

Bangladesh Public Service Commission

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In Bangladesh, two separate public service commissions (PSCs) were initially established in May 1972 under provisions made in President's Order No. 34 (PO 34) of 1972. The Constitution of Bangladesh, which came into force with effect from 16 December 1972, contains almost the same provisions as those of PO 34 of 1972 relating to PSCs. To give effect to the relevant constitutional provisions, the government promulgated afresh an order called the Bangladesh Public Service Commission Order, 1973 (President's Order No. 25 of 1973) on 30 March 1973, which in effect formally regularized the establishment of the two PSCs already in existence since May 1972. In November 1977, the government promulgated the Bangladesh Public Service Commission Ordinance, 1977 (Ordinance No. LVII of 1977), purporting to establish one single PSC in place of the existing two PSCs. This ordinance came into force on 22 December 1977 and a new Commission named Bangladesh Public Service Commission (BPSC) was established with effect

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from the same date to perform all functions previously entrusted to the two defunct PSCs.

This paper describes in brief the main features and problems of BPSC. It is divided into three main sections. The first section is a summary of BPSC's formal structure and functioning. The second section pinpoints the main problems of BPSC which in effect reflects its "real world" operations. The third and last section contains some concluding comments. The paper is actually based on the findings of a research project on BPSC completed late in 1988 by the author under the sponsorship of the University Grants Commission of Bangladesh.

I. Formal Structure

From a purely formal-legal perspective, the PSC in Bangladesh seems to fit into the type of an independent constitutional body with advisory status but whose powers and functions are restricted. In short, independent constitutional PSCs with advisory status are functioning in most cases in those countries which have drawn their inspiration from the British practices and are generally competent regarding most questions relating to recruitment and other important career incidents of the civil servants as promotion, discipline and appeal. A summary of the formal structure and functioning of BPSC that follows will show how well it fits into the type of an advisory PSC with restricted powers.

The PSC in Bangladesh, like its predecessors in British India and United Pakistan, is a body whose structure and functions are firmly based on the constitutional provisions. Any amendment of these provisions can only

be made by an act passed in Parliament through certain special amendment procedures specified in the Constitution. The number of members of BPSC is fixed between six to fifteen (including a chairman) by an order made by the President in pursuance of the constitutional provisions.¹ The chairman and the other members of BPSC are to be appointed by the President. At least one-half of the members of BPSC must be persons who have held offices in the civil service of Bangladesh for twenty years or more. The term of office of the chairman and other members is five years, or until they reach the age of sixty-two, whichever is earlier. They can be removed from office only in the same manner and on similar grounds that apply to the removal of a Judge of the Supreme Court.² A member is not eligible for further employment in the civil service after retirement from BPSC, except the chairman, who is eligible for re-appointment for one additional term, and another member (other than the chairman) whose tenure can be renewed for an extra term or who may be appointed as chairman of BPSC. The terms and conditions of service (salary, allowances and other privileges) of the chairman and members are regulated by provisions laid down in Act No. XXI of 1974, including amendment provisions subsequently incorporated in Ordinance No. XLVII of 1978, Ordinance No. XXVII of 1985 and Ordinance No. XXVIII of 1988. These statutory measures purport to ensure that the chairman and members of BPSC perform their constitutional responsibility in recruitment and other service matters with probity and freedom.

BPSC is considered a central personnel agency in that it has a constitutional duty to conduct tests and examinations for the selection of certain categories of civil servants. It also advises the government on such important service matters as promotion, discipline and determination of service conditions. The reasons for investing an independent body with the functions of recruitment and other service matters are well known. First, in an under developed country like Bangladesh, government service is very attractive to the growing number of educated youths. Candidates for government service far outnumber the available jobs. Hence it is essential that basic responsibility for conducting examinations and selecting candidates is in the hands of an autonomous statutory body that is genuinely independent from "political" pressures. The objective is to ensure that all appointments to the civil service are made strictly on merit. Second, a commission, which normally consists of civil servants with a long and wide range of experience in various fields of government administration as well as of such distinguished persons as senior educationists, lawyers and business executives, is in a good position to handle recruitment and other technical and complex service matters.

The framers of the Constitution in Bangladesh seem to have been well aware of the merit of an independent body for the purpose of recruitment and control of certain important service matters. Accordingly, they envisaged the PSC as a machinery outside the executive branch purporting to limit or qualify the degree of control over civil servants exercised by the various executive agencies. In regard to composition of the PSC, the pattern was

designed to ensure sufficient weight to the viewpoint of the civil servants themselves. Thus, the appointing authority is bound under the Constitution to see that at least half of the members of the PSC are persons who have been themselves in the ranks of civil servants for at least twenty years. To ensure the independence of the PSC, the framers of the Constitution thought it fit to ensure that the persons who have been members of the commission would be debarred from any employment under the government. The object evidently was to leave no room for suspicion that the promise or prospect of further employment under the executive government might operate or be used to influence the judgement of members of the commission.

Nevertheless, when it comes to the definition of powers and functions of the PSC, the framers of the Constitution recognized the ultimate responsibility of the executive government for the proper management of the services. Therefore, they assigned to the PSC what was essentially an advisory, consultative and 'quasi-judicial' rather than an executive role. But at the same time it was felt necessary to provide for some measures to ensure "equality of opportunity" to all and to see that nepotism and favouritism have no scope. In an effort to balance the ultimate responsibility of the executive government with the need for an independent consideration of problems relating to recruitment and other service matters, the Constitution of Bangladesh provides a series of inter-looking safeguards³. The submission of annual reports by the PSCs to Parliament is one such safeguard.

It is true that the exercise of functions by BPSC in recruitment is circumscribed by a set of regulations called the Bangladesh Public Service Commission (Consultation) Regulations issued by the President in 1979 (hereafter cited as BPSC Consultation Regulations of 1979). These regulations were issued by the President in exercise of the powers conferred upon him by clause (2) of article 140 of the Constitution as well as after due consultation with BPSC. Article 140(2) of the Constitution provides that the President may, after due consultation with BPSC, make rules with a view to excluding certain appointments and service matters from the purview of BPSC. The provision of this article is actually part of a long standing tradition in the subcontinent. The genesis of this special measure may be traced back to the Federal Public Service Commission (Consultations by the Governor-General) Regulations promulgated in British India in 1937. Similar provisions were made in law both in India and United Pakistan after partition with a view to enabling the respective governments to make regulations for excluding certain cases or types of cases from the purview of the PSCs.⁴

There are several arguments in support of conferring upon the executive authorities the power to exclude certain appointments and service matters from the purview of the PSC. First, there are many posts of a such nature that the responsibility thereto should be placed on the shoulders of the government. Second, it might be impracticable to seek consultation with the PSC regarding a large number of low grade posts pertaining to semi-skilled or unskilled personnel. Third, the government

often has to find persons with high technical qualifications and offer appointments to them on special service conditions, for such persons may not bother to apply and appear for interviews before the PSC. Fourth, there might be times when genuine emergencies arise and an immediate appointment has to be made, leaving no time to consult the PSC.⁵

The preceding paragraphs have depicted the main features of the formal structure and functioning of BPSC. The features seem to conform to those of an advisory public service commission whose powers and functions are guaranteed by provisions made in the Constitution and other statutes. But gaps between formal structures reflecting legal instruments and regulations, on the one hand, and "real world" operations of such structures, on the other, are common place in most polities. In Bangladesh, the gap is especially wide. The Primary reason for the discrepancy between actual operation and the formal structure and functioning is the volatile political environment in which the PSCs (BPSC and former two PSCs) in Bangladesh have had to function since 1971. After presenting an overview of certain gross irregularities in recruitment in particular, ten specific problems relating to BPSC's organization and functions will be identified and discussed.

II. Actual Operations

Despite due safeguard measures made in the Constitution and relevant statutes, BPSC seems not to have been very effective in discharging its responsibilities in recruitment and appointments specified in the Constitution and

statutes. A close review of the BPSC's annual reports published so far reveals that BPSC (including former two PSCs) has been engaged since liberation in a constant struggle to maintain its position as an independent constitutional body in recruiting persons for the government. Such a review also indicates that persistent disregard of BPSC's recommendations relating to recruitment by the government and the latter's irregular use of powers in recruitment matters have led to the evils from which the country has suffered most. Violations of statutory rules and irregular appointments and promotions have become a common feature since liberation. Progressively, irregularities have increased and fair open selection for positions has become difficult. Promotions on merit have been rare. Appointing authorities always have favourites whom they push. Unqualified persons have been appointed to technical posts over qualified persons. There are many loopholes that can be used. For example, a minister enjoys the privilege of appointing his own private secretary. A person appointed through the use of that privilege is then pushed to a better, more remunerative and permanent position. This process has been repeated without remorse. A person appointed to a post without advertisement and without any competition has been retained in the post for months, or even years, and then his name has been sent to the PSC for approval with a strong recommendation. If the PSC has the courage to insist on advertisement, the qualifications demanded by the department concerned have been woven round the favoured one. Thus, a person with accrued merit and the support of the departmental represen-

tative in the selection board has scored over a candidate with higher basic qualifications and superior potentialities. There have been some interesting cases where persons rejected by the PSC repeatedly went from one temporary post to another for years. Several appointments in senior positions have been given to persons not recommended by the PSC and in some cases in preference to the PSC's nominees.⁶

The Constitution of Bangladesh has vested in the PSC the responsibility of conducting tests and examinations for recruitment of persons in the government service. The relevant constitutional provisions stipulate that all recruitments in the government service should be made through the PSC. But it is not the case in actual practice. The PSC's jurisdiction relating to recruitments seems to have been somewhat circumscribed by a number of rules, regulations and orders made by the President. It appears after an examination of these rules, regulations and orders that presently the PSC's role relating to recruitment is limited to class I and class II gazetted posts only. This "limited role" has further been slashed by the BPSC Consultation Regulations of 1979 which in effect have taken away a large number of class I and class II gazetted posts from the purview of the PSC. In other words, the ministries / divisions and departments themselves can make recruitment directly to certain class I and class II gazetted posts without any consultation with the PSC.⁷

The most important aspect of Bangladesh's new civil service structure is the establishment of the Senior Services Pool (SSP) which consists of senior posts requiring diversified experience, administrative leadership

and high level coordination functions. The SSP officers are to fill most posts of deputy secretary, joint secretary, additional secretary, and secretary in the Bangladesh Secretariat, as well as certain posts of ambassador in Bangladesh's missions abroad. According to the SSP Order issued in 1979, selection of officers for the entry posts of deputy secretary in the SSP is to be made by the government in consultation with the PSC through certain specified competitive examinations and/or interviews to be conducted by the latter.⁸

Although the SSP came into being in 1979 and its members have since been selected, the government retained for long the powers to select the SSP officers without any consultation with the PSC. It was as late as in 1988 that the government finally asked BPSC to arrange an examination for the selection of certain class I officers for thirty posts of deputy secretary in the SSP.⁹ Accordingly, BPSC announced a programme in December 1988 for holding the examination.¹⁰ But suddenly the much awaited "first" SSP examination was postponed for "unavoidable reasons" according to an official notification published in the newspapers on 10 January 1989 by BPSC.¹¹ This writer was unable to ascertain the actual reasons for the government's sudden decision to postpone the first SSP examination. Whatever might have been the "reasons" for the postponement, one cannot help forming an impression that, perhaps, the government is still undecided as to whether it would vest in BPSC the responsibility of recruiting members for the SSP.

It is true that the Constitution provides due safe-

guards against the "dangers" that may stem from situations similar to these described in the preceding paragraphs. Article 141 of the Constitution stipulates that the PSC shall prepare an annual report on its performance. The PSC shall submit this report to the President accompanied by a memorandum setting out the cases (so far as is known to the PSC) in which any advice of the PSC was not accepted and the reasons furnished by the government for not accepting such advice, including the cases, if any, in which the PSC ought to have been consulted but was not, and the reasons why the PSC was not consulted. The President shall cause the report and memorandum to be laid before Parliament early in each year following the year for which the report was prepared.

The constitutional provision for submitting the annual reports to Parliament purports in effect to recognize the legislature as the ultimate judge of government's actions in recruitment and civil service management. It is basically designed to ensure that consultation with the PSC is not overlooked, and that the advice of the PSC is as a rule accepted.

Table 7.1 presents a tabular statement of the cases of nonacceptance of BPSC's advice, as well as the cases of nonconsultation with BPSC based on the memoranda published in the annual reports of BPSC (First) from 1972 to 1977 and of BPSC from 1978 to 1988. Column 1 in the table lists the years for which the reports were prepared; column 2 lists the number of cases in which BPSC's advice was not accepted by the government; column 3 states whether the government gave

its reasons or not ; column 4 lists the number of cases of nonconsultation ; column 5 states whether the government gave its reasons for not consulting ; and finally column 6 notes the reactions of BPSC.

However, table 7.1 should not be considered as the true picture of the "real world" position. According to sources close to BPSC, the memoranda published in the annual reports did not include many cases of nonacceptance and nonconsultation which were not officially known to BPSC. It seems also not unlikely that BPSC lacked the courage to include many cases in the memoranda and ask the executive authorities to justify their actions before Parliament, although BPSC was not totally unaware of such cases. The table shows that the annual reports from 1975 to 1979 reported a higher number of cases of nonconsultation. There were also many cases of nonacceptance of advice and nonconsultation reported in the PSC reports for which the executive authorities did not give any reasons at all. BPSC was also with the reasons given in some cases. Thus, even a constitutionally laid down safeguard does not always guarantee that the executive authorities shall never err or commit any breach of their privileges.

Moreover, according to the parliamentary proceedings published in official volumes as well as in the leading dailies, members of Parliament hardly raised discussions on the contents of the PSC reports and/or criticised irregularities in recruitment and other service matters included in the annual reports. In other words, the parliamentarians in Bangladesh seemed always apathetic regarding such important national matters as recruit-

Table 7.1
Yearwise Number of Cases of Nonacceptance of Advice and Nonconsultation
with EPSC from 1972 to 1988

1	2	3	4	5	6
1972	Nil	—	Nil	—	—
1973	1	Reasons given	1	Reasons given	BPSC seems not satisfied
1974	1	Reasons given	Nil	—	No comment
1975	1	Reasons given	16	Reasons given for 12 cases ; fault admitted in 2 cases ; and no reason given for 2 cases.	No comment
1976	1	No reasons given	10	Reasons given for 3 cases ; fault admitted in 3 cases ; no reasons given for 3 cases ; and no reasons received in 2 cases as yet.	No comment

1	2	3	4	5	6
1977	1	Reasons given	18	Reasons given for 8 cases ; fault admitted in 2 cases ; and no reasons received for 8 cases.	BPSC seems not happy
1978	1	Reasons given	25	Reasons given for 21 cases ; and no reasons received for 4 cases.	Reasons in most cases seem not satisfactory
1979	Nil	—	63	Reasons given for 44 cases ; fault admitted in 1 case ; and no reasons received for 18 cases.	Reasons in most cases seem not satisfactory
1980	Nil	—	7	Reasons given for 4 cases ; and no reasons received for 3 cases.	No comment

1	5	3	4	5	6
1981	Nil	—	7	Reasons given for 7 cases.	More explanations asked in 1 case
1982	Nil	—	2	No reasons given	No comment
1983	2	No reasons received	2	No reasons given in 1 case and fault admitted in 1 case.	BPSC seems not happy
1984	1	No reasons received	1	Reasons given	BPSC seems not happy
1985	2	No reasons received	1	Reasons given	BPSC seems not happy
1986	2	No reasons received	Nil	—	No comment
1987	1	No reasons received	Nil	—	No comment
1988	Nil	—	Nil	—	—

ment and civil service management. It is only the dailies and weeklies which have since liberation been carrying news items on the irregularities in recruitment and civil service management as well as publishing grievances of the affected persons usually in the "letters to the editor's" columns.

Ten Specific Problems

In addition to what has been described in the preceding paragraphs as regards the "real world" position of BPSC especially in relation to recruitment matters, ten specific problems of BPSC in general have also been identified and discussed below.

First, the offices of BPSC (First) and BPSC (Second) were situated at four different places in Dhaka until the merger of the two PSCs in December 1977. From December 1977 to May 1984, the single BPSC had its head office located at the same four places in Dhaka. In May 1984, BPSC and its all Dhaka-based offices moved to the old airport building at Tejgaon. But the existing building facility of BPSC seems inadequate for its needs, that is, in accommodating the offices of its chairman, members, officers, staff, and library, as well as in holding various types of recruitment examinations/interviews which run almost on a continuous basis. In particular, BPSC does not have any building facility of its own in which to hold combined competitive examinations such as the Bangladesh Civil Service or BCS examinations as well as other examinations for appointments on promotion.

One should take note of a fact that in all 16,678 candidates finally appeared in the BCS examination held

in 1988. Initially as many as 33,504 persons had applied to examination seeking recruitment to 2,298 BCS vacant posts. But the applications of 1,104 persons were rejected as they did not fulfill the requisite conditions.¹² There is a clear indication that the number of persons seeking government employment through the BCS examinations will continue to increase in subsequent years in view of the dwindling job opportunities in the private and other non-government sectors. Besides, a considerable number of government officials in batches appear in the various department or promotional examinations held at different scheduled times every year under the supervision of BPSC.¹³

Therefore, there are valid reasons to believe that BPSC does really need adequate building space to accommodate its offices specially to handle all routine work such as scrutinizing, sorting and processing the ever-increasing numbers of job applications as well as to do both administrative and confidential work before and after the examinations. Although it is not practically possible to provide to BPSC an exclusive campus with several big buildings for holding the BCS examinations, it should have at least a building of its own with spacious halls to hold the departmental/promotional examinations. It often faces serious problems in hiring hall facilities from the educational institutions as the latter might have to hold their own scheduled examinations at or about the same time. Moreover, it seems not always possible to make necessary security arrangements in and around the hired educational institutions during all BPSC-sponsored examinations.¹⁴

The government did decide sometime after liberation to construct a new building complex at a place near the Bangladesh Secretariat for BPSC so that it could have its scattered offices located at one place. Subsequently, the government changed its mind and decided to construct the planned building complex at a place in Sher-e-Bangla Nagar. But the construction of the new building complex has yet to begin despite repeated requests made by BPSC to the government.¹⁵

Second, as workload increased, the number of officers and staff of BPSC has become increasingly inadequate. By the end of 1987, BPSC consisted of 16 class I gazetted officers, 16 class II gazetted officers, 127 class III non-gazetted staff, and 67 class IV non-gazetted employees. The grand total of all officers and staff of BPSC stood at 225 in December 1987.¹⁶

When the two former PSCs were amalgamated in December 1977 to form the existing BPSC, the latter at that time had a sanctioned strength of 309 officers and staff, which included 38 class I and class II gazetted officers and 271 class III and class IV non-gazetted employees. In May 1982, the sanctioned strength of BPSC's officers and staff came down to 264 from 309 after the cut of its manpower based on a recommendation made by the O & M Wing of the Establishment Ministry in or about 1979. Immediately after the May (1982) cut in BPSC's officers and staff, the Martial Law Committee on Organizational Set-up or MLCOS (constituted in 1982) reviewed once again BPSC's staff position and recommended a further reduction of its officers and staff from 264 to 215. The MLCOS's recommendation was duly

implemented early in 1983.¹⁷ But what seems most unusual is that the MLCOS's "recommendation" for staff reduction lacked a detailed analysis of the justification of the reduction, given the workload of BPSC.¹⁸

It should be noted here that in 1972, i. e. in the first year of its existence, the total strength of staff of BPSC (First), in particular, consisted of 105, including 25 gazetted officers. In that year BPSC (First) conducted no competitive written examinations but held interviews only for the selection of fresh recruits to superior posts from the freedom-fighters as well as from among candidates who had qualified in the competitive examinations held immediately before liberation in December 1971.¹⁹

By December 1977, the total number of staff of BPSC (First) stood at 123, including 23 gazetted officers, i. e. an increase of only 18 staff over the total strength of the year 1972, despite the fact that in 1977 BPSC (First) conducted five separate competitive written examinations, including the Superior Posts Examination of 1976, in which as many as 2,439 candidates appeared for the written tests held in 1977.²⁰

Although after the establishment of one single BPSC, effective from December 1977, the total strength of the staff of BPSC increased to 309, this staff increase in effect resulted from the merger of the earlier two PSCs. In other words, the staff increase in BPSC after the merger came about in conjunction with the simultaneous expansion in the scope of its functions, which in effect brought about no real alleviation of the problem of perennial staff shortage. In particular, BPSC seems still lacking professionally qualified staff for conducting psychologi-

cal and intelligence tests for fresh recruits in the cadre services, as well as in undertaking qualitative work in the field of personnel research.²¹

Third, BPSC's position as an independent constitutional body seems to have been circumscribed by the fact that it is an attached department of the Establishment Ministry. Most matters of its organization, administration and finance are subject to the final scrutiny and control of the Establishment Ministry. All receipts of BPSC (e. g. application fees and examination charges realized from the candidates) are in effect collected through the government treasury. Necessary budgetary provisions relating to BPSC's revenue expenditure, including capital expenditure for any development scheme, are directly controlled by the Establishment Ministry. BPSC receives from time to time an advanced grant of Taka 4,400.00 only to defray its contingent expenses, such as cost for entertaining the members who attend sessions of various interview boards held almost everyday and honorariums paid to expert members of these boards, for which the amount of Taka 4,400.00 seems inadequate.²² In addition, BPSC has to look always to the Establishment Ministry for patronage in such trivial matters as sanction of house rents, travelling allowances and medical benefits for its chairman, members and staff.²³ Hence the apparent denial of freedom to BPSC to deal with matters of its own administration and finance evokes criticism from those who want genuine independence for the PSC.

Fourth, "rank numbers" of the chairman/members of BPSC in the Warrant of Precedence tend to constitute

an index of their status in relation to officials in the executive hierarchy. The existing Warrant of Precedence ranks the chairman of BPSC with a full secretary to the government (i. e. number "17"), but it ranks the Election Commissioners/Supreme Court Judges as number "10" and the Cabinet Secretary as number "13". The members of BPSC have been given the rank number "21", which is one rank below the additional secretaries to the government (i. e. number "20").²⁴ By contrast, the Chairman of the Union Public Service Commission (UPSC) in India ranks with the Chief Election Commissioner/High Court Judges in that country's Warrant of Precedence and are six places above the central government secretaries, whereas the members of UPSC rank with the additional secretaries to the central government.²⁵ According to views expressed by BPSC itself, this rather unduly assigned lower rank numbers of the chairman/members of BPSC in the Warrant of Precedence do have an effect in undermining its position as an independent constitutional body *vis-a-vis* the authorities in the executive hierarchy, thereby interfering greatly with the discharge of its constitutional responsibilities in recruitment and civil service management.²⁶

Fifth, according to article 139 of the Constitution, the chairman/members of BPSC can be removed from their offices only in like manner and on like grounds as a Judge of the Supreme Court is removed. The procedure for the removal of a Supreme Court Judge first requires a presidential order alleging misbehaviour, or infirmity of mind or body. This order then requires the approval of the Supreme Judicial Council consisting

of the Chief Justice and two senior Judges of the Supreme Court. But the Chief Martial Law Administrator (General H. M. Ershad) assumed sole authority of appointing and removing a member of BPSC pursuant to provisions included in the Proclamation of Martial Law of 24 March 1982. He resorted twice to this "sole removing power" and two members of BPSC (Dr. Abul Quasem and Dr. M. A. Halim) were removed by him from BPSC in 1985 without assigning any reason at all.²⁷ The removal of a member of a constitutional body such as PSC by unconstitutional means is unprecedented in that no PSC member was ever removed in this manner in British India, United Pakistan, and during the years before 1985 in Bangladesh. It is most likely that such arbitrary removal of a PSC member has yet to take place in other countries in the subcontinent.

One may argue that the PSC chairmen/members are not all saints and the highest controlling authority should not hesitate to remove an erring chairman or member although there is no precedent. A reliable source in BPSC disclosed privately to this author that the removal of the two members of BPSC in 1985 was unavoidable because both the members had not been behaving well with their fellow commissioners. They also had not been preserving well their service integrity as members of BPSC. But yet the removal was arbitrary as the "charges" against them had not been duly proved as per procedures provided in the Constitution. It should be noted here that the constitutional provision (i. e. article 139) providing for procedures for removing a PSC member had been kept in force during the period of the first martial

law (c. August 1975—April 1979).

Sixth, structural changes such as slashing the number of members of BPSC were also made by the second martial law regime as part of its bid to minimize administrative costs of the government machinery. The MLCOS formed in April 1982 recommended to fix BPSC's membership at six (including a chairman) which was in effect fixed at eight subsequently by the government. It also suggested certain qualifications that the chairman/members of BPSC should possess and prescribed as well the charter of duties of the BPSC's chairman/members.²⁸ It should be noted here that the membership of BPSC had been fixed between six (minimum) and fifteen (maximum) by clause (2) of section 3 of Ordinance No. LVII of 1977 issued by the President in exercise of powers vested in him under article 138 of the Constitution. The slashing of BPSC's membership by the second martial law regime seems to have been a gross violation of statutory provisions incorporated in Ordinance No. LVII of 1977.

Seventh, in appointing persons for the offices of BPSC's chairman and members, the President is expected to abide a standing convention, a result of the Lee Commission's recommendations, that chairmen/members of the PSCs should be drawn from persons of the highest public standing.²⁹ It is generally believed that the appointing authorities both in British India and United Pakistan did by and large maintain this valued convention.³⁰ Chairmen and members of the PSCs in most cases then were appointed from among persons of the highest public standing and who had held high offices in the governments. Non-official PSC members (e. g. lawyers, vice-

chancellors, educationists) were also men of distinguished backgrounds. But anyone who compares the backgrounds of the PSC chairmen/members in Bangladesh with those of the PSC chairmen/members in British India and United Pakistan will find a striking deviation from the pre-liberation "convention" in appointing the PSC chairman/members in Bangladesh. Surprisingly, not a single ex-member of the Civil Service of Pakistan (CSP) has since liberation been appointed either as chairman or a member of BPSC, none from among other members of the erstwhile Central Superior Services (except two ex-members of the Police Service of Pakistan) has been appointed as BPSC chairman/member.³¹ It is not that the ex-CSPs or other members of the erstwhile Central Superior Services are unwilling to become BPSC chairmen/members, rather the appointing authority in Bangladesh seems not to be interested in them.³²

Table 7.2 gives in a tabular form a comparative picture of the backgrounds of the PSC chairmen and members in United Pakistan and Bangladesh. BPSC/FPSC and CPSC are the abbreviated designations of the PSC at Central level in United Pakistan from 1947 to 1971. In Bangladesh, the chairman and members of BPSC (Second) are excluded from this table.

Eighth, there has since liberation been a persistent tendency among most government agencies to appoint a large number of fresh officers and employees on an *ad-hoc* basis and retain them in service indefinitely. Although an appointing authority in the government may make an appointment on an *ad-hoc* basis for a period not exceeding six months with the prior consent received from BPSC,

Table 7.2
Pattern of PSC Memberships in Pakistan and Bangladesh

Country/PSC/	Service or Professional Fields						
Designation	Civil Ser- vants	Ex- Judges	Educa- tion- ists	Doctors/ Engineers/ Scientist	Ex- Military Officers	Lawyers/ Politi- cians	Total
Pakistan (1947-1971) PPSC/FXSC and CPSC							
Chairmen	7	—	1	—	—	—	8
Members	8	4	7	2	1	1	23
Bangladesh							
Bangladesh (1972-1988) BPSC (First) BPSC							

Chairmen	1	—	2	1	—	4
Members	7	2	9	9	2	31

Note : *In Pakistan*, seven civil servant chairmen included 4 ex-ICs, 2 ex-IPs, and 1 ex-IPS ; one educationist chairman had originally been a government servant in British India and had served as principal of the Punjab Agricultural College and also as Vice Chancellor of the Punjab University ; eight civil servant members included 2 ex-ICs, 2 ex-IPs, 3 CSPs, and 1 PSP ; seven educationists included 1 ex-Vice Chancellor, 3 University Professors, and 3 government college professors ; two engineer members belonged to the central government engineering services ; one member was an ex-Air Force Vice Marshal ; and one member was a rich landlord and politician. *In Bangladesh*, three out of the four chairmen included an ex-university professor, an ex-college principal, and an ex-EPC's ; present Chairman is an engineer from one of the government engineering services ; seven civil servant members included 6 ex-EPCs (1 still holding office), and an ex-PSP ; nine educationists included 1 ex-vice chancellor (he still holds office), 2 university professors (1 still holding office), 4 government college professors (including 1 government school headmistress) and 2 private college professors ; among the nine doctors/engineers/scientist, 3 engineers belonged to the government engineering services (1 still holding office), 5 doctors from among the professors of the government medical colleges (1 still holding office), 1 scientist from the Atomic Energy Commission ; two ex-military officers (who are still holding office) are an ex-army officer and an ex-member of the army education corps ; two lawyers had previously been elected as members of Parliament. For all abbreviations used in the above table and this note, see *List of Abbreviations*.

every appointing authority is supposed to exercise this power only in circumstances when appointment to a service/post cannot be made by BPSC expeditiously or for any other justifiable reason. After the expiry of six months no officer/employee appointed on an *ad-hoc* basis should be allowed to draw any salary unless BPSC certifies that it could not as yet select any person for the vacant post.³³

In fact, most appointing authorities, especially during the period preceding the introduction of a new service structure in September 1980, paid no heed to the relevant instructions relating to *ad-hoc* appointments. In most cases they grossly exceeded their authority by making too many *ad-hoc* appointments, allowing irregular extensions of service of *ad hoc* appointees, including the adoption of a "dilly-dallying" attitude in framing the necessary recruitment rules for the services/posts under their control.³⁴

Ninth, in the sphere of appointment by promotion, especially in cases of first appointment to a class I service/post from a lower service/post where approval of BPSC is necessary, the concerned authorities in the executive hierarchy do not always send to BPSC all the relevant papers, including the annual confidential reports (ACRs) of all eligible employee-candidates. Moreover, the ACRs, which are in fact used as the main basis for promotion, are not maintained properly. Adverse comments in the ACRs are not often communicated to the concerned employees in time. Hence, these and other irregularities cause unnecessary delay in decision-making processes regarding the cases of promotion, presumably through no

fault of the employees seeking their due advancement in the service.³⁵

Tenth and last, BPSC itself notes with deep dissatisfaction that the appointing authorities in the executive hierarchy on many occasions ask the Commission to select fresh recruits mostly on whimsical or unplanned bases. They often lack comprehensive projection of their personnel requirements. As a result, it happens quite often that a certain appointing authority, after it has requested BPSC to select some suitable fresh personnel, makes a sudden decision not to recruit the personnel so requested, and accordingly notifies BPSC to regard such request for fresh personnel as cancelled, usually at a time when BPSC has already advertised the posts, or even selected persons for the posts so advertised. Obviously this sort of action by the appointing authorities reflects their irresponsibility, with the inevitable effect so undermining the image and prestige of BPSC as an independent constitutional body.³⁶

III Concluding Comments

There may be several reasons for the glaring discrepancies between BPSC's formal structure (as shown in the foregoing biyng narrative) and functioning its "real world" operations. A volatile political environment has already been identified as the primary reason for these discrepancies. Indeed Bangladesh's "persistent political instability" and its "ever changing outlook of government" symbolize such an "environment". But two more reasons for the discrepancies may be cited in addition to others. They are (i) the continued pauperization of the state economy,

and (ii) the scarcity of available jobs in the face of a gigantic unemployment problem. It is most unlikely that, in Bangladesh's continuing disarray, causes of the volatile political environment, persistent economic stringency, and the scarcity of jobs can be brought under control in the foreseeable future.

Be that as it may, it is true however that the blatant abuse of powers in such crucial areas as recruitment and civil service management by the authorities in the executive hierarchy does have an effect in undermining BPSC's position as an independent constitutional body. Those who run the PSC in Bangladesh seem well aware of what may be called a persistent "debilitated" position into which BPSC has been thrust. They contend that this position may be substantially rectified by such "rank" and "structural" changes as that the present "rank numbers" of BPSC's chairman/members in the Warrant of Precedence should be elevated and BPSC be treated as completely a separate secretariat division like that of the Election Commission with direct access to the President. These changes might produce effects to offset the current intransigent attitude of the authorities in the executive hierarchy toward BPSC and thus help in turn minimize the dysfunctional trend in recruitment and civil service management.³⁷

In an official memorandum submitted to the government early in 1986, the chairman/members of BPSC formally asked for the change of their rank position in the Warrant of Precedence. They furnished in the memorandum a detailed comparative analysis about the rank positions of the commissions' chairmen/members in most of the nei-

ghbouring countries and made a strong plea that the rank number of the BPSC's chairman in the Warrant of Precedence be made equivalent to that of the Election Commissioners/Supreme Court Judges (i.e. number '10') and the rank number of the BPSC's members be equated with that of the Planning Commission's members (i.e. numbers '17').³⁸ At present the BPSC chairman ranks with the Planning Commission's members and the secretaries to the government (i.e. number "17") and the BPSC members rank with the Planning Commission's division chiefs and the Supreme Court Registrar (i.e. number "21"), which is one rank below the additional secretaries to the government.³⁹

It is very difficult to say whether the suggested 'changes' would make any difference to the existing relationship between BPSC and the authorities in the executive hierarchy. It does seem clear, however, that the effectiveness of a PSC, in general terms, depends on two conditions, which are more important than any elevation of the legal status and the rigid demarcation of its responsibilities. It depends, first, on the unwritten but firmly established convention, accepted by all parties, that the PSC's advice and recommendation accepted in all service matters specified in the constitution and/or statutes. It depends, second, on the habit of close consultation and cooperation between the PSC and the authorities in the executive hierarchy.⁴⁰ Unfortunately, these two conditions have been slow to grow in Bangladesh.

References

1. See the Bangladesh Public Service Commission Ordinance (Ordinance No. LVII), published in *The Bangladesh Gazette*, Dated 28 November 1977 (hereafter cited as Ordinance No. LVII of 1977).
2. According to article 96 of the Bangladesh Constitution, the procedure for removal of a Supreme Court judge first requires a presidential order alleging misbehaviour or infirmity of mind or body. This order needs the approval of the Supreme Judicial Council, consisting of the Chief Justice and two next senior Judges of the Supreme Court, to become effective.
3. See Syed Giasuddin Ahmed, *Public Personnel Administration in Bangladesh*, Dhaka, University of Dhaka, 1986, pp. 323-325.
4. See Pakistan, Establishment Division, *The Establishment Manual*, Vol. III, Karachi, Government Press of Pakistan (GPP), 1965, pp. 26-33; S. B. Bapat, "Public Service Commission—An Indian Approach", *Indian Journal of Public Administration*, Vol. 2, 1956, pp. 54-59.
5. S. B. Bapat, *op. cit.*, p. 57.
6. See Bangladesh Public Service Commission (BPSC), *Annual Reports, 1972-1987*; S. H. Zahid, "PSCs Made Redundant", *The Bangladesh Times*, 8 October 1977.
7. For details, see Syed Giasuddin Ahmed, *Bangladesh Public Service Commission - A Study of Its Historical Antecedents, Genesis, Structure, Functions and Problems* (in typescript), Dhaka, University Grants Commission, 1988, pp. 192-193.
8. Syed Giasuddin Ahmed, "Structure of Services in Bangladesh", in *Career Planning in Bangladesh*, Dhaka, Bangladesh Public Administration Training Centre (BPATC), 1986, pp. 55-57.
9. See *The Dally Ittefaq*, 13 November 1988.
10. See *The Bangladesh Observer*, 25 December 1988.
11. See *The Bangladesh Observer*, 10 January 1989.
12. See BPSC, *Annual Report, 1987*, p. 6.

13. See BPSC. *Annual Reports*, 1986-87.
14. See BPSC. *Annual Report*, 1987. p. 17.
15. *Ibid.*
16. *Ibid.*
17. For details, see *Report of the Martial Law Committee on Organizational Set-up* (hereafter cited as *Report of MLCOS*), Phase II, Volume II, Part 21, (public Service Commission), Dhaka, Bangladesh Government Press (BGP), 1982, pp. 1-6.
18. See A. K. M. Hedayetul Huq, "Role of the Public Service Commission in the Recruitment of Personnel in Bangladesh", in *Career Planning in Bangladesh*, *op. cit.*, p. 82.
19. See Syed Giasuddin Ahmed, *Public Personnel Administration in Bangladesh*, *op. cit.*, p. 316.
20. See BPSC (First), *Annual Report*, 1977, pp. 38-39.
21. Syed Giasuddin Ahmed, *Public Personnel Administration in Bangladesh*, *op. cit.*, pp. 316-317.
22. This statement is based on views expressed by some members and senior officials of BPSC during interviews held with them.
23. *Ibid.*
24. See Cabinet Division (President's Secretariat), Government of Bangladesh, *Warrant of Precedence*, 1986, Dhaka, BGP, 1986, pp 1-3.
25. The relevant information on rank numbers of UPSC's chairman and members has been furnished in an official memorandum submitted to the government by the chairman and members of BPSC in January 1986.
26. Views expressed by some members and senior officials of BPSC.
27. For details, see Syed Giasuddin Ahmed, *Bangladesh Public Service Commission*, *op. cit.*, pp. 143-186.
28. *Report of the MLCOS*, *op. cit.*, pp. 1-6.
29. *Report of the Royal Commission on the Superior Civil Services in India*, (Cmd. 2128), London, His (or Her) Majesty's Stationery Office (HMSO), 1924, para 25.
30. Ali Ahmed, *Role of Higher Civil Servants in Pakistan*,

Dhaka, National Institute of Public Administration (NIPA), 1968, pp. 276-277.

31. See Syed Giasuddin Ahmed, *Bangladesh Public Service Commission*, op. cit. pp. 29-58, 243-266.
32. This Statement is based on interviews with former cabinet secretary Mr. M. Mahbubuzzaman (ex-CSP) and other senior officials of the Government of Bangladesh.
33. See Establishment Division, *The Establishment Manual*, Vol. I, Dhaka, BOP, 1980, pp. 107-108.
34. Syed Giasuddin Ahmed, *Public Personnel Administration in Bangladesh*, op. cit., pp. 318-319.
35. See BPSC, *Annual Report*, 1980, p. 13.
36. *Ibid.*, pp. 12-13.
37. Views expressed by some members and senior officials of BPSC.
38. See an official memorandum submitted by the BPSC's chairman/members to the government in 1986.
39. See Cabinet Division, *Warrant of Precedence*, 1986, op. cit. pp. 1-3
40. A.P. Sinker, "What are Public Service Commissions for?", *Public Administration* (London), Vol. 31, Autumn 1953, pp. 212