Mills,
P. O. Paksey, Dist. Pabna

AND

(2) The Secretary,
Bangladesh Paper and Board Corporation,
Shilpa Bhaban,
Motijheel Commercial Area,
Dacca-2—*Second Parties.*

PRESENT:

Mr S. M. Serajul Mawla—*Chairman.*

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

Dated the 12th December, 1974:

Petitioner Mr Md. Shahjahan instituted I. R. O. Case No. 70 of 1973 against the O.P. which was decreed on 31-1-1974 in his favour. In that case he claimed Tk. 1,022 on account of extra wages for working on Sundays including compensatory holidays equivalent to 182 Sundays, Tk. 708 for 118 for annual leave with full pay up to October, 1973 and Tk. 690 for working on 105 festival holidays. It was also found in that case that the petitioner though was present and worked on all days he was marked absent on each 90th day. The operative portion of the judgement in that case is as follows:

“That the case be allowed on contest without cost. The second party is hereby directed to allow the 1st party all the benefits of annual leave, casual leave, sick leave, festival holidays, compensatory and substituted holidays as per Factory Act, 1965 with immediate effect and the second party is hereby further directed to give the second party all the back dues for working on Sundays, holidays if any within 30 days from this date.”

It will appear from the abovequoted operative portion of the judgement that this Court did not take any account with reference to the relevant provision of the Factory Act to ascertain the exact amount payable by the second party to the petitioner because the second party conceded the claim of the first party as legitimate and the matter of calculation was left to the parties with the hope that they will settle the amount payable to the first party after proper accounting with reference to official records and relevant laws. But the parties could not come to a settlement. On 22-8-1974 Mr Shahjahan instituted the present case alleging that he claimed less in case No. 70 of 1973 through mistake and ignorance and the actual amount to which he is legally entitled is as follows :

(1) For working on 182 days of weekly holidays: 180×3=546×@Tk. 7 with Ad-hoc.	Tk. 3,822·00
(2) For working on 118 annual leave : 118×7 with Ad-hoc.	Tk. 826·00
(3) For working on festival holidays : 105 days×3=315×@ Tk. 7 with Ad-hoc.	Tk. 2,205·00
(4) One day's wage for every 90th day : 17 days ×@Tk. 6	Tk. 102·00
(5) Festival Bonus for 1973, 30 days×@ Tk. 6	Tk. 182·00
Total ..	Tk. 7,135·00

Parties could not agree as to the actual amount to which the petitioner is legally entitled. It was also contended on behalf of the O.P. that the present case is barred under Order 2, Rule 2, C. P. C.

FINDINGS AND DECISIONS

Case No. 70 of 1973 was not a civil suit or a money suit. It was an individual dispute triable under section 34, I. R. O., Order 2, Rule 2, C.P.C., has got no application here. This can also be treated as a review petition. The cause of action is recurring one. Nomenclature can never be a bar to honest investigation for truth and dispensation of justice.

It is not disputed that the petitioner is entitled to the remuneration of 182 days of weekly holidays, 118 of annual leave, 105 days of festival holidays and 17 days' wages for every 90th day. He received his regular wages excepting for 17 days on which he was marked absent. He is entitled to Tk. 102 @ Tk. 6 per day for this 17 days when his daily wages were Tk. 6. For working on 182 weekly holidays he will get double the ordinary rate of wages as overtime. He got his normal wages now he will get $182 \times 2 \times 6 = \text{Tk. } 2,184$, for 118 un-availed of annual leave he will get $118 \times 6 = \text{Tk. } 708$, for working on 105 festival holidays he will get $105 \times 3 \times 6 = \text{Tk. } 1,890$. If the second party declared the festival bonus he will get one month's wages as festival bonus amounting to Tk. 180. We do not know if second party declared any such bonus. Hence according to above calculation petitioner will get Tk. 4,884 plus Tk. 180 as festival bonus, if any. Learned members are also of the same opinion.

Hence Ordered

That the case be allowed on contest without cost. It is hereby declared that the petitioner is entitled to recover Tk. 4,884 as specified above plus Tk. 180 as festival bonus, if any, declared by the Opposite Party. The Opposite Party is hereby directed to pay these amount to the petitioner within 15th January, 1975.

Sd/-Md. Amjad Ali,
Sd/-S. K. Paul.
12-12-1974.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
12-12-1974.

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

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
12-12-1974.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road Rajshahi.

I. R. O. Case No. 66 of 1974.

Mr Muhammad Ali,
Security Inspector (under suspension),
N. B. P. M., Paksey, Pabna,
Now residing at Haragram Munshipara,
Rajshahi Court, Rajshahi—*First Party*,

VERSUS

The General Manager,
North Bengal Paper Mills,
Paksey, Pabna—*Secodd Party*.

PRESENT:

Mr S. M. Serajul Mawla—*Chairman*.

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

Dated the 17th December, 1974:

The facts of this case, which are admitted by both the parties, are as follows:—

First party petitioner Mr Muhammad Ali while had been working as a Security Inspector under the second party from 28-3-1968 was placed under order of suspension with effect from 6-9-1972 on the ground that he had complicity in the misappropriation of a huge amount of money alleged to have been committed by one Mr Hakumul Islam. Ishurdi Case No. 4, dated 6-9-1972 under section 381/408, B. P. C. started against them is still *sub judice* in the Court of Law. The order of suspension was issued when the first party was in the Police custody. After his release on bail he received the notice of suspension at his home address. He prayed for remittance of his subsistence allowance by postal money order to his home address but it was regretted by the second party on the ground that he should not have left the headquarter. Thereafter the first party came to headquarter and submitted a petition praying for payment of his subsistence allowance on 7-10-1974 but this was also regretted on the same ground. Thus the petitioner is not getting his subsistence allowance with effect from 6-9-1972. He was allowed one-third of his pay as subsistence allowance though as per rule he is entitled to one-half of the pay as subsistence allowance. The case was contested on the only ground that a suspended employee is not entitled to his subsistence allowance unless he stays within the headquarter. The petitioner contended that there is no such rule governing the conduct of the employee of an industrial concern. Learned Advocate for the second party was requested to show if there is existence of any such rule and on his request the second party was allowed 7 days' time

to produce the rule and evidence, if any, to prove the practice or convention in this regard. By letter, dated 14-12-1974 second party informed "we have the honour to inform you that while a staff of the corporation is placed under suspension for misconduct of serious nature pending enquiry into the charge, he is to remain at headquarter as per convention and administrative practice". This letter by itself is no evidence of administrative practice or convention. As there is no mention of the existence of any such rule we can safely hold that there is no rule requiring a suspended employee of industrial concern to remain in the headquarter to enable him to draw his suspension allowance. Learned Members are also of the same opinion.

Hence Ordered

That the case be allowed on contest without cost. The second party is hereby directed to pay the first party his subsistence allowance at the rate of one-half of his salary with effect from 6-9-1972 and to pay his salary and house-rent allowance for the working period with effect from 1-9-1972 to 5-9-1972 and festival bonus, if any, for the period of suspension by 30th December, 1974.

Sd/- Md. Amjad Ali,
Sd/- S. K. Paul.
17-12-1974.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
17-12-1974.

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

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
17-12-1974.

IN THE LABOUR COURT AT RAJSHAHI IN BANGLADESH

Kazi Nazrul Islam Road, Rajshahi.

I. R. O. Case No. 89 of 1974.

Md. Nashim Akhtar,
S/o, Md. Golam Kader
of Sultanabad,
P. S. Boalia, P. O. Ghoramara,
Dist. Rajshahi (Bangladesh)—*Petitioner,*

versus

- (1) Assistant Director,
Sericulture, BSIC, Rajshahi,
P. S. Boalia, P. O. Ghoramara,
Dist. Rajshahi (Bangladesh),
- (2) Bangladesh Cottage Industries Corporation,
137/138, Motijheel Commercial Area,
Dacca-2—*Opposite Parties.*

PRESENT :

Mr. S. M. Serajul Mawla—*Chairman*.

Order No. 2, dated the 18th December, 1974:

Parties file paper showing that the petitioner has been paid his dues as per judgement of this Court in I. R. O. Case No. 12/74. Petitioner is not willing to proceed with the case.

Ordered.

That the case be dismissed for non-prosecution.

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
18-12-1974.

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

S. M. SERAJUL MAWLA
Chairman,
Labour Court, Rajshahi.
18-12-1974.