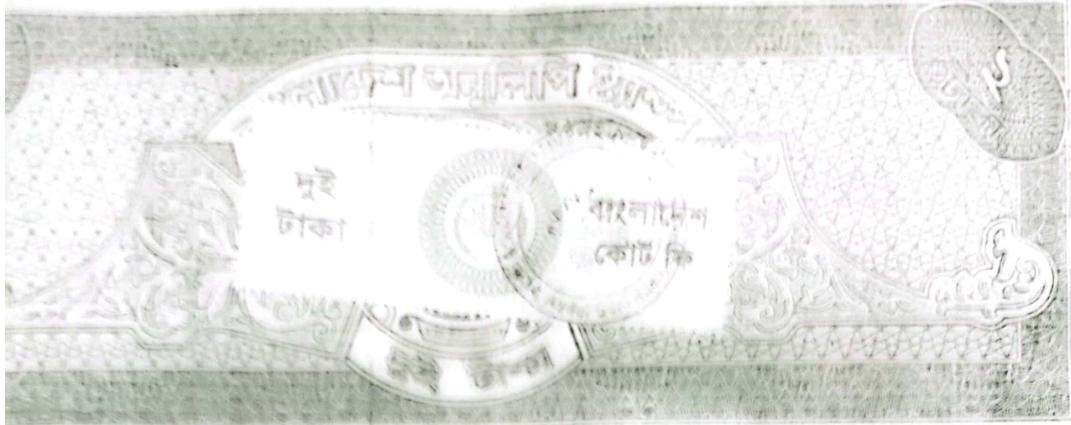




17. Md Jainal Abedin, son of Md Renu Miah, Sub-Assistant Settlement Officer, Upazila Settlement Office, Serebardi, Serpur.
18. Md Abdul Latif Mollick, son of Late Gulber Hossain, Sub-Assistant Settlement Officer, Upazila Settlement Office, Kawneya, Rangpur.
19. Md Babul Akter, son of Late Hossain Uddin Ahmed, Sub-Assistant Settlement Officer, Upazila Settlement Office, Kalkini, Madaripur.
20. Md Jashim Uddin, son of Late Md. Aiub Ali Sarker, Sub-Assistant Settlement Officer, Upazila Settlement Office, Bagherhat Sadar.
21. Md Mosharef Hossain, son of Late Md Mojibul Haque, Sub-Assistant Settlement Officer, Upazila Settlement Office, Hisla, Barishal.
22. Md Shahidul Islam, son of Md Wali Mia, Kanungo, Upazila Land Office
Sremangal, Moulovibazar.
23. Md Shohel Miazi, son of Md. Abdul Aziz Miazi, Kanungo, LA Section, DC Office, Mymensingh.
24. Md Barkat Hossain Khan, son of Md Fazlur Rahman Khan, Sub-Assistant Settlement Officer, Upazila Settlement Officer, Upazila Settlement Office, Charfashaion, Bhola.
25. Md Mahbub Hossain, son of Ali Akbar Chowdhury, Sub-Assistant Settlement Officer, Upazila Settlement Office, Iswargong, Mymensingh.
26. Sunuti Rani Barai, daughter of Late Nepal Chandra Barai, Sub-Assistant Settlement Officer, Upazila Settlement Office, Gozaria, Munshigonj.
27. A.K.M. Kamrul Hasan Bhuiyan, son of Late Abu Nasar Ahmed Bhuiyan, kanungo, Upazila Land Office, Bandar.
28. S.M. Rafiqul Islam, son of Late Razia Begum, Sub-Assistant Settlement Officer, Upazila Settlement Office. Rajarhat, Kurigram.
29. Md Nurul Islam, son of Late S.M. Abdul Aziz, Kanungo, LA Section, DC
Office, Cox's Bazar.
30. Md Zahangir Hossain Nannu, son of Md Jaina Abedin Khalipha, Kanungo, A/C Land, Sreenagar, Munshigonj.
31. Shalina Parveen, daughter of Md. Abdulla Karim, Sub assistant Settlement Officer, Upazila Settlement Office, Nababgonj, Dhaka.
32. Mohammad Dalour Hosen, son of Md Hason Ali, Kanungo, A/C Land office,
Chandgaon Circle, Chattogram.
33. Md Tazul Islam, son of Late Abdul Gafur, Sub-Assistant Settlement Officer, Upazila Settlement Office, Durgapur, Rajshahi.
34. Md Jahangir Alam Sarkar, son of Late Jafar Ahmed Sarkar, Sub Assistant Settlement Officer, Upazila Settlement Office
Sadullapur, Gaibandha.

35. Md Farid Uddin, son of Late Ayet Ali, Sub-Assistant Settlement Officer.
Upazila Settlement Office, Jaintapur, Sylhet.
36. Md Siddikur Rahman, son of Md Ali Hossain, Sub-Assistant Settlement Officer. Upazila Settlement Office, Gobindaganj, Gaibanda.
37. Sanat Kumar Nath, son of Late Sumanta Bikash Nath, Sub-Assistant Settlement Officer, Upazila Settlement Office, Moulovi Bazar.
38. Sayed Ziaul Hoque son of Syed Enamul Hoque, Sub-Assistant Settlement Officer, Upazila Settlement Office, Baliakandi, Rajbari.
39. Md Nazrul Islam Khandaker, son of Khandaker Md Abdul Waheed, Sub-Assistant Settlement Officer, Upazila Seutement Office, Jhenaipati, Sherpur.
40. Md Nurujjaman, son of Late Sahed Ali, Sub-Assistant Settlement Officer
Upazila Seulement Office, Sarisha Bari, Jamalpur.
41. Foyez Ahammed, son of Lale All Ahammed, Sub-Assistant Settlement Officer, Diara Settlement office, Chattogram.
42. Mohammad Gias Uddin, son of Mohammad Ali Nowab, Sub-Assistant Settlement Officer, Upazila Settlement Office, Manikgonj Sadar.
43. Md Faruk Alam, son of Abdur Rahman Hawlader, Kanungo, Upazila Bhumi Office, Araihazar, Narayangonj.
44. Md Shahidullah Bhuiyan, son of Late Md Abdur Rashid Bhuiyan, Kanungo, DC Office, Dhaka.
45. Md Forkan uddin, son of Late Md. Ali Akbor Hawlader, Sub Assistant settlement Office, Nobigong, Hobigonj.
46. Md Ali Azgor, son of Late Mid Ali Akbor, Kanungo, Upazila Land Office, Agoeljhara, Barishal.
47. Md Shahidullah, son of Shamsul Haque, Sub-Assistant Settlement Officer
Upazila Seulement Office, Dabaura, Mymensingh.
48. Pragya Ranjan Chakma, son of Nalini Kumar Chakma, Kanungo, Diara Settlement Office, Chattogram .
49. Md Abdul Malek, son of Late Arshed Ali Bayati. Sub-Assistant Settlement Officer, Upazila Seulement Office, Salikha, Magura
50. Mohammad Khalilur Rahman, Son of Md fakruddin Mollik, Kanungo, Upazila Bhumi Office, Barguna Sadar, Barguna.
51. Depak Ranjan Debnath, son of Dinabandu Debnath, Sub-Assistant Settlement Officer, Upazila Settlement Office, Gobindaganj, Gaibandha.
52. Md Nurul Islam, son of Late Ali Akber Sharif, Kanungo, Upazila Land Office, Kapasia, Gazipur.

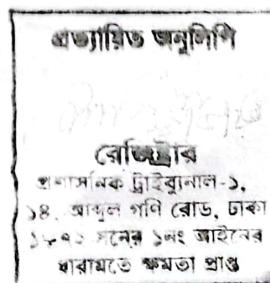


53. Md Rezaul Karim, son of Late Md Shaha Alom Shikder, Sub-Assistant Settlement Officer, Upazila Settlement Office, Tungipara, Gopalganj.
54. Md Amdadul Haque, son of Late Arished Ali Sarder, Sub-Assistant Settlement Officer, Upazila Settlement Office, Laksham.
55. Uday Chandra Chakma, son of Gurudeb Chakma, Sub-Assistant Settlement Officer, Upazila Settlement Office, Dohar, Dhaka.
56. Md Anamul Haque, son of Late Ratthan Ali Khan, Kanungo, Upazila A/C Land Office, Chapainababgonj Sadar, Chapainabgonj.
57. Bashir Ahmed, son of Md Jaynal Abedin, Sub-Assistant Settlement Officer, Upazila Settlement Office, Saidpur, Nilphamari.
58. Md Siddiqur Rahman, son of Md Asmat Ali, Kanungo, A/C Land Office Alamdanga.
59. Dipti Rani Das, daughter of Monoranjan Das, Sub-Assistant Settlement Officer, Upazila Settlement Office, Sonargaon, Narayangonj.
60. Md Rafiqul Islam, son of Late Md Abdul Jabbar, Kanungo, A/C Land Office, Ishwardi, Pabna.
61. Md Amdadul Haque, son of Late Abdul Matin, Kanungo, Upazila Land Office, Ulipur, Kurigram.
62. Muhammad Ataul Hoque, son of Md Serajul Hoque, Kanungo, SA Section, DC Office, Rangpur.
63. Md Nazrul Islam, son of Late Azhar Molla, Kanungo, Upazila Land Office, Barhatta, Netrokona.
64. Md. Habibullah, son of Late Salamot Ali SK., Kanungo, LA Section, DC Office, Rangpur.
65. Md Belian, son of Md Abu Taher, Kanungo, Dighinala Land Office, Khagrachari.
66. Md Delowar Hossain, son of Md Fazlul Hoque, Kanungo, DC Office, Khagrachari -----Petitioners.

Typed by:-

12/5/2023
DRAFTED BY
8/10/2023

Compared by:-





IN THE ADMINISTRATIVE TRIBUNAL-1, DHAKA

Present : Sk Faruque Hossain, Member (District & Sessions Judge)

AT Case no. : 91 of 2021

Date of judgment : 20-03-2023

Md. Mamunur Rashid, Sub-Assistant Settlement Officer, Upazila Settlement Officer, Sunargaon, Narayanganj and 65 others-----Petitioners.

Vs.

Bangladesh represented by Secretary, Ministry of Land, Bangladesh Secretariat, Dhaka & 3 others----- Opposite Parties.

1. Mr. Md. Salahuddin Dolon

2. Mr. Muhammad Mizanur Rahman

3. Mr. S.M. Mahidul Islam (Sajib)

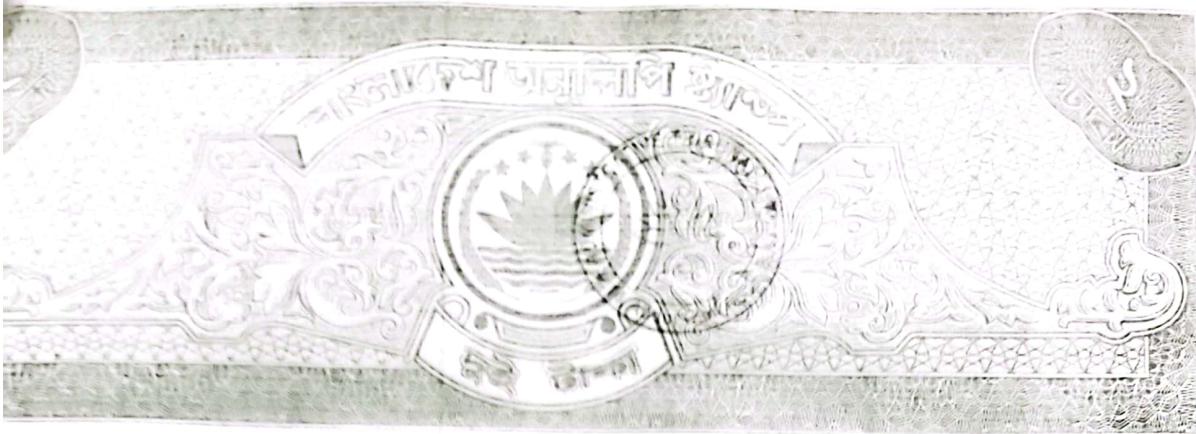
4. Mr. Md. Tofayal Ahmad----- Advocates for the petitioners.

Mr. Abu Siddique (Milon)----- Advocate for the opposite party no.1.

Judgment

This application under Section 4 of the Administrative Tribunals Act, 1980 praying for a direction upon the opposite parties for giving promotion to the post of Additional Land Acquisition Officer/Assistant Settlement Officer by giving them notional seniority and promotion in the post of Kanungo/ Sub-Assistant Settlement Officer with retrospective effect from the date they become eligible on completion of requisite period of service in the feeder post pursuant to the provisions of the Kanungo Recruitment Rules, 1984.

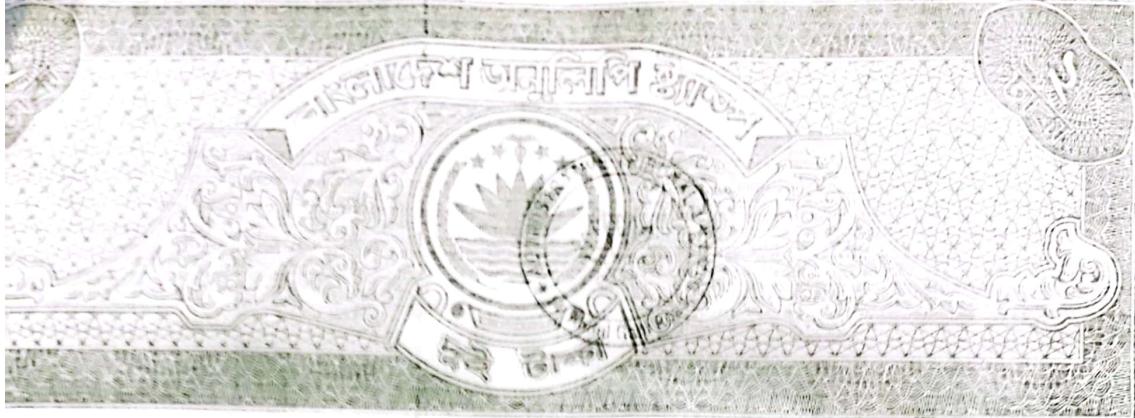
The facts relevant for disposal of the case, in short, are that the petitioners have joined in the service of the Land Record and Survey Department as Surveyors, Draftsman cum Area estimator cum sheet keeper on different dates. They have been discharging their duties diligently and sincerely from the initial date of their joining in the service.



The Government had promulgated the "Kanungos Recruitment Rules, 1984" which was subsequently amended on 04/06/1985 to the effect that 50% of the vacant post of "Kanungos" would be filled up by direct recruitment and rest 50% by promotion from amongst the surveyors and the equivalent post holders who have completed 10 years service in the feeder posts. It is further stated that pursuant to the said provisions all of the petitioners had obtained requisite qualifications for promotion during 2005.

It is stated that in spite of acquiring requisite qualifications none of them was promoted which had constrained them to file writ several petitions i.e. Writ Petition nos. 6636 of 2012, 5929 of 2012, 14388 of 2012 before the Hon'ble High Court Division for a direction to consider promotion of the petitioners in the post of "Kanungo/ Sub-Assistant Settlement Officer "with retrospective effect from the date of their entitlement pursuant to the provisions of the Kanungos Recruitment Rules, 1984 as amended on 04-06-1985 and vide orders dated 28.06.2012 and 07.06.2012 and the Division Bench of the Hon'ble High Court Division was pleased to issue Rule in the aforesaid writ petitions and subsequently upon hearing the parties the Division Bench of the Hon'ble High Court Division was pleased to make the Rules Absolute vide judgments and orders dated 24.07.2012 and 09.12.2014 respectively.

It is stated that the office of the Opposite Parties had duly received the aforesaid Judgments and orders but they had not taken steps to consider their promotion in the post of "Kanungo/ Sub-Assistant Settlement Officer "with retrospective effect from the date of their entitlement pursuant to the provisions of the Kanungos Recruitment Rules, 1984 as amended on 04-06-1985. Then petitioners made several applications requesting the Opposite Parties to consider their promotion in the post of "Kanungo/ Sub-Assistant Settlement Officer "with retrospective effect from the date of their entitlement pursuant to the provisions of the Rules of 1984 in compliance with the aforesaid judgment and orders of the



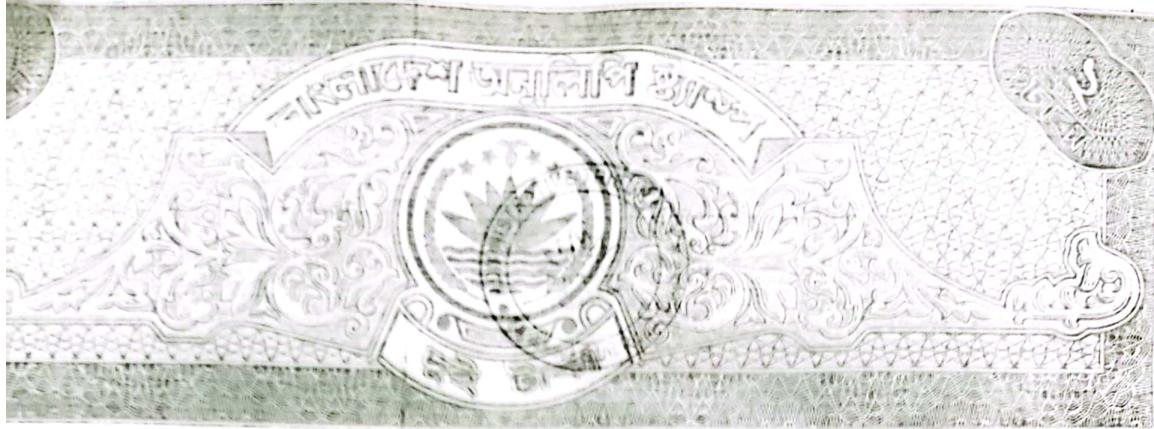
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High Court Division. But instead of considering promotion of the petitioners the opposite parties delayed the matter by keeping silent. In that compelling situation some of the present petitioners filed Contempt Petition Nos.307 of 2012 and 284 of 2015.

Finally the petitioners had succeeded to get their promotion vide gazette notification no.31.00.0000.046.12.029.169 09(part).962 dated 11-12-2019 after a long legal battle which was started with a writ petition in the High Court Division and ended to a contempt petition.

It is stated that they are seeking promotion in the post of Kanungo / Sub-Assistant Settlement Officer with effect from the date they become eligible on completion of requisite period in the feeder post of surveyor but the opposite parties in an arbitrary and mala fide manner denied the petitioners to give them promotion from the date they become eligible to be promoted in the higher posts though they had acquired all the requisite qualifications earlier from the date they have given their promotion in the post of Kanungo/ Sub- Assistant Settlement Officer thus they have been seriously deprived.

But now, they have no scope to file another writ petition for a new cause of action which has arisen due to the failure of the Opposite Parties to give them promotion in the post of 'Kanungo/ Sub-Assistant Settlement Officer' with retrospective effect from the date of their entitlement pursuant to the provisions of the Rules of 1984 for which they filed several applications before the concerned higher authority to consider their legitimate claims but the applications have not been considered. Therefore the petitioners have been compelled to file this case under section 4(2) of the Administrative Tribunals Act, 1980 before the Administrative Tribunal to consider their legitimate claim taking into consideration the inordinate delay caused by the deliberate acts of the Opposite Parties and hence the case.



The Opposite party no. 1 has contested the case by filing separate written statements contending, inter alia, that-

The A.T. case filed by the petitioners is not maintainable in its present form and manner;

There is no cause or grounds arisen to file the instant case by the petitioners.

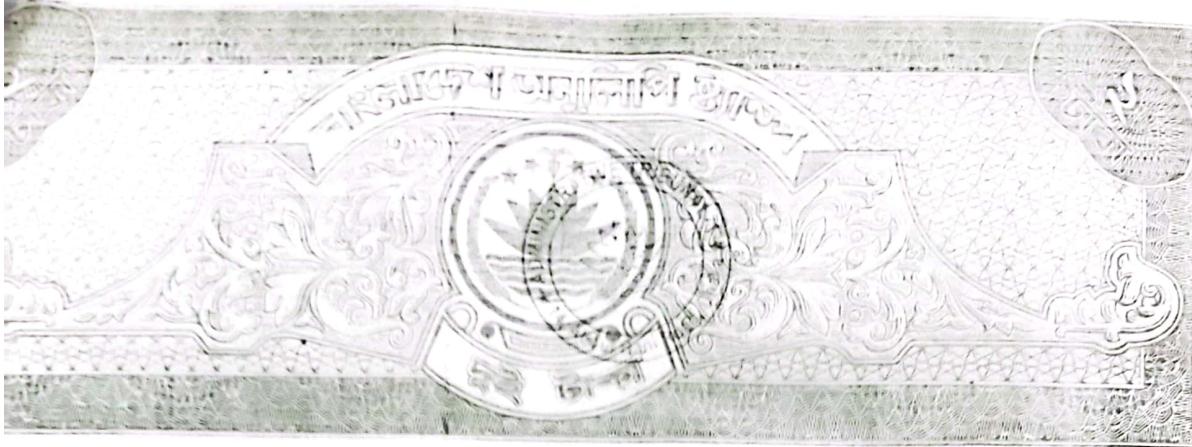
That the case is barred by limitation.

That the case of the petitioners was not filed in proper way and they have not come to the Tribunal with clean hand.

Further case is that (verbatim):

“(ক) পূর্বে সার্ভেয়ার ও কানুনগো উভয় পদ দুটি তৃতীয় শ্রেণীর ছিল। পরবর্তীতে সকল আনুষ্ঠানিকতা শেষে ভূমি মন্ত্রণালয়ের ১৫/০১/২০১৪ ইং তারিখের ৩১.০০.০০০০. ০৪৬.৬৮.২০৮.১২-২১ নং স্মারকে কানুনগো পদটিকে ভূতাপেক্ষভাবে ২৯/০৬/২০০৮ ইং তারিখ হতে দ্বিতীয় শ্রেণীর গেজেটেড পদে উন্নীতকরণের জিও জারি করা হয়। তাই ধারাবাহিকভাব কানুনগোদের জন্য নিয়োগ বিধি প্রয়োগ ও সার্ভেয়ার কানুনগো পদ হতে পদে পদোন্নতির নিমিত্ত সংশ্লিষ্ট বিভাগীয় কমিশনার, জেলা প্রশাসক এবং ভূমি রেকর্ড ও জরিপ অধিদপ্তর হতে প্রাপ্ত তথ্যাদির আলোকে ২০১০ সনে প্রদেশেন তালিকা প্রণয়ন কার্যক্রম শুরু করা হয়, যা ২০১২ সনে অনুমোদন করা হয়।

(খ) পরবর্তীতে উক্ত প্রদেশেন তালিকা অনুযায়ী কর্মকর্তা/কর্মচারীদের হালনাগাদ তথ্যাদি, নিয়োগবিধি, জ্যেষ্ঠতাত্ত্বক, বিভাগীয় মোকদ্দমা, বার্ষিক গোপনীয় অনুবেদন ইত্যাদি যাচাই-বাচাইপূর্বক কানুনগো/উপসহকারী সেটেলমেন্ট অফিসার পদে পদোন্নতির সুপারিশ প্রদানের জন্য বাংলাদেশ পাবলিক সার্ভিস কমিশন সচিবালয়ে প্রেরণ করা হয়। বাংলাদেশ সরকারী কর্ম কমিশন সচিবালয়ের ১৭/১১/২০১৬ ইং তারিখের ৮০.১০৮.০১২. ০০.০০.০০৭.২০১৫ (অংশ)/২৯৪ নম্বর ২১/১১/২০১৬ ইং তারিখের ৮০.১০৮.০১২.০০.০০. ০০৭.২০১৫ (অংশ)/২৯৫ নম্বর স্মারকের সুপারিশ; মহামান্য সুপ্রীম কোর্টের হাইকোর্ট বিভাগের কনটেম্পট পিটিশন নং-৩৬৭/২০১২ (রিট পিটিশন নং-৬৬৩৬/২০১২ থেকে উদ্ভৃত), ২৮৪/২০১৫ (রিট পিটিশন নং- ৫৯২৯/২০১২ হতে উদ্ভৃত), ১৯৯/২০১৩ (রিট পিটিশন নং-৭৯১৪/২০১১ হতে উদ্ভৃত), ২৫৮/২০১৫ (রিট পিটিশন এবং নং-৭৭০৮/২০১৩ হতে উদ্ভৃত) এর গত ০৩/১২/২০১৯ ইং তারিখের আদেশ, মহামান্য সুপ্রীম কোর্টের হাইকোর্ট



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বিভাগের রিট মামলা নং-৭০৭৬/২০১২ ও ১৪৩৮/২০১২ এর আদেশ; উল্লেখিত কনটেম্পট মামলায় সচিব, ভূমি মন্ত্রণালয়কে ব্যক্তিগত হাজিরার আদেশ প্রদানের পর কানুনগো পদে পদোন্নতি প্রদান ও পদায়নের নিশ্চিত সুপারিশ প্রদানের লক্ষ্যে ভূমি মন্ত্রণালয় কর্তৃক গঠিত কমিটির সুপারিশ মোতাবেক প্রার্থীগণসহ সর্বমোট ৫৪৮ জন কর্মচারীকে ভূমি মন্ত্রণালয়ের ১১/১২/২০১৯ ইং তারিখের ৩১,০০,০০০. ০৮৬. ১২. ০২৯.১৬ (অংশ), ৯৬২ নম্বর স্মারকে কানুনগো/উপ-সহকারী সেটেলমেন্ট অফিসার পদে পদোন্নতি প্রদান করা হয়।

(গ) প্রার্থীগণ গত ১১/১২/২০১৯ ইং তারিখে কানুনগো/উপ সহকারী সেটেলমেন্ট অফিসার পদে পদোন্নতি প্রাপ্ত হইয়া পদায়নকৃত কর্মসূলে যোগদান করেন। পদোন্নতি প্রজ্ঞাপনের ২নং শর্তে উল্লেখ আছে, যোগদানের তারিখ থেকে পদোন্নতির আদেশ কার্যকর বলে গণ্য হবে। প্রার্থীগণ পদোন্নতি পাবার দীর্ঘ ০১ (এক) বৎসর পর সচিব, ভূমি মন্ত্রণালয় বরাবরে যোগ্যতা অর্জনের তারিখ হতে ভূতাপেক্ষভাবে পদোন্নতি কার্যকর করার জন্য আপীল আবেদন করেন। উল্লেখ্য যে, মহামান্য হাইকোর্ট ডিভিশনের বাংলাদেশ সরকারী কার্য কমিশনের সুপারিশে Kanungo Recruitment Rules, 1984 এর বিধান অনুযায়ী সংশ্লিষ্ট কর্মচারীদেরকে কানুনগো/উপ-সহকারী সেটেলমেন্ট অফিসার পদে পদোন্নতি দেয়ার কথা বলা হলেও পদোন্নতিপ্রাপ্ত কর্মকর্তাদের যোগ্যতা অর্জনের তারিখ হতে ভূতাপেক্ষভাবে পদোন্নতি বিবেচনার বিষয়ে কোন আদেশ বা সুপারিশ করা হয়নি। কাজেই প্রার্থীগণকে পদোন্নতির যোগ্যতা অর্জনের তারিখ হতে পদোন্নতি বিবেচনার কোন সুযোগ নেই।” The petitioners knowing all those things have filed the instant case under false claim which is not maintainable. Therefore, the case is liable to be dismissed.

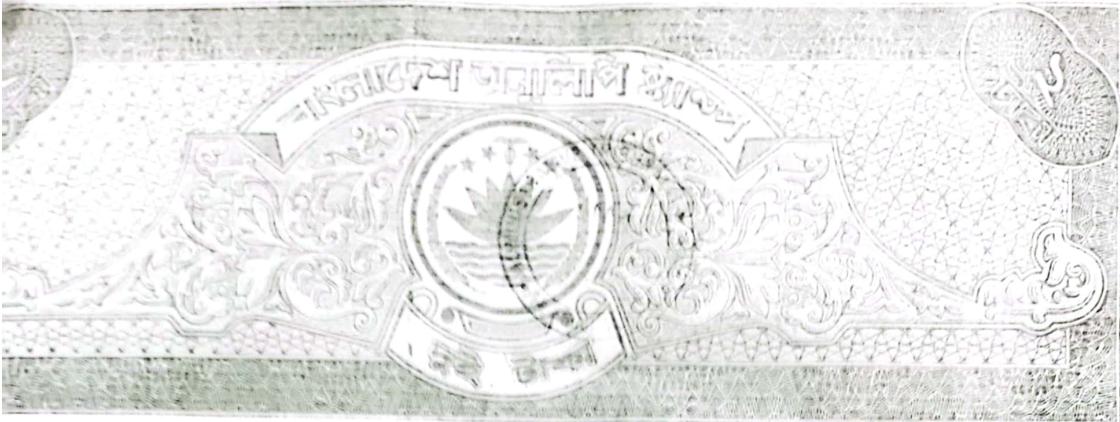
Points for Determination

1. Whether the A. T. case is maintainable in its present form; and
2. Whether the petitioners are entitled to get relief in the case as prayed for.

Findings and Decision

For brevity of discussion and convenience of taking decision both the points are taken up together for decision

At the time of hearing learned advocates for both the sides put their argument in favour of their respective parties. I heard both of them and examined the case record and papers attached therewith. No question as to the



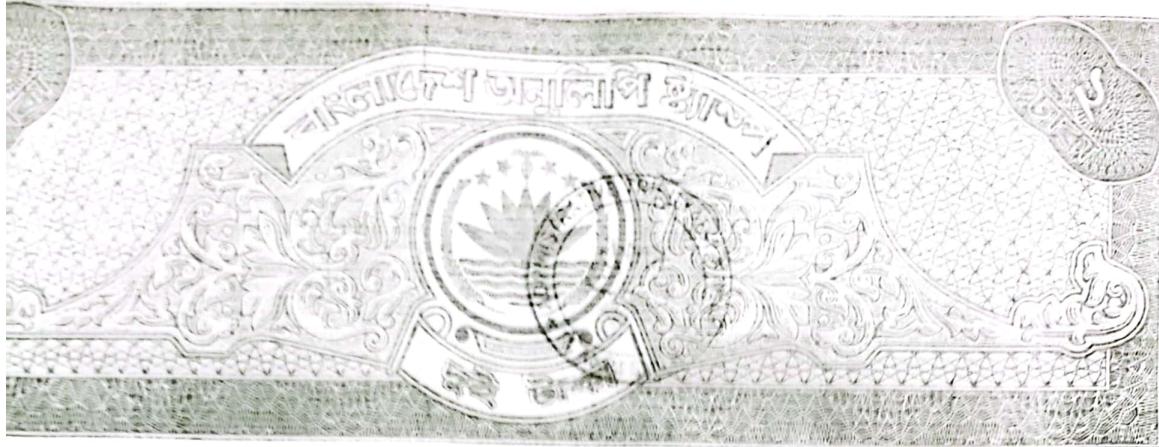
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maintainability of the case has been raised by the learned Advocate for the opposite parties at the time of hearing though that has been raised in the written statement which is merely an evasive denial on the part of the opposite parties. In fact the case is well maintainable.

Learned Advocate for the petitioners submits that if the petitioners were given their legitimate promotion in the post of Kanungo/ Sub-Assistant Settlement Officer from the date when they became eligible to be promoted after fulfilling all the requisite qualifications they would have already acquired the requisite qualification to be promoted in the post Land Acquisition Officer/ Assistant Settlement Officer. But due to the failure of the Opposite Parties to give them retrospective promotion the opposite parties in an arbitrary and mala fide manner denied the petitioners to give them promotion from the date they become eligible to be promoted in the higher posts though they had acquired all the requisite qualifications earlier from the date they have given their promotion in the post of Kanungo/ Sub - Assistant Settlement Officer thus they have been seriously deprived.

On the other hand, Learned Advocate for the Opposite parties submits that when the authority took initiative for giving promotion to the petitioners and the matter was sent to BPSC for recommendation, BPSC did not recommend for giving promotion from the date of acquiring eligibility giving retrospective effect. They have been given promotion duly and after getting promotion they joined in their promoted post and long after one year they have filed application for claiming their promotion from much earlier i.e. from the date of their acquiring eligibility which is not acceptable. So the instant case is liable to be dismissed.

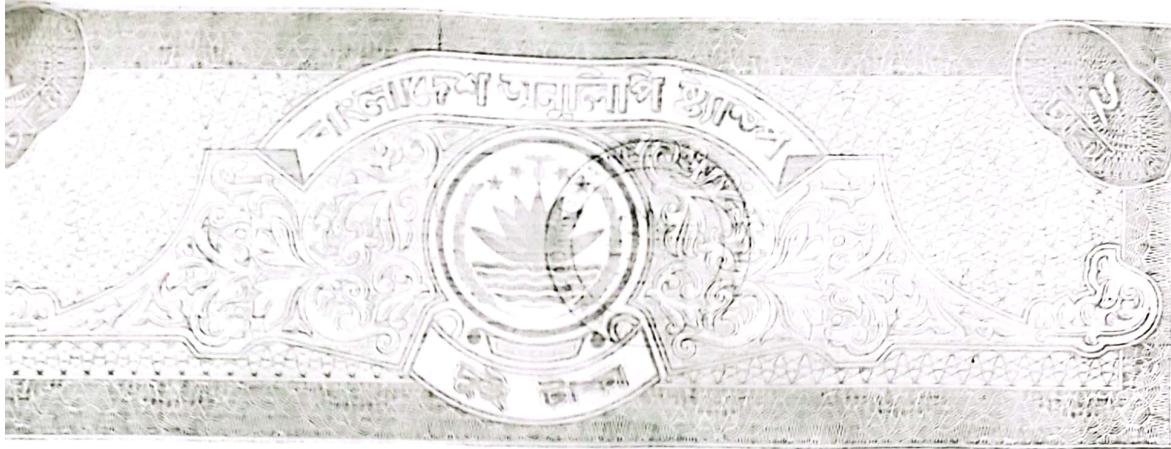
In view of the claim and counter claim of the parties as above let's review the case record and other papers attached therewith with a view to reach at a correct decision in the case.



Admittedly the petitioners joined in the service as in the service of the Land Record and Survey Department as Surveyors, Draftsman cum Area estimator cum sheet keeper on different dates and it is not denied that they have been discharging their duties diligently and sincerely from the initial date of their joining in the service.

As stated above, the Government had promulgated the "Kanungos Recruitment Rules, 1984" which was subsequently amended on 04/06/1985 to the effect that 50% of the vacant post of "Kanungos" would be filled up by direct recruitment and rest 50% by promotion from amongst the surveyors and the equivalent post holders who have completed 10 years service in the feeder posts and it is further stated that pursuant to the said provisions all of the petitioners had acquired requisite qualifications for promotion much earlier. Despite, none of them was promoted for which they filed several writ petitions viz. Writ Petition nos. 6636 of 2012, 5929 of 2012, 14388 of 2012 before the Hon'ble High Court Division for a direction to consider promotion of the petitioners in the post of "Kanungo/ Sub-Assistant Settlement Officer "with retrospective effect from the date of their entitlement pursuant to the provisions of the Kanungos Recruitment Rules, 1984 as amended on 04-06-1985 and subsequently, vide orders dated 28.06.2012 and 07.06.2012 the Division Bench of the Hon'ble High Court Division was pleased to issue Rule in the aforesaid writ petitions in the following manner:

"Let a Rule Nisi be issued calling upon the respondents to show cause as to why they should not be directed to consider promotion of the petitioners in the post of "Kanungo/ Sub-Assistant Settlement Officer "with retrospective effect from the date of their entitlement pursuant to the provisions of the Kanungos Recruitment Rules, 1984 as amended on 04-06-1985" (Annexure- C series) and upon hearing the parties the Division Bench of the Hon'ble High Court Division was pleased to make the Rules Absolute vide judgments and orders dated



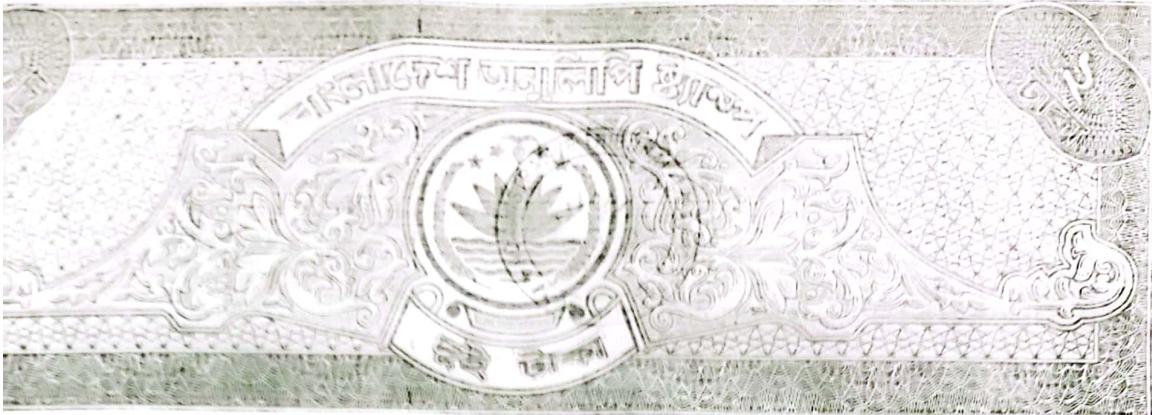
24.07.2012 and 09.12.2014 respectively. The operative portion of both the judgments is exactly same and reproduced here in below:

"...We find merit in this Rule. The Rule is made absolute without any order as to cost. The respondents are directed to consider and implement the case of the petitioners' promotion on priority basis effectively as per the Rule of 1984 at the earliest" (Annexure -C series).

It is claimed that the office of the Opposite Parties duly received the aforesaid Judgments and orders but they did not take steps to consider promotion of the petitioners in the post of "Kanungo/ Sub-Assistant Settlement Officer "with retrospective effect from the date of their entitlement pursuant to the provisions of the Kanungos Recruitment Rules, 1984 as amended on 04-06-1985.

Then the petitioners made several applications to the Opposite Parties requesting to consider their promotion in the post of "Kanungo/ Sub-Assistant Settlement Officer "with retrospective effect from the date of their entitlement pursuant to the provisions of the Rules of 1984 in compliance with the aforesaid judgment and orders of the High Court Division (Annexure E- series). But instead of considering promotion of the petitioners the opposite parties delayed the matter by keeping silent. In that compelling situation some of the present petitioners filed Contempt Petition Nos.307 of 2012 and 284 of 2015.

Finally, the opposite party-authority vide gazette notification no.31.00.0000.046.12.029.169 09(part).962 dated 11-12-2019 granted promotion to the petitioner after a long period of time (Annexure- D). As per claim of the petitioners though they have been given promotion on the basis of the judgment and order of the of the High Court Division, they have not been given promotion with retrospective effect from the date of their entitlement pursuant to the provisions of the Rules of 1984 for which the petitioners have become aggrieved further due to the failure of the Opposite Parties to give them promotion in the post of 'Kanungo/ Sub-Assistant Settlement Officer' with retrospective effect



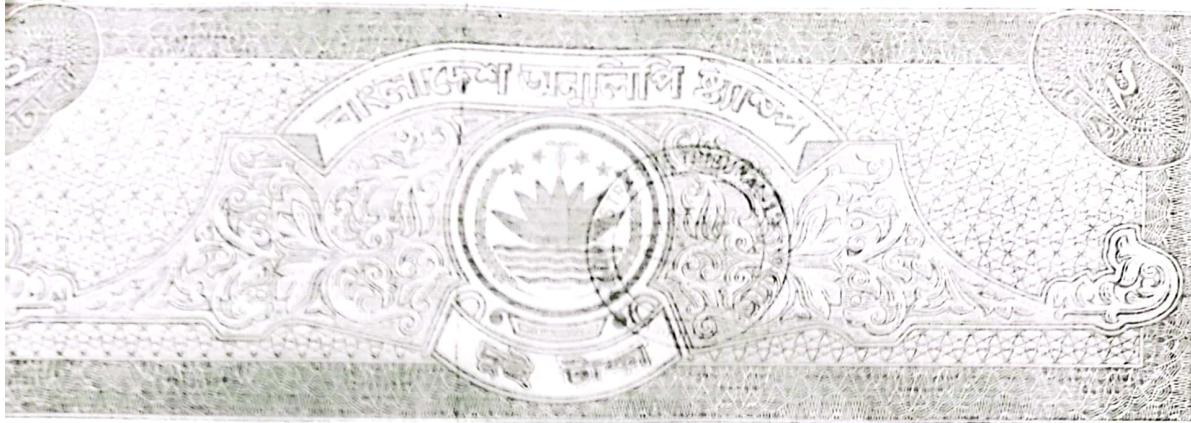
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from the date of their entitlement. That's why they have filed the instant case claiming that if they were given retrospective promotion they would have gotten promotion even in the post of Land Acquisition Officer/Assistant Settlement Officer.

In this regard it is stated that they are seeking promotion in the post of Kanungo / Sub-Assistant Settlement Officer with effect from the date they become eligible on completion of requisite period in the feeder post of surveyor and they have filed this case before the Administrative Tribunal to consider their legitimate claim taking into consideration the inordinate delay caused by the deliberate acts of the Opposite Parties in view of the Laws/ practice of the notional seniority, retrospective promotion in the other department of the Government and also the spirit of the Judgments and orders dated 28.06.2012 and 07.06.2012 of the Apex Court passed in their favour.

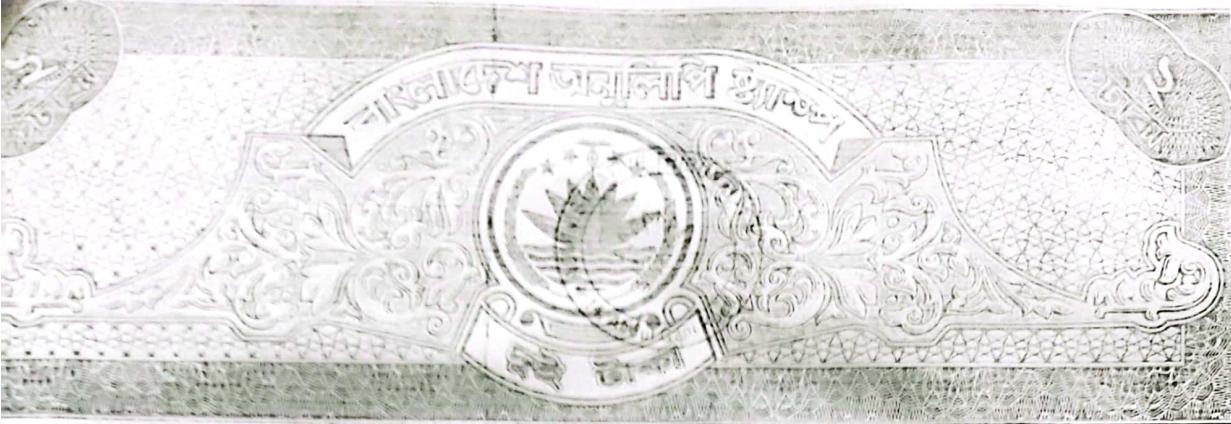
In that case it is further stated on behalf of the petitioners that they were denied promotion timely for no fault of their own but for the malafide acts of the Opposite Parties for no reasons whatsoever. In that case, they claim that this Tribunal can direct the Opposite Parties to grant/consider the petitioners' due promotion with retrospective effect to compensate their unnecessary suffering/ loss and for the end of justice.

Drawing further attention of this Tribunal the learned Advocate of the petitioners submits that they had already suffered about 15 years. It was their bona fide/legitimate expectation that this Tribunal would give a direction to the Opposite parties to consider their promotion in the post of Kanungo / Sub-Assistant Settlement Officer with effect from the date they become eligible on completion of requisite period in the feeder post of surveyor/ equivalent treating on the basis of laws practiced of the notional seniority and retrospective promotion in the other department of the Government.



Taking into consideration of all the things stated above, it appears to me that as the Kanungo Recruitment Rules, 1984 prescribes that the surveyors and equivalent feeder post holders having 10 (ten) years of experience would be promoted to the next higher posts and in the instant case though the present petitioners acquired all the requisite qualifications much earlier but they had been denied from their legitimate promotion for long time and finally they have been given promotion on 11-12-2019 after recommendation of the BPSC on 17-11-2016 and that promotion has been given on the basis of the judgment and order of the Hon'ble apex court, not at the initiative by the opposite parties of their own. The opposite parties in an arbitrary and mala fide manner denied the petitioners to give them promotion from the date they became eligible to be promoted in the higher posts, by such acts of the opposite parties the petitioners have been seriously deprived in two ways. One is financial loss and the other is if the petitioners were given their legitimate promotion in the post of Kanungo/ Sub-Assistant Settlement Officer duly from the date when they became eligible to be promoted after fulfilling all the requisite qualifications, they would have already acquired the requisite qualifications to be promoted in the next higher post i.e. Land Acquisition Officer/ Assistant Settlement Officer. But due to the failure of the Opposite Parties to give them retrospective promotion they could not get promotion in the next higher post i.e. Land Acquisition Officer/Assistant Settlement Officer.

On the above backdrop methinks that justice would be met if the petitioners' promotion is given retrospective effect at least from the date of recommendation of the Bangladesh Public Service Commission (BPSC) i.e. on/from 17-11-2016 and on the basis thereof their promotion to the next higher post i.e. Additional Land Acquisition Officer/Assistant Settlement Officer is considered positively. Therefore, the petitioners are entitled to get relief in the



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case as prayed for and as such both the points are decided in favour of the petitioners.

It is, therefore,

Ordered

that the A T case is allowed on contest against the opposite party no. 1 and exparte against the rests without any order as to costs.

Accordingly, the petitioners are entitled to get promotion to the post of Kanungo / Sub-Assistant Settlement officer with retrospective effect from 17-11-2016 i.e. from the date of recommendation of the BPSC instead of 11-12-2019.

They are also entitled to get promotion to the post of Additional Land Acquisition Officer/Assistant Settlement Officer by giving them notional seniority and promotion in the post of Kanungo/ Sub-Assistant Settlement Officer with retrospective effect from the date 17-11-2016.

The opposite parties are called upon to consider promotion of the petitioners to the post of Kanungo/ Sub-Assistant Settlement Officer with retrospective effect from the date 17-11-2016 and also to consider promotion to the post of Additional Land Acquisition Officer/Assistant Settlement Officer by giving them notional seniority without inordinate delay preferably within 3 (three) months from the date of receiving copy of this judgment and order.

Typed at my dictation.

Sd./-20-03-2023

SK. Faruque Hossain
Member (District & Sessions Judge)
Administrative Tribunal-1, Dhaka.

Typed by:-

17/5/2023
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Compared by:-

Sd./-20-03-2023

SK. Faruque Hossain
Member (District & Sessions Judge)
Administrative Tribunal-1, Dhaka.

অভাস্তি অনুমতি

রেজিস্ট্রার
প্রকার্মনক প্রাইভেনাল-১,
১৪, আকবুল গণি রোড, ঢাকা
১-০১ মন্ডেল ১৯ঃ জাইনের
কারাঘরতে স্থান। প্রাপ্তি