

Procedural Deficiencies in Administrative Tribunals of Bangladesh: Exploring Alternative Tactics

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Abstract: *The present article demonstrates that a troublesome reality is now being faced by Administrative Tribunals, leaving a room highlighting problems that have been unaddressed since its inception. It is found that the jurisprudential concept of locus standi, so far as Administrative Tribunals are concerned, is not wide and comprehensive, even then it need not be extended due to its short domain of jurisdiction as to subject matter. Furthermore, there is no scope to condone the delay according to relevant provisions. In addition, the Act of 1980 does not mysteriously fix a period for the restoration of a case or setting aside an ex parte order. Whereas most of the litigations in Tribunals concern a lack of procedural fairness in departmental proceedings, therein the principle of 'Natural Justice' is not recognized. These lapses seriously endangered the future of this justice system but neither the legislature nor the judiciary has so far taken any serious step to check these realities. Therefore, scattered procedural complexities have been accommodated in this article based on the Act of 1980 as well as the Rules of 1982; and cases and interviewing have been used as the point of reference, but at the same time earnest effort has been spent for finding out solutions, guided by expediency and tradition.*

Keywords: Administrative Tribunal, Bangladesh, Supreme Court, Justice, Procedure, Code of Civil procedure, Delay

1. Introduction

Administrative Tribunals all over the world are now exercising neither judicial nor administrative powers, rather *quasi*-judicial powers. Despite the existence of the 'Rule of Law' and the theory of 'Separation of Powers', the *quasi*-judicial power is now being handed over to Administrative Tribunals as bodies distinct and separate from courts. The dividing line between administrative power and *quasi*-judicial power is quite thin and is being gradually obliterated.¹ In recent years the concept of *quasi*-judicial power has been undergoing a radical change.² What was considered an administrative power some years back is now

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¹ Thakker C. K., *Lectures on Administrative Law* (Eastern Book Company 1998) 40.

² *Ibid.*

being considered *quasi*-judicial power.³ A *quasi*-judicial function stands mid-way between a judicial and an administrative function. A *quasi*-judicial decision is nearer to the administrative decision in terms of its discretionary element and nearer to the judicial decision in terms of the procedure and objectivity of its end.⁴

The authority exercising quasi-judicial power has quite many the trappings of a court but not all of them; nevertheless, there is an obligation to act judicially. Besides, the authority exercising the powers is neither bound by the rules of evidence nor precedents. However, Administrative Tribunals and the Administrative Appellate Tribunal of Bangladesh are exercising the powers of a civil court in respect of terms and conditions of selective services.⁵ Again, it is an alternative institutional mechanism in place of the High Court Division for providing a judicial review in respect of the terms and conditions of service of the Republic and other public organisations.⁶ Nonetheless, any proceeding before a Tribunal shall be deemed to be a judicial proceeding within the meaning of section 193 of the Penal Code.⁷

All the discussions reveal that judicial powers are exercised by the Tribunals and the procedures observed by them are also judicial in nature, but they are not required or charged to follow all rules of evidence or all procedures of civil suits to challenge the validity of an administrative act. Selective service disputes, which are within the ambit of Tribunals, are not decided through normal jurisprudential techniques. A person in the service of the Republic or statutory public authority knocks on its door and obtains the annulment of an illegal administrative action by resorting to the summary procedure. This article, on the one hand, rejects the non-application of the Code of Civil Procedure associated with the proliferating Administrative Tribunals in many respects; on the other hand, it praises its development and proposes its reform depending on the Code of Civil Procedure, 1908, which is no longer foreign to our Administrative Tribunals. In the consolidation of procedures, mechanisms followed by Administrative Tribunals in functioning with existing loopholes or deficiencies and the innovative approaches to overcoming the loopholes have been examined. It does not dwell on the rules of practice and procedure followed by the administrative agency, instead, it concentrates on the use of the procedure and machinery resembling those employed by courts.

³ Ibid.

⁴ Griffith J.A.G. & Street H., *Principles of Administrative Law* (Pitman Publishing 1973) 141.

⁵ *Government of Bangladesh and Others v Sontosh Kumar Shaha and Others* (2016) 6 SCOB 35.

⁶ Ibid.

⁷ Administrative Tribunals Act, 1980, section 7 (2).

2. Scrutinising Procedural Technicalities and Impediments

Faced with different realities, the present section deals with several issues concerning procedural complications without actually questioning the authority of the administration. Methods applied by Administrative Tribunals do not meet the criteria traditionally employed by the courts. The need for standards of the procedure has led me to emphasise alternatives.

2.1 Dilemma in Restoration of a Case or in Setting Aside an *Ex Parte* Order

The Administrative Tribunals Act of 1980 did not prescribe the timeline for applying setting aside an order of dismissal or an *ex parte* order. Administrative Tribunals face a constant dilemma concerning the limitation period for filing an application for setting aside an order of dismissal or for an *ex parte* order. It is worth noting here that the procedure for the hearing of an appeal by the Administrative Appellate Tribunal is the same as that of a case heard by an Administrative Tribunal. According to section 12 of the Administrative Tribunals Act, 1980, the government made the Administrative Tribunals Rules, 1982 which contain detailed provisions on how an application shall be filed with the Administrative Tribunals, how it will be registered and disposed of including the provisions for restoration in case an application is dismissed for default and for setting aside an order made *ex-parte*.

In the Rules of 1982, no separate procedure for filing, registering, and disposing of an appeal before the Appellate Tribunal has been provided for. Provisions of the Rules of 1982 shall, *mutatis mutandis*, apply to an appeal to the Administrative Appellate Tribunal,⁸ and rule 6 of the Rules of 1982 has provided the procedure for disposal of an application. As per sub-rules 4, 5, and 6 of rule 6 of the Rules of 1982, an application both for the case as well as an appeal can be dismissed for default only if on the date fixed for the hearing, the applicant does not appear. So, under rule 6 (7) of the Administrative Tribunals Rules, 1982, any party aggrieved by an order made under sub-rules 4, 5, 6 of rule 5 of the Administrative Tribunals Rules, 1982, may apply to the Tribunal for setting aside the dismissal or *ex-parte* order, and, if the Tribunal is satisfied with sufficient excuses shown by the party, it shall make an order setting aside the dismissal or the order made *ex-parte* on such conditions as it deems fit.⁹ After scrutinising

⁸ Administrative Tribunals Rules, 1982, rule 11.

⁹ *Government of Bangladesh and Another vs Md. Abdul Karim* (2011) 16 MLR (AD) 361-368; (2011) 63 DLR (AD) 143-148. The case is related to the imposition of a major penalty upon the respondent by degrading him to the time scale, that is, below his salary scale for two years under rule (4) (3) (a) of the Government Servants (Discipline and Appeal) Rules, 1985. Administrative Tribunal No. 3, Dhaka Case No. 295 of 1999 was filed against the departmental orders and later on the case was renumbered as Administrative Tribunal Case No. 161 of 2003. The Administrative Tribunal by order dated 22.09.2005 allowed the case in part by imposing minor penalty, that is, withholding the annual increment of the petitioner for two years under rule

relevant provisions of the Act as well as the Rules, it appears that no period has been prescribed for filing an application for setting aside an order of dismissal or an *ex parte* order, so the question of rejection of an application on the ground of limitation does not arise at all. This question has been raised subsequently in a case.¹⁰ It was observed: “[a]n Administrative Tribunal or the Administrative Appellate Tribunal, as the case may be, may reject an application for setting aside an order of dismissal or an *ex parte* order even if the same is filed within the shortest possible period if the applicant or the appellant fails to give sufficient cause to the satisfaction of the concerned Tribunal for failure to appear when the case or appeal was taken up for hearing.”¹¹

That means, an application for restoration of an administrative tribunal case or an administrative appellate tribunal appeal or for setting aside an *ex parte* order made by the Tribunals, as the case may be, may be filed even after a long gap, but the fate of such application would depend upon the satisfaction of the Tribunals as to the sufficiency of the cause filed for such purposes.¹² Therefore, the period needs to be prescribed for filing an application for setting aside an order of dismissal or an *ex parte* order made by Administrative Tribunals or the Administrative Appellate Tribunal. In this regard, the provisions of the Civil Procedure Code of 1908 require to be followed to remove difficulties. An application for setting aside an *ex parte* order has to be filed within 30 days from the date of *ex parte* order or where the summons would not be duly served, 30 days from the date when the defendant would come to know about the *ex parte* order, but the bar of limitation will not be applicable when some elements of fraud in obtaining the *ex parte* order would be found.¹³ On the other hand, if the case is dismissed due to the non-appearance of both parties, the applicant is allowed to bring a fresh suit; but the scope must be availed of within 30 days from the date of the order of dismissal.

4(2) (b) of the Rules, 1985, instead of major penalty awarded by the department. Administrative Appellate Tribunal Appeal No. 230 of 2005 was filed against the decision of the Administrative Tribunal and 11.06.2006 was fixed in the appeal for filing paper book. It was not filed and the appeal was dismissed for such default. Thereafter, an application was filed by the petitioners on 05.01.2009, after about six months of the said order of dismissal for restoration of the appeal. The application was registered as Administrative Appellate Tribunal Miscellaneous Case No. 01 of 2009 and the appeal was dismissed on 28.01.2009 on the ground of limitation. Civil Petition for Leave to Appeal No. 665 of 2009 was filed against the decision of the Administrative Appellate Tribunal. The impugned order dated 28.01.2009 passed by the Administrative Appellate Tribunal in A.A.T. Miscellaneous Case No. 1 of 2009 was set aside and the case was sent back on remand to the Appellate Tribunal for hearing afresh and to dispose of the same on merit in light of the observations made by it. The judgment was declared on 29.04.2012.

¹⁰ *Government of Bangladesh and others vs Md. Nurul Alam* (2013) 18 MLR 97-108; (2013) 65 DLR 77-81.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Bangladesh vs Mashur Rahman* (1998) 50 DLR 250.

If the case is dismissed due to the non-appearance of the plaintiff, then he is not entitled to bring a fresh suit but is allowed to bring an application for setting aside the order of dismissal. Here the limitation period must also be 30 days from the date of the order of dismissal. If he satisfies the Tribunal that there was sufficient cause for his non-appearance when the suit was called on for hearing, the Tribunal shall make an order setting aside the dismissal;¹⁴ but before such order is passed by the Tribunal, notice must be served to the opposite party according to rule 6 (9) of the Rules of 1982.

Of course, the Administrative Tribunals Act of 1980 has to be exhaustive for the non-application of the Code of Civil Procedure, though this was not done somewhat mysteriously. Indeed, the Act of 1980 does not lengthen the hands of the Tribunal to pass any order like section 151 of the Code of Civil Procedure to do justice when there is no other remedy open to the aggrieved party. The inherent power of the Tribunal is now acknowledged by a recent judicial pronouncement,¹⁵ and the precedent can fill in the vacuum as stated above.

2.2 Lack of a Full-fledged Procedure and Section 151 of the Code of Civil Procedure

Procedures of Administrative Tribunals are simple and easily understood by a layman. Nevertheless, the legislation does not mention strangely with a full description, unlike the Code of Civil Procedure, 1908 for civil suits, as to what procedure has to be followed. Simply it is mentioned in the Act that to hear an application or appeal, as the case may be, a Tribunal shall have all powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 in respect of matters mentioned therein.¹⁶ Besides, a Tribunal shall, for execution of its decisions and orders, follow, as far as practicable, the provisions of the Code of Civil Procedure, 1908, relating to the execution of a decree.¹⁷ Full elaboration in matters of procedure including the dismissal for default in the Act of 1980 is required to address the situations without undue delay.

It is undoubtedly true that it is not possible on the part of the legislature to contemplate all possible circumstances that may arise in future litigation and to address those emergencies—there comes into play the inherent power guided by equity, justice, and good conscience. It is a matter of deep concern that the Act of

¹⁴ In order to have an order restoring the suit, the applicant must show sufficient cause to the satisfaction of the Tribunal for not appearing in Tribunal on the date fixed. What is sufficient cause is not defined anywhere and; therefore, it will depend upon the facts and circumstances of each case.

¹⁵ *Government of Bangladesh and Others v Sontosh Kumar Shaha and Others* (n 5).

¹⁶ Administrative Tribunals Act, 1980 (n 7) section 7.

¹⁷ Administrative Tribunals Rules, 1982 (n 8) rule 7.

1980, on the one hand, does not provide for the complete procedures for matters covered by its section 4 and on the other hand, does not give Administrative Tribunals inherent power like section 151 of the Code of Civil Procedure, 1908. Rather the applicability of the Code of Civil Procedure to Administrative Tribunals has been excluded in many respects, which fails to cope with a large variety of functions. The Act of 1980 has to be exhaustive providing for all varieties of available circumstances. Otherwise, the application of the Code of Civil Procedure in the case of Administrative Tribunals has to be extended like section 216 of the Bangladesh Labour Act, 2006 covering procedures for civil matters in the Labour Court, which is another statutory Tribunal. A very recent judicial decision recognising the inherent power of the Tribunal works greatly on techniques deployed to resolve disputes. It was held: “All tribunals, whether civil or criminal, possess this power in the absence of any provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in the course of administration of justice on the principle, namely, *quando lex aliquid aliq̄ue, concedit, conceditor, it sine quo res ipsa eshe non potest*, i.e., when the law gives a person anything it gives him that also without which the thing itself cannot exist.”¹⁸

Considering two references, the Appellate Division of the Supreme Court has supported the vesting of inherent powers in the Tribunal so that it does not find itself helpless while administering justice. The first reference was cited from Indian case law.¹⁹ The second reference was cited from a Criminal Review Petition.²⁰ With regard to this Criminal Review Petition, elaboration is required. There was no provision for review under the International Crimes (Tribunals) Act of 1973. The condemned prisoner filed a review petition. Learned Attorney General raised a preliminary objection about the maintainability of the review petition on the ground that in view of article 47A (2) of the Constitution, the review petition is not maintainable, in as much as the Act of 1973 is protected by article 47A of the Constitution. According to him, a judgment that has attained finality cannot be challenged by resorting to the constitutional provisions which have been totally ousted by the Constitution (Fifteenth Amendment) Act, 2011 and the Constitution (First Amendment) Act, 1972 respectively. This court repelled the objection and held that “the review petition was maintainable, inasmuch as, apart from article 105 of the Constitution, this court can invoke its inherent power if it finds necessary to meet the ends of justice or to prevent the abuse of the process of the court. There is an inherent right to a litigant to a judicial proceeding and it requires no authority of law.”

¹⁸ *Government of Bangladesh and Others v Sontosh Kumar Shaha and Others* (n 5) 39.

¹⁹ *Shipping Corporation of India vs Machadeo Brothers* (2004) 11 SCC 168.

²⁰ *Government of Bangladesh and Others v Sontosh Kumar Shaha and Others* (n 5) 38.

Taking into consideration the references cited above, the Appellate Division of the Supreme Court has tried to present reasons behind the conferment of this inherent power on the Tribunal. It was observed:

We cannot overlook the fact that the primary function of the judiciary is to do justice between the parties who bring their causes before it. If the primary function of the court is to do justice in respect of causes brought before it, then on principle, it is difficult to accede to the proposition that in the absence of a specific provision the court will shut its eyes even if a wrong or an error is detected in its judgment. To say otherwise, courts are meant for doing justice and must be deemed to possess as a necessary corollary inherent in their constitution all the powers to achieve the end and undo the wrong. It does not confer any additional jurisdiction on the court; it only recognizes the inherent power which it already possesses.²¹

Inherent power is an old power of courts, civil or criminal; and recognising this, it was opined:

The inherent powers of a Tribunal remind the Judges of what they ought to know already, namely, that if the ordinary rules of procedure result in injustice in any case and there is no other remedy, it can be broken for the ends of justice. This power furnishes the legislative recognition of the old age and well-established principle that every Tribunal has inherent power to act *ex debito justitiae*, i.e., to do that real and substantial justice and administration of which alone it exists to prevent abuse of the process of the court.²²

The Appellate Division of the Supreme Court has set criteria before resorting to the inherent power of the Tribunal. These criteria are: 1. The power can be exercised when no other power is available under the procedural law; 2. Nothing can limit or affect the inherent power of a Tribunal to meet the ends of justice since it is not possible to foresee all possible future circumstances; 3. It is a power of a Tribunal in addition to and complementary to the powers expressly conferred under the procedural law; 4. The power will not be exercised if its exercise is inconsistent with or comes into conflict with, any of the powers expressly or by necessary implication conferred by the procedural law; 5. It cannot be exercised capriciously or arbitrarily; 6. They are not intended to enable the Tribunal to create rights for the parties, but they are meant to enable the Tribunal to pass such orders for ends of justice as may be necessary; 7. If the law contains no specific provisions to meet the necessity of the case, the court must act according to justice, equity, and good conscience.

²¹ Ibid.

²² Ibid.

2.3 Non-Recognition of the Principle of ‘Natural Justice’

After its establishment, there is a slow rise in the number of suits lodged with Administrative Tribunals. Many of them stem from the violation of the principle of ‘Natural Justice’, one of the techniques closely affiliated with Administrative Tribunals. Administrative Tribunals are duty-bound to see whether departmental proceedings are as per law or not, that means, whether they have given the parties sufficient opportunities to be heard or not. Several cases are always filed with Administrative Tribunals by the parties, who claim that they were not given the right to a fair hearing or there was a violation of the rule against bias while awarding punishments, minor or major. These disciplinary cases are dismissal, removal, termination, compulsory retirement, demotion, censure, warning, extraordinary leave without pay, etc. It is surprising that where most of the cases are about disciplinary proceedings, the Administrative Tribunals Act, 1980, and the Administrative Tribunals Rules, 1982 did not recognise the principle of ‘Natural Justice’. Not only the statutory recognition and complete elaboration of the principle of ‘Natural Justice’ will enable the adjudicators to understand the procedure fully but also co-operate in providing speedy and inexpensive justice as it will prevent loss of unnecessary time in realising techniques accrued from the principle of ‘Natural Justice’.

Though in Bangladesh this principle is not statutorily recognised,²³ the Tribunals feel pressurised to grab it and operate the processes of this institution accordingly. The principle has enormous significance undoubtedly for service disputes and its violation affects the root of the inquiry conducted by the department. It was held in *Mujibur Rahman v Bangladesh* that “it can strike down an order for violation of ‘Natural Justice’”.²⁴ Several decisions are found supporting the assertion.²⁵ It is worth considering how important in consequence the principle

²³ ‘Natural Justice’ enjoys no express Constitutional status. The Appellate Division of the Supreme Court of Bangladesh in *Abdul Latif Mirza v. Government of Bangladesh* noted in (1979) 31 DLR 1 had observed: “It is now well- recognized that the principle of ‘Natural Justice’ is a part of the law of the country”.

²⁴ (1992) 44 DLR 123.

²⁵ See for details, *Bangladesh Public Service Commission represented by its Chairman, Public Service Commission Secretariat and Another vs Maloti Rani Mondol*, (2012) 17 MLR (AD) 104-108; *Sonali Bank vs Md. Zalaluddin and Others*, (2009) 14 MLR (AD) 70-75; *Janata Bank, represented by its Chairman and Another vs Fazlul Huq and Another*, (2009) 14 MLR (AD) 217-218; *Director-Cum-Professor, Pabna, Mental Hospital and Others vs Tossadek Hossain and Others*, (2005) 10 MLR (AD) 110-115; *Director General of Prisoners of Bangladesh, Nazimuddin Road, Dhaka and Others vs Md. Nasim Uddin*, (2001) 6 MLR (AD) 149-151; *Bangladesh Krishi Bank and Others vs Mohammed Hossain Bhuiyan*, (1999) 7 BLT (AD) 308; *Government of Bangladesh, represented by the Secretary, Ministry of Post, Telegraph and telecommunication and Others vs Mr. Abul Khair*, (2004) 9 MLR (AD) 221-224, (2004) 56 DLR (AD) 183-185; *Md. Shahinur Alam vs People’s Republic of Bangladesh and Others*, (1998) 3 MLR(AD) 20-22, (1998) 50 DLR (AD) 211-212; *Bangladesh, represented by the Secretary, Establishment Division and Others vs Mahbubuddin Ahmed*, (1998) 3 MLR (AD) 121-129; *Abdul Aziz vs the*

is. The Act and the Rules were framed without keeping it in mind, eventually, the legislation fails to be a complete Code. The Code of Civil Procedure, 1908 has limited application to proceedings in Tribunals; this non-application of the CPC creates the necessity of adding a non-exhaustive list of factors constituting a violation of principles of 'Natural Justice' during the departmental inquiry. Though the essence of 'Natural Justice' is found present in the Public Servants (Inquiries) Act, 1850, and the Government Employees (Discipline and Appeal) Rules, 2018, an integrated and complete Code enshrining principles of 'Natural Justice' and showing its violation is required for the functioning of Administrative Tribunals. With that end in view, necessary amendments have to be made in the Administrative Tribunals Act, 1980 with a view of giving statutory recognition of the principle, making it more specific, providing guidelines to adjudicators, and getting solid pictures of it. Thereby the independent status of Tribunals has to be achieved in consolidating all the scattered case laws.

2.4 Cost of Proceedings

In Bangladesh, proceedings of Administrative Tribunals require no court fees. Nevertheless, among some other charges, the filing fee is taka 100, wakalatnama taka 10,²⁶ the processing fee is taka 10 for each defendant, and postal charges are imposed depending on the nature of the case along with these. Laws in relation to Administrative Tribunals sufficiently incorporate provisions entailing accessible (i.e., cheaper) justice but ancillary laws fail to promote the goal of establishing justice. It is revealed that proceedings of the Tribunal are not cheaper as per expectation in practice, though it is generally said and accepted on the basis of the law that administrative justice ensures cheap and quick justice. Indeed, procedure in law courts is long and cumbersome; litigation is costly; and it involves payment of huge court fees, engagement of lawyers, and meeting of other incidental charges.

In response to the query as to whether Administrative Tribunals provide cheap justice to aggrieved civil servants and whether costs and fees in Administrative Tribunals are lower than costs involved in proceedings of ordinary law courts, mixed opinion was found. One, among three Members, showed agreement with the statement of cheap justice and the other two were neutral but the opinion of these experts was not supported by the Senior Division Officers of these three Tribunals. Senior Division Officer of Bogura opined that the low amount of fee and nominal charges of witnesses in Administrative Tribunals do not give them much support or benefit, since a good number of applicants belong to areas that are located at a distance of one to three hundred kilometers from the places where Administrative Tribunal of Bogura works. This problem mostly happens

Chairman, Board of Directors, Sonali Bank and Others, (1999) 4 MLR (AD) 401-402.

²⁶ This is not required if the applicant represents himself.

in Bogra Administrative Tribunal as 16 administrative districts are within its territorial jurisdiction. He expressed his deep concern that applicants are spending thousands of money on traveling and boarding on each date of appearance before the Tribunal. Alternatively, the Senior Division Officer, who is now an Acting Registrar, of Administrative Tribunal 1 pointed out another problem faced by poor aggrieved civil servants, that is, the high rates of lawyers' fees. It is a fact that in big cities lawyers' charges are much higher than the lawyers of small cities. The same picture, which was explored from Administrative Tribunal 1, is applicable to Administrative Tribunal 3.

Moreover, Members who have neutral responses about the provision of cheap justice considered Administrative Tribunals as a forum that neither provides cheap justice in all cases nor is expensive; expense mostly depends upon the nature of a case. They added that if the aggrieved person or litigant lives in the same city where the Administrative Tribunal functions, then he gets cheap justice but, in a situation, where the aggrieved party lives at a long distance away from the place of the Tribunal, then the aggrieved party does not get cheap justice. Besides, it was revealed during primary data collection that sometimes frivolous grounds addressed in Administrative Tribunals consume unnecessary time and raise litigation costs; hence, frivolous grounds raised by the parties require to be avoided to prevent consumption of unnecessary time and to make the procedure cheaper. At the time of delivering a judgment, a record has to be kept of the time spent in addressing frivolous grounds raised by the parties as well as related costs, and subsequently, the parties be held liable for these costs irrespective of the result of the litigation.

3. Disposal Rate of Cases in Administrative Tribunals: Assessing Administrative Tribunal Cases and Sharing Experiences

Justice is much delayed in Common Law courts. Indeed, Bangladesh is no exception to it. According to the United States State Department Country Report on Human Rights Practices, 2008, released on the 25th February 2009, corruption, judicial inefficiency, lack of resources, and a large case backlog remain serious problems in Bangladesh.²⁷ A limited number of courts, delay in the disposal of cases along with the lack of any state facilities for legal aid, have virtually made the judicial system inaccessible for the vast majority of the poor and the disadvantaged.²⁸ In Bangladesh, a civil suit on an average takes more than five years to conclude, although the statutory timeline for concluding a trial is 340 days and the author has opined it upon observing cases of 12 or 13 years starting from

²⁷ See UNHCR, Country of Origin Information Report-Bangladesh, 2009, <http://www.unhcr.org/refworld/docid/4a8d005b2.html/>, accessed 22 March 2022.

²⁸ Raushan A., *Normative and Institutional Responses to Torture in Bangladesh* (2015) 237-238.

1999/2000 to 2011.²⁹ Another author has agreed and expressed that a civil suit usually takes about ten to twenty years to be disposed of.³⁰ Support was obtained from elsewhere.³¹ All the analyses, as stated above, are not applicable to our Administrative Tribunals, and no doubt, proceedings of Administrative Tribunals are speedier in comparison to those of civil courts. The findings of cases of four years starting from 2009 to 2012 of Administrative Tribunal 1, Administrative Tribunal Bogura, and Administrative Tribunal 3 are exhibited consecutively in Tables: 1, 2, and 3.

Table: 1

Disposal rate of cases from 2009 to 2012 in Administrative Tribunal 1

Period spent	2009 Percentage (%)	2010 Percentage (%)	2011 Percentage (%)	2012 Percentage (%)
Up to six months	22.03%	20(%)	12.09%	24.14%
More than six months to one year	8.47%	6.15(%)	10.99%	9.19%
More than one year to one year and Six months	18.64%	9.23(%)	14.29%	8.04%
More than one year and six months to two years	25.42%	23.07(%)	7.69%	19.54%
More than two years to two years and six months	16.95%	15.38(%)	8.79%	21.84%
More than two years and six months to three years		6.15%	14.29%	16.09%
More than three years to three years and six months	5.08%	4.62%	16.48%	1.15%
More than three years and six months to four years		1.54%	10.99%	
More than four years to four years and six months	1.69%	12.31%	4.39%	

²⁹ See for details, Courts, and Adjudication in Bangladesh, (2 March 2014) https://books.google.com.bd/books?id=Yk1sBQAAQBAJ&pg=PA481&lp=PA481&dq=time+spent+in+civil+suits+in+Bangladesh&source=bl&ots=gckSOGS7a&sig=Yo5TFqKwA8hpfUrOeX-mAwP9aImA&hl=en&sa=X&redir_esc=y#v=onepage&q=time%20spent%20in%20civil%20suits%20in%20Bangladesh&f=false/, accessed 22 March 2022.

³⁰ Chowdhury M. M. R., *A Study on Delay in the Disposal of Civil Litigation*, 14 I.J. S.S. 28 (2013).

³¹ See for details, Delay in Disposal of Civil Suits: Bangladesh Perspective, (25 July 2014) <http://www.assignmentpoint.com/arts/law/delay-in-the-disposal-civil-suits-bangladesh-perspective.html/>, accessed 12 April 2022.

More than four years and six months to five years		1.54%		
More than five years/ Not disposed of	1.69% (Disposed), 11.94% (Pending)	14.47% (Pending)	19.78% (Pending)	40% (Pending)

The results spread over Administrative Tribunal 1, as shown in the above table: 1, reveal that a total of 215 cases were instituted in Administrative Tribunal 1, Dhaka in 2009. Out of those cases, 59 were disposed of. The table did not mention the result of 156 cases. After scrutinising primary data, it is found that a total of 148 cases were transferred either to Administrative Tribunal 2 or Administrative Tribunal 3, and in fact, 8 were pending and its percentage stood at 11.94%. But to neglect the earlier part of the table in discussion is sure to deprive us of getting a full picture of how Administrative Tribunals are positioned within the administrative justice system of Bangladesh. This is because from a practical point of view the earlier not only supplements but also in many cases supersedes the latter and thereby enables Administrative Tribunals to deserve honour for prompt disposal of suits. However, it is found that 22.03% of cases were decided within the period of six months and this is in tune with the purpose of its establishment. A comparatively lower number of cases, which means, only 8.47%, as shown in the above table, were disposed of from the period of more than six months to one year. On the other hand, 18.64% of cases were decided from a period of more than one year to one year and six months, and 25.42% of cases were settled from a period of more than one year and six months to two years. During the time of more than two years to two years and six months, judgment had been delivered for 16.95% of cases. The rows prepared for the rest of the period incorporate either a few cases or nothing.

To what extent Administrative Tribunals play their role in the prompt disposal of suits is certainly not easy to ascertain. While examining the column-grabbing data of 2010, it is seen that a total of 199 cases were initiated in Administrative Tribunal 1, Dhaka, and 65 were disposed of. A considerable number of cases were settled over a period of six months, and this is 20% as shown in the first row of the above table. 23.07% of cases were decided over a period of more than one year and six months to two years and 15.38% of cases were disposed of over a period of more than two years to two years and six months. Judgment was delivered for 12.31% of cases over the period of four years to four and half years which is noteworthy. Besides these, very few cases shown in the above table had been decided. Except for the decided cases, the rest of the cases were 134 in number. A total of 123 cases were transferred either to Administrative Tribunal 2, Dhaka or to Administrative Tribunal 3, Dhaka and only 11 were pending and the percentage for it was 14.47%.

The results incorporated in Table: 1 above further reveal that 91 cases had been disposed of out of a total of 177 instituted cases in Administrative Tribunal 1, Dhaka in 2011. Except for the last two, all the rows show almost the same number of cases. 12.09% was decided within the period of six months, 10.99% within the period of six months to one year, 14.29% within the span of one year to one and half years, 7.69% within the period of one and half years to two years, 8.79% within the span of two years to two and half years, 14.29% within two and half years to three years' time span, 16.48% within the period of three years to three and half years, 10.99% within the span of three and half years to four years, 4.39% within the period of four to four and half years. It appears that the highest number of judgments were delivered during the period of three years to three and half years and thereby the finding portrays significant limits in disposing of suits promptly. The results indicate that a total of 86 cases remained undecided. Just like the two years, 68 cases out of 86 were transferred either to Administrative Tribunal 2, Dhaka or to Administrative Tribunal 3, Dhaka; only 18 were pending and its percentage stood at 19.78%.

The findings mentioned in the column which spread over the year 2012 necessitate an inquiry about the promptness in disposing of suits. It is observed that 87 cases out of a total of 227 cases were decided in 2012 in Administrative Tribunal 1, Dhaka. No case was shown in the above table which took more than three and a half years. It is astonishing and interesting that the Tribunal deserves praise as the highest number of cases was decided within the period of six months. This is 24.14% and this is the largest percentage among the four years of Administrative Tribunal 1, Dhaka. The column also shows that most of the cases were settled within one and a half years to three years. 19.54% of cases were decided within the period of one and half years to two years, 21.84% of cases were settled within the period of two years to two and half years, 16.09% were disposed of within the span of two and half years to three years. A considerable factor here is that 140 cases are yet to be decided. A total of 82 cases were transferred either to Administrative Tribunal 2, Dhaka, or to Administrative Tribunal 3, Dhaka; and 58 were still pending which constituted an average 40% of the total number of cases instituted therein and not transferred later on.

Table: 2
Disposal rate of cases from 2009 to 2012 in Administrative Tribunal Bogura

Period spent	2009 Percentage (%)	2010 Percentage (%)	2011 Percentage (%)	2012 Percentage (%)
Up to six months	1.49 %	8.82 (%)	25.48 (%)	13.25 (%)
More than six months to one year	13.43 %	25 (%)	49.04 (%)	25.30 (%)

More than one year to one year and Six months	26.87 %	41.18 (%)	5.73 (%)	31.32 (%)
More than one year and six months to two years	25.37 %	13.24 (%)	8.28 (%)	21.69 (%)
More than two years to two years and six months	16.42 %	10.29 (%)	3.82 (%)	6.02 (%)
More than two years and six months to three years	8.96 %		1.27 (%)	2.41 (%)
More than three years to three years and six months	2.99 %		2.55 (%)	
More than three years and six months to four years	2.99 %			
More than four years to four years and six months		1.47 (%)		
More than four years and six months to five years	1.49 %			
More than five years/ Not disposed of	6.94% (Pending)	2.86% (Pending)	90.75% (pending)	72.17% (Pending)

It is observed from the table: 2 that 72 suits were instituted in Bogura Administrative Tribunal in 2009 and 67 suits were disposed of. It is worth mentioning that 26.87% of cases were decided within more than one year to one year and six months which is no doubt satisfactory. Besides, 25.37% of suits were settled within a period of more than one year and six months to two years. $26.87\%+25.37\% = 52.24\%$ of the total number of cases are decided within one year to two years. Only one case out of 72, which means, 1.49% of cases were disposed of in a period of six months. Cases that took more than two years are fewer in number. Only one case, shown in the above table in the way of percentage, took more than four years and six months to five years to be finally disposed of. Besides, 5 cases, which accounts for 6.94% of total, were pending and had not been decided till the collection of data and these are hampering the status of Tribunals on the question of quick disposal.

Turning the focus away from 2009, we can now analyse the data gathered in column 2010. It was found that 70 suits were instituted in Bogura Administrative Tribunal and 68 were decided in 2010. 41.18% of cases were settled within more than one year to one year and six months and 25% were decided within more than six months to one year. It is worth considering that $41.18\%+25\% = 66.18\%$ were disposed of within the period of six months to one year and six months. Two years and six months were spent by the Tribunal for the disposal of most of the cases. Only one case was found which took more than four years to be finally disposed of. The results also show that two cases were pending and its percentage stood at 2.86 %.

In contrast, 157 cases were decided in 2011 out of a total of 173 instituted cases in the Administrative Tribunal Bogura. One considerable and praiseworthy factor found from the above table is that 25.48% of cases were decided within a period of six months. 49.04% of cases were settled within six months to one year. 5.73% and 8.28% of cases were disposed of within one year to two years. No case was found during the span of four years. It is noteworthy that 16 cases were pending and the percentage for that stood at 90.75 %. This last data of non-disposed suits confirms that the Tribunal is far from the objective of ensuring prompt disposal of suits.

To explain data accumulated in column 2012, emphasis was placed like others to show the rate of disposal of cases. It appears that 83 cases were disposed of out of a total of 115 instituted cases in the Tribunal in 2012. 13.25% of cases were decided within the span of six months. Period of more than one year to one year six months were required for the disposal of 31.32% of cases, and from more than six months to one year was taken for 25.30% of cases. A large number of cases, that means, $31.32\% + 25.30\% = 56.62\%$ cases were settled within the period of one to two years, and this is praiseworthy. It is to be noted that 21.69% of cases were decided within one and a half years to two years. No data was entered in the rows addressing the consumption of a period of more than three years. But it is a serious concern that 32 cases were pending, and this is not consistent with the data found from 2009, 2010, and 2011.

Table: 3

Disposal rate of cases from 2009 to 2012 in Administrative Tribunal 3

Period spent	2009 Percentage (%)	2010 Percentage (%)	2011 Percentage (%)	2012 Percentage (%)
Up to six months	20.83%	13.04%	6.25%	37.5%
More than six months to one year	8.33%	13.04%	31.25%	12.5%
More than one year to one year and Six months	4.17%	13.04%	16.67%	16.67%
More than one year and six months to two years	8.33%	20.29%	12.5%	8.33%
More than two years to two years and six months	4.17%	10.14%	10.41%	12.5%

More than two years and six months to three years	12.5%	10.14%	4.17%	12.5%
More than three years to three years and six months		8.70%	8.33%	%
More than three years and six months to four years	12.5%	2.90%	8.33%	
More than four years to four years and six months	8.33%		%	
More than four years and six months to five years		1.45%		
More than five years/ Not disposed of	20.83% (Dis- posed), 6.97% (Pending)	4.35% (Dis- posed), 13.25% (Pending)	21.31% (Pending)	37.5% (Pending)

As depicted in the above table: 3 covering Administrative Tribunal 3, 40 suits were settled in 2009 out of 43 filed suits and it indicates that only 3 remained pending, the percentage of it stood at 6.97%. It is sound to call its performance satisfactory as well as praiseworthy as a considerable number of suits, which means, 20.83% of cases were settled within the period of six months. Conversely, appreciation for performance is destroyed when we look into the last down row. 20.83% of cases consume more than five years to be finally disposed of and 6.97% of cases were pending. The data extracted from this table is not only unique amongst the three aforementioned Tribunals for the cases to be disposed of within the period of six months but also open to serious questions on ground of prompt disposal. Whereas the highest number of suits were settled within six months as specified in the first row for the year 2009 or the highest number of suits were decided or are undecided after the end of five years as specified in the last row, fewer suits were found settled in rest of the rows. To conclude, it can be said that where the Tribunal deals with transferred cases mostly, its performance in the disposal of suits is not beyond criticism.

The next column dealing with the year 2010 presents that Administrative Tribunal 3 settled 72 cases out of a total of 83 filed cases. It is observed that the first three rows include similar percentages and consecutively it stood at 13.04%, 13.04%, and 13.04%, and in total, it was 39.12%. The fourth row within the column of 2010 specifies that the Tribunal disposed of 20.29% of cases within two years starting from one year and six months. It is certainly a praiseworthy achievement for the Tribunal to settle most of the suits, which is 59.41%, within

the period of two years. Apart from these settled suits within the period of two years, ups and downs are visible in different rows so far as percentages of decided and pending suits are concerned. Indeed, it is difficult to be deferential to the Tribunal from the context of prompt disposal when we look at the down row displaying those suits which consumed more than five years or are still unsettled, and consecutively their percentage stood at 4.35% and 13.25%.

Turning the focus away from the year 2010, we can now analyse the data depicted in the above table: 3, which also highlights the year 2011. Better consistency with prompt disposal of suits has been ensured here during this year of 2011 when we look at the first, second, and third rows. A greater number of suits, accounting for 31.25% of cases were disposed of within the period of more than six months to one year and this number of disposed suits is really not insufficient. Though the number of suits, which was 6.25%, to be disposed of within the period of six months is not satisfactory, the suits settled within the span of more than one year to one year and six months, which is 16.67%, can ease our grievance. The other two rows also need noting here, and the rows depict that 12.5% and 10.41% of cases consecutively consumed more than one year and six months to two years and more than two years to two years and six months. But the situation remains alarming when we look at the down row. A larger number of suits, accounting for 21.31%, were hanging and this makes us believe that the Tribunal fails to maintain any consistent standard so far as prompt disposal of suits is concerned.

The last column presenting the data for 2012 explores the same percentage, which was 37.5%, for suits to be disposed of within the period of six months and for suits that were pending. It becomes clear that Administrative Tribunals, on the one hand, performed better and on the other hand, failed to dispose of suits promptly. Other rows depicting different ratios are also significant. A noteworthy factor is that except for 37.5%, all the suits were settled within this institutional atmosphere during the period of three years. It becomes apparent that its performance in this particular year is better than any other year noted above except for the pending cases.

Adhering to prompt disposal, it was found that three Tribunals performed differently in settling suits. Undoubtedly, each case has to be decided on its own facts and circumstances. One suit may take one month to be disposed of while the other may take five years to be finally settled. To substantiate the position, varying reasons for delay, which are encompassed in section 4 of this article, are discussed and analysed. So far as quick disposal of suits is concerned, minimum coherence has to be maintained among all the Tribunals. However, how long Administrative Tribunal 1, Administrative Tribunal Bogura, and Administrative Tribunal 3 took to dispose of suits within the period of 2009 to 2012, this question is answered in the following Table: 4 with the purpose of making a comparative analysis.

Table: 4**Average time spent by Administrative Tribunal 1, Administrative Tribunal Bogura, and Administrative Tribunal 3 from 2009 to 2012**

Year	Administrative Tribunal 1	Administrative Tribunal Bogura	Administrative Tribunal 3
2009	One year, five months, and more than twenty-seven days	One year and more than nine months	Two years, two months, and more than thirteen days
2010	One year, ten months, and more than twenty-four days	One year, three months, and more than eight days	One year, eleven months, and more than two days
2011	Two years, one month, and more than nine days	One year, one month, and more than nine days	One year, seven months, and more than eighteen days
2012	One year, six months, and more than eleven days	One year, two months, and more than four days	One year, one month, and more than twenty-nine days
Average Time spent for the above four years	One year, nine months, and more than four days	One year, three months, and more than ten days	One year, ten months, and more than nine-teenth days

After making a comparative analysis of the consumption of average timing of Administrative Tribunal 1, Administrative Tribunal Bogura, and Administrative Tribunal 3 during the period of four years, as displayed in the above Table: 4, it is revealed that the former tribunal spent an average of one year, nine months and more than four days for the disposal of each suit per year; one year, ten months and more than nineteenth days was required for the middle one; and the last one took average one year, three months and more than ten days for the disposal of each suit per year. The data shows that the performance of Bogura Administrative Tribunal is better than that of Administrative Tribunal 1 and Administrative Tribunal 3 from the point of speedy disposal, though the former covers 16 districts within its territorial jurisdiction. An enormous number of cases has been transferred from Administrative Tribunal 1 to other two Tribunals situated in Dhaka and even then, the challenge of quick disposal of suits remains the same. However, to get the approximate percentage of decided and pending cases of these three Tribunals, the following Table: 5 will be worth considering.

Table: 5**Decided and Pending Cases of Administrative Tribunal 1, Administrative Tribunal Bogura, and Administrative Tribunal 3 from 2009 to 2012**

Year	Administrative Tribunal 1, Dhaka, Percentage (%) of decided cases	Administrative Tribunal 1, Dhaka, Percentage (%) of pending cases	Administrative Tribunal Bogura, Percentage (%) of decided cases	Administrative Tribunal Bogura, Percentage (%) of pending cases	Administrative Tribunal 3, Dhaka, Percentage (%) of decided cases	Administrative Tribunal 3, Dhaka, Percentage (%) of pending cases
2009	88.06%	11.94%	93.06%	6.94%	93.02%	6.97%
2010	85.53%	14.47%	97.14%	2.86%	86.75%	13.25%
2011	83.48%	16.51%	90.75%	9.24%	78.69%	21.31%
2012	60%	40%	72.17%	27.83%	62.5%	37.5%

The above table: 5 exhibits clearly that Administrative Tribunal Bogura is in a better position than the other two from the viewpoint of decided and pending cases. The percentage of decided and pending cases of Administrative Tribunal 1 and Administrative Tribunal 3 is made without counting the transferred and executed cases for the purposes of accuracy. It is further strengthened by taking interviews of Members of Administrative Tribunal 1, Administrative Tribunal Bogura, and Administrative Tribunal 3 as they are directly involved in deciding cases. The respondents were asked at first about one of the primary objectives of Administrative Tribunals, that is, the quick justice for aggrieved civil servants. The aforementioned three experts strongly agree that Administrative Tribunals are the fora that provide speedy justice to aggrieved civil servants, as compared to civil courts. Two experts agreed with the statement that Administrative Tribunals in Bangladesh fail to provide speedier justice and the other was neutral.

Therefore, the received responses are neither completely in favour of the statement nor totally against the same. During personal interaction, the expert who was neutral told me that the time limit in Common Law courts is not less than five years, so a period of two years or three years is a reasonable time for the disposal of a suit. On the other hand, the experts, who told that Administrative Tribunals in Bangladesh fail to provide speedier justice, argued that it is a special forum, and the provision of speedy justice must not take years in the disposal of a case. He who opted for neutral opinion argues that Administrative Tribunals are neither providing speedy justice in all cases, nor is justice always delayed. If the case is of a serious nature and the respondent official or authority is interested in delaying the case, the same may take years in disposal, but in dissimilar situations, suits may be disposed of in a period of one year or two years at the most.

4. Examining Causes of Delay: Content Analysis and the Critics

There is no doubt about the importance of speedy justice as getting speedy justice is a human right. This speedy disposal is hampered to some extent due to drawbacks or shortcomings which are discussed in the following parts.

4.1 Varying Reasons for Delay: Focusing on Relevant Legislation

The Administrative Tribunals Act as well as the Administrative Tribunals Rules did not mention the period within which suits of Administrative Tribunals have to be disposed of. But Tribunals were established with a view to mitigating the sufferings of the victims by providing quick relief. Due to the lack of this period, all suits are not disposed of very quickly as shown in Tables 1, 2, 3, 4, and 5. Overall, because of this lacuna, the government is not getting service from the person against whom the proceeding is drawn, the family of the victim is falling into trouble and the department is suffering loss. The maximum period compelling Administrative Tribunals to end up proceedings has to be laid down in the Act of 1980 and the Rules of 1982 whereby the purpose of prompt disposal of suits will be promoted. The introduction or addition, whatever it is, can be derived from section 216 of the Bangladesh Labour Act, 2006, wherein a time limit of not more than sixty days following the date of filing the case has been prescribed for the final disposal of suits relying on the Code of Civil Procedure, 1908. Accordingly, a maximum of six months following the date of filing the application needs insertion in the Act of 1980.

It is true that after finishing Administrative Tribunal suits, an appeal lies with the Administrative Appellate Tribunal, then to the Appellate Division and two successive appeals consume an unnecessary and unexpected period. It is noteworthy that Administrative Tribunals all over the world including our own do not allow appeals just to promote individual interests rather they try to make correct decisions concerning appellants' eligibility under government programmes that implement the underlying administrative policies. After finishing all these steps, the conflict can be resolved with or without resorting to execution suits. Execution suits have to be filed for the same matters for the purpose of execution since the Administrative Tribunals of Bangladesh are not granted the power to dictate the administration to take such measures as the Tribunal deems necessary to execute its judgments. After observing cases of four years starting from 2009 to 2012 of Administrative Tribunal 1, Administrative Tribunal Bogura, and Administrative Tribunal 3, the data concerning the number of execution suits filed in those Tribunals were depicted in the following table: 6.

Table: 6
Number of execution suits filed in Administrative Tribunal 1, Administrative Tribunal Bogra, and Administrative Tribunal 3

Year	Administrative Tribunal 1 (AT 1)	The percentage for execution suits of AT 1	Administrative Tribunal Bogra (AT Bogra)	The percentage for execution suits of AT Bogra	Administrative Tribunal 3 (AT 3)	The percentage for execution suits of AT 3
2009	23	34.33 %	6	8.33 %	6	13.96 %
2010	14	18.42 %	4	5.71 %	5	6.02 %
2011	2	2.19 %	7	4.05 %	1	1.64 %
2012	4	2.76 %	34	29.57 %	5	12.5 %

Though the number is at a moderate level, the existing system opens the door for the concerned departments to lengthen proceedings by taking advantage of limitations mentioned in the Act of 1980 as well as the Rules of 1982. Lethargy shown by employers is concerning for every case including execution suits filed in Administrative Tribunals; and the lawmakers fail to keep this in mind, while making relevant laws, so far as execution suits are concerned. Whereas the Code of Civil Procedure, 1908 is not applicable in many respects except those recognised by section 7 of the Act of 1980, execution suits are run purely, as far as practicable, by the provisions of the Code of Civil Procedure, 1908.³² Accordingly, rules 32, 37, and 38 of Order XXI under the CPC, 1908 covering execution proceedings, which are not simple, have to be addressed as these provisions apply to A.T. execution suits. Some steps are required to be added with a view of defending resistance to quick disposal concerning execution suits. A reconciliation between the Code of Civil Procedure, 1908, which provides lengthy procedure and the prompt disposal has to be introduced relying on an acceptable way. Rule 7 of the Administrative Tribunals Rules of 1982 has to be modified. A simple procedure for execution needs to be laid down. It should be like if steps of execution were not implemented within a period of 60 or a maximum of 90 days, then contempt proceedings would have been started against the head of the department concerned and this provision needs insertion in section 10A of the Administrative Tribunals Act, 1980. Under this section, the victim would apply. Administrative Appellate Tribunal is required to be given the power to deal with these contempt proceedings. The practitioners have to opt for these proceedings reasonably and ought not to exercise these in circumstances where the parties have not been given sufficient notice or time to comply with the Tribunals' orders.

³² Administrative Tribunals Rules, 1982 (n 8) rule 7.

Besides, the Administrative Appellate Tribunal has the power of inspection,³³ but it has no supervisory power. As the Administrative Appellate Tribunal has no supervisory power, it fails to pay special attention to the dispatch section where summons and notices are sent to the parties and cannot make Administrative Tribunals answerable for unnecessary delay caused. Whatever limitations engulf the Administrative Appellate Tribunal, it is neither recommended nor permissible constitutionally to hand over the supervisory jurisdiction of the High Court Division to the Appellate Tribunal. In this regard, when queries were sought from the respondents, it was expressed that Administrative Tribunals sometimes allow the lawyers for unnecessary adjournments. During the hearing of suit and appeal, the dates for the next hearing in some cases exceed one month. Surprisingly, the Act of 1980 as well as the Rules of 1982 ignore mentioning the maximum number of days for adjournment which is visible in section 216 (6) of the Bangladesh Labour Act, 2006 allowing adjournment of the hearing on the prayer of any party for not more than seven days in all and on the prayer of both the parties for not more than ten days in all. The omission of this type of provision exhibits the spirits and mindsets of legislatures which are divorced from the appeal that prompt disposal of applications has to the public. Hence, provisions allowing adjournments and not allowing adjournments beyond the prescribed number of days like section 216 (6) of the Bangladesh Labour Act, 2006 need to be inserted in rule 6 of the Rules, 1982 to make it consistent with the concept of speedy disposal of applications for which Administrative Tribunals have been established. The insertion will, quite clearly, oust the necessity of giving supervisory jurisdiction to the Administrative Appellate Tribunal and alongside this mission, reduce unnecessary delay. Furthermore, the Act is equipped with the provision for inspecting the works of Administrative Tribunals. This paves the way for the inspection done by three persons who compose the Administrative Appellate Tribunal. This is explicitly and practically challenging and not feasible on the part of three persons to go together especially outside Dhaka as four Tribunals are working beyond Dhaka. This power requires to be given only to the Chairman to make the provision active and running.

Prompt disposal is also challenged due to the existing system as it did not work properly, keeping scope for unnecessary delay. The problem does not lie with the provision permitting transfer of applications from one Tribunal to another, whenever such transfer is considered just and convenient for the proper dispensation of justice.³⁴ All the plain data of Administrative Tribunal 3 extracted from its registry book was gone through and findings are displayed in the following table: 7 within a specific time span.

³³ Administrative Tribunals Act (n 7) section 7C.

³⁴ Ibid, section 7(7).

Table: 7
Number of originally filed and transferred cases of Administrative Tribunal 3 and their percentage

Year	Originally instituted cases	Percentage of originally filed cases	Transferred cases	Percentage of transferred cases
2009	14	33.56 %	29	67.44 %
2010	11	13.25 %	72	86.75 %
2011	8	13.11 %	53	86.89 %
2012	10	25 %	30	75 %

Once the data, as shown in the above table: 7, is seen in specific Administrative Tribunal 3, it appears that the transfer of cases permitted under section 7 (7) is a serious concern. Most of the cases dealt with by the Tribunal 3 are transferred. It is undeniable that when the cases are transferred from one Tribunal to another, the cases are renumbered in the registry book of the concerned Tribunal and started from the beginning. It would not be proper to be unmindful of the consumption of lots of unnecessary time and one of the major impediments to the quick disposal of suits. However, provisions for transfer and withdrawal of suits, appeals, and other proceedings are enumerated in section 24 of the Code of Civil Procedure, 1908, and accordingly, the High Court Division and the District Judge are authorised to exercise powers. Whatever is mentioned in section 7 (7) of the Act of 1980 is sound and it reveals the intention of legislators implicated in the said provision which is to bring justice in all respects.

Both the provisions under two different laws resemble each other. Nonetheless, the two provisions are, in practice, acting out differently. Transfer of cases in civil suits from one court to another is a serious matter because it indirectly casts doubt on the integrity or competence of the judge from whom the matter gets transferred. Balance of convenience of the parties,³⁵ bias or embarrassment of the court,³⁶ intricate and complicated question of law of general public importance, and any other cogent ground can only justify such transfer ensuring equal justice to both parties.³⁷ Whereas in the arena concerning our Administrative Tribunals, it was found practiced to reduce the burden of the Tribunal from where it gets transferred. Under both the provisions, a transfer cannot be made from one forum to another unless the suit has been brought in a first-instance forum having jurisdiction to try it.

That is why, the re-structure of the territorial jurisdiction of Administrative Tribunal 1 and Administrative Tribunal 3 needs to be emphasised as these are

³⁵ *Deepti Bhandari vs Nitin Bhandari* (2012) AIR (SC) 326.

³⁶ Mahmudul Islam., *The Law of Civil Procedure* (Mullick Brothers 2015) 207.

³⁷ *Tambia vs Rouf* (1994) DLR (HCD) 521; *Sadrul Amin vs Asaduzzaman* (1999) BLC (HCD) 340.

the forums of the first instance. Only two or three districts are required to be kept under the jurisdiction of Administrative Tribunal 1 with a view to reducing its workload and the rest to be included within the territorial jurisdiction of Administrative Tribunal 3. This will enhance the speedy access to justice as suits then will be automatically filed over there and no unnecessary time will be spent for the purposes of transfer. On the other hand, the problem does not exist in Administrative Tribunal Bogura, which covers more districts than other Tribunals existing in our country, but it is astonishing that a lesser number of suits is filed here in comparison to Administrative Tribunal 1. The fact is that no case is transferred from this Tribunal to others and all suits initiated in Bogura Administrative Tribunal are disposed of over there and the number of suits is higher from this context. The disposal rate of cases in this Tribunal is not dissatisfactory as very few cases were pending, as displayed in Table: 5. All the examinations, as discussed so far, reveal that no change with regard to this issue of speedy disposal is required for Administrative Tribunal Bogura.

Furthermore, it is found that there is a procedural delay. Applications consume lesser time to be disposed of in comparison to civil suits, as displayed in tables: 1 to 4, as the Tribunals follow summary procedure. A long time is spent when leave to appeal is made before the Appellate Division of the Supreme Court. Then A.T. suits fall under the normal procedure which basically takes a long time to settle the disputes. Here it is necessary to mention that the limitation period for making an appeal to the Appellate Division is 30 days according to Order 12, rule 3 of the Appellate Division Rules, 1988 read with section 6A of the Administrative Tribunals Act, 1980. It is a serious concern that after a long period when execution suits are filed or an appeal of the Administrative Appellate Tribunal is disposed of, then an appeal to the Appellate Division is possible to be made after the bar of limitation as the law does not restrict the right to file leave petition after bar of limitation; and this is responsible for prolonging the sufferings of the victim. Rigid rules require to be inserted and followed for the appeal to the Appellate Division so that no appeal could be filed after the bar of limitation.

Another point that further concerns us is that when an appeal is made to the Appellate Division of the Supreme Court during the pendency of A.T. execution suits, execution proceedings are stayed until the decision of the AD is received and this ultimately spoils the mission of the establishment of Administrative Tribunals. A provision like section 31 of the Money Loan Court Act, 2003 has to be inserted so that proceedings of Tribunals will be continued until the higher court gives a stay order. Like the Money Loan Court, this is a special Tribunal. If this provision were inserted, it would reduce the wastage of time in unnecessary appeals.

In addressing varying reasons of delay, it was found that Administrative Tribunals fail to use one of the tactics, which is related so far to the jurisdiction of Tribunals, to make its proceedings faster. Providing compensation to the victims by the government may put a considerable impact on this issue of quick disposal of suits. Government departments will then think twice before harassing the victims and this will reduce the sufferings of the victims and make the proceedings quicker. A perusal of the Act of 1980 reveals that there is no such provision. The provision of providing compensation to the victims (in most cases the service holder who is deprived of his service benefits) by the government (Department concerned) requires to be inserted. Furthermore, Administrative Tribunals are not authorised to impose penalties on the departments for breaching service laws; and this lacuna hinders speedy disposal as the authorities do not feel threatened by the danger of imposition of fines.

Having realised the importance of ensuring prompt disposal of suits, the nature of proceedings followed in Administrative Tribunals was gone through. It was found that the procedure followed by Administrative Tribunals is inquisitorial and it is known to all that a party under the inquisitorial system does not suffer because of the inability to engage a good lawyer to plead the case. The procedural simplicity of the Act is appreciated from the fact that the aggrieved person can also appear before it personally and the government can present its case through its departmental officers or legal practitioners.³⁸ The practice is totally opposed to the wording of the provision, and it is to engage a good lawyer. This reason led the proceedings to be expensive for the party who is against the government. The Bangladesh Legal Practitioners and Bar Council Order and Rules, 1972 outlining the Code of Conduct has to be enforced strictly to eliminate the problem. Furthermore, the lawyers working on the government side prolong A.T. suits with a view to taking money because for each date they receive a fixed amount of taka 300. This payment as a daily allowance is given to all lawyers, who are working as panel advocates on the government side and practicing in all Tribunals according to the Rules of the Solicitor Wing. This fee or allowance requires to be raised or it should be package money for a single dispute to mitigate the sufferings of the victims as well as to make the proceedings cheaper. Nevertheless, it is also true that sometimes the parties fail or are late to give a fee and this also works as a ground for prolonging the process.

Sometimes frivolous grounds addressed in Administrative Tribunals lead the procedure to be time-consuming and expensive. To prevent the consumption of unnecessary time and to make the procedure cheaper, frivolous grounds raised by the parties have to be avoided. At the time of delivering a judgment, a record

³⁸ Rule 6 (3) of the Administrative Tribunals Rules, 1982 states that “on the day fixed for hearing of the application, the parties to the dispute shall appear before the Tribunal in person or by persons authorized by them in that behalf”.

requires to be kept of the time spent in addressing frivolous grounds raised by the parties as well as the related costs, and subsequently, the parties be held liable for these costs, irrespective of the outcomes of the litigations.

The greatest advantage of the procedure followed in Administrative Tribunals is that the control of proceedings is taken away from the parties and given to the judges who cease to be a mere spectator of an adversarial process going on between the parties' counsels. The role of a judge in the Administrative Tribunal is to find out the truth and the system of written procedure affords a guarantee against surprise and ensures that the case will be seriously studied by the judge before making a decision. No decisive argument is saved under this procedure for the opportune moment to win the case by surprise. As the judges in the name of Members play a vital role in Tribunals, that is why they need to be vigilant and strong, and this will eventually work for the promotion of prompt disposal of disputes. Indeed, the petition which is liable to be rejected has to be rejected outright, and in achieving this quality, the concerned Members have to keep themselves away from a lack of knowledge and boldness. Otherwise, he will succumb to the pressure of the lawyers and permit unnecessary adjournments which will lead to delayed disposal.

In whatever way we look at a famous maxim, namely, 'ignorance of the law is not an excuse', it has a great value. But the government did not take the responsibility of making people educated regarding the law. Many administrative officers are not aware of their duties and responsibilities towards their subordinates, and this is largely liable for the creation of discrimination, the injustice which leads to departmental proceedings, and last of all to litigation in Administrative Tribunals. During all these stages their enmity, jealousy, and harassing mentality subsist.³⁹ It is a matter of regret that the government is getting involved in a suit because of the ignorance and incapacity of administrative officers. Moreover, it is a constitutional obligation of every public servant to serve the people.⁴⁰ In conformity with this constitutional provision, Bangladesh Public Administration Training Centre (BPATC) was established in 1984. As the government recognised training as an effective means of human resource development, that is why, BPATC has its firm commitment to gearing up and orienting training activities in order to enhance the administrative and management capacity of different levels of people engaged in government or semi-government institutions. This institution operating in the public sector will devise need-based, results-oriented, and market-responsive training programmes aimed at building the professionalism of public servants at different levels.⁴¹ Therefore, administrative officers are trained on different issues

³⁹ Sikder J. U., *The Rules on Service and Related 1500 Cases* (Book Syndicate 2015) 39.

⁴⁰ The Constitution of the People's Republic of Bangladesh, article 21.

⁴¹ See also, Public Administration Training Policy (23 November 2013 http://www.bpatc.org.bd/images/document/39_ProshikhanNitimala.pdf), accessed 13 May 2022.

including Administrative Tribunals but more emphasis is required to be placed on their obligations towards departmental proceedings as well as to proceedings of Administrative Tribunals as well on basic requirements of Natural Justice. A progressive friendly attitude toward subordinates requires to be emphasized to assume a greater enabling and facilitating role in the performance of their duties during inquiry proceedings and during the continuance of suits in Administrative Tribunals. They ought also to be trained on their rights and remedies which they can get through the help of Administrative Tribunals. This training will reduce, if conducted properly, administrative complications, grievances among the government servants, and the institution of suits in Administrative Tribunals on the one hand, and on the other hand make the functioning of Tribunals speedier. In this regard, the government can play a pioneering role in fostering awareness about the rights and duties among government servants through BPATC from the very beginning of their service.

After all, if the government would respond according to section 80 of the Code of Civil Procedure, 1908, many suits would not have arisen. It is worth mentioning that the government did not respond even if legal notice was served by senior advocate Dr. Rafiqur Rahman.⁴² Therefore, prompt response on the part of the government is required not only in departmental proceedings but also during the pendency of suits in Administrative Tribunals for quick disposal of litigations.

4.2 Opinion of Experts: Categorising Problems of Prompt Disposal of Suits

The findings of the research underlined the causes of delay. The core issues to be investigated are their opinions on reasons for the delay and possible recommendations for overcoming the lapses. In this regard, concentration was put on practical and implementation barriers. While a query was put forward during the course of the interview and primary data collection, most of the respondents documented more than one response in tracing out the causes of delay; hence the number of responses is more than the number of respondents.

One of the respondents expressed that though the main problem of Administrative Tribunals lies with regard to its execution proceedings, the reasons for this problem depend on the overall scenario of the country. So, the problem can be overcome by overhauling the total scenario of the entire court structure. He identified the reluctance of the government as one of the reasons for the delay in executing the decrees passed by Administrative Tribunals. He expressed concern about the lack of good intentions of government and thought that if the officers of the concerned department would have been sincere, most of the problems

⁴² 8 ATC 567 (Unreported). See also, Sikder J. U., *The Rules on Service and Related 1500 Cases* (Book Syndicate 2015) 57.

would cease to exist. Sometimes, government departments after wasting a long time execute the decree because of a show cause notice sent by Administrative Tribunals. Sometimes, they do not execute the decree in the same way as the judges do. For them, a lack of sincerity leads to want of promptness. The want of promptness exists even when the decision is awarded by the Appellate Division of the Supreme Court. That means it is routinely honoured more in violation than in compliance. It is to be remembered that they are duty-bound to obey the decision when the verdict comes from the Appellate Division. He further put emphasis on another point and that is the litigants who mainly are high-rank officials can get justice easily because of lobbying, whereas those who are not in the positions, their applications remain pending year after year due to lack of lobbying. This attitude is inconsistent with the prompt disposal of suits and needs modification.

Besides, another respondent blamed procedural delay, as discussed above, which rests upon leave petition wasting unnecessary time and prolonging the sufferings of the victims. The view appears to be endorsed by lots of cases and appeals which are made beyond the bar of limitation. So far as causes of delay are concerned, he shared and identified the technique of stay of proceeding during the pendency of A.T. execution suits, as noted in the preceding section. Moreover, one of the stakeholders expressed concern with regard to the application for restoration of leave petition which is dismissed and this was placing the Tribunals in the status of courts from the point of view of delay disposal, thus jeopardising the guarantees provided by law to safeguard the rights of parties and simultaneously opening the door for the Head of the departments from the amenability of Administrative Tribunals for a long time.

Discussing causes of delay, the Chairman of the Administrative Appellate Tribunal recommended the exercise of the contempt proceeding as a measure to put pressure on the departments to comply with the decision of Tribunals. Without questioning this recommendation, I tried to gather information as to how many contempt proceedings within a specific timespan was filed. Surprisingly, no contempt proceeding was filed in successive three years starting from 2009 to 2011. Only one contempt proceeding was initiated in 2012 but the data found was no longer illuminating as the case was discharged, even a show cause notice was not served.⁴³ So far as possible initiatives preventing delayed disposal is concerned, all the experts unanimously emphasised the need for the insertion of time period for the disposal of execution proceedings. They argued that the person against whom the decision is awarded may be dishonest, and disobedient but he comes with a competitive exam, so a time period for the disposal of execution proceedings has to be inserted to give justice to the victims as this is a matter of his bread and butter.

⁴³ *Rafiqul Haider vs Ministry of Food*, Miscellaneous case No. 01/12.

The issue further requires me to look into the service of summons and notices. On this question the experts were of the opinion that the procedure of Administrative Tribunals causes delays, that is, summons and notices are not sent in a proper way. The Chairman of the Administrative Appellate Tribunal frankly acknowledged that there is not sufficient Process Server in all Administrative Tribunals and no Process Server and Registrar at all in Administrative Tribunal 3. This is also responsible for increasing the gravity of the problem. Furthermore, it was opined that the petition which is liable to be rejected outright continues for over several dates due to lack of strictness on part of the judges and afterwards is rejected and this consumes unnecessary time. In analysing the statement, he pointed out that judges are not stringent due to lack of knowledge, lack of honesty, and alternatively due to the pressurising attitude on part of lawyers. At the end of the query, in response to 'any other' cause, it was told that in most of the cases, the lawyers are responsible for delay because they request unnecessary adjournments disobeying the Code of Conduct under the Bangladesh Legal Practitioners and Bar Council Order and Rules, 1972 with a view to taking money which ultimately causes harassment of the parties. In some cases, the applicant himself is liable for delay disposal as he is not interested to continue proceedings.

5. Summary and Assessment

The present article as a whole reveals that troublesome realities are now being faced by Administrative Tribunals, leaving room to highlight problems that have remained unaddressed since its inception. The Act of 1980 does not mysteriously fix the period for restoration of a case or setting aside an *ex parte* order. Whereas most of the litigations in Tribunals concern lack of procedural fairness in departmental proceedings, therein the principle of 'Natural Justice' is not recognised. These lapses along with others seriously endangered the future of this justice system but neither the legislature nor the judiciary has so far taken any serious steps to check these realities. If requisite amendments were made according to the directions pointed out above, then tribunals would certainly be able to ensure justice. Finally, it is submitted that the suggestions offered in the preceding paragraphs are not meant to create an illusion that these would create 'perfect justice', once these suggestions are implemented. Rather the search for the efficacy of the Administrative Tribunals of Bangladesh constantly remains a never-ending issue requiring revisits. Indeed, many possibilities of solutions cannot be predicted at all times, and for all places and all scenarios. However, what has been seen to occur in Tribunals at present certainly calls for ameliorative efforts.