ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-3742 / 2023

(Jahan Dad and others v. Federation of Pakistan & others)

Date	Order with signature of Judge

Before:-
Mr. Justice Riazat Ali Sahar
Mr. Justice Ali Haider 'Ada'

Date of hearing: 16.10.2026

Date of Order : 05.11.2026

Mr. S. Manzoor Hussain Khan, Advocate for Petitioners.
Mr. Obaidullah Abro, advocate for respondents No.2 & 3.
Mr. Shah Hussain, Assistant Attorney General.

ORDER

Riazat Ali Sahar, J. Through this constitutional petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioners have questioned the fixation of the commencement of their pensions from January/February 2020 by the Employees' Old-Age Benefits Institution (EOBI), without payment of arrears claimed from 2013 up to the commencement of regular pension. Their grievance is that applications lodged in 2013 were rejected, and that their insurable employment was acknowledged only upon reconsideration in 2020. They seek determination and release of arrears as well as appropriate relief arising out of the earlier proceedings before this Court.

2. Learned counsel for the petitioners submitted that applications for old-age pension were lodged before the Regional Office, Karimabad Region, in 2013, but were declined for want of proof of employment and the requisite contribution period. Proceedings before the statutory forums under sections 33 and 35 of the Employees' Old-Age Benefits Act, 1976 (the Act) were also unsuccessful. The petitioners, along with other workers, thereafter approached this Court through C.P. No. 972 of 2016, which was disposed of by consent on 10-09-2018 with directions to verify the relevant record, obtain assistance from the Directorate of Labour where necessary and process the claims of the eligible persons within the prescribed time.

3. It was further submitted that a communication dated 07-11-2018 from the Directorate of Labour, Government of Sindh, and the material pertaining to the workers of M/s Shafiq Textile Mills were subsequently placed before the competent authority. The Board of Trustees, by decision dated 09-01-2020,

accepted the claimed periods of employment as insurable and directed processing of the claims with admissible benefits from the date of its decision. Pension was thereupon commenced in 2020. According to learned counsel, that decision merely recognised a pre-existing status, and the time consumed in verification and litigation ought not to deprive the petitioners of instalments already due under the Act. Reference was also made to the order dated 22-08-2022 whereby CMA No. 833 of 2022, arising out of the earlier petition, was dismissed with liberty to pursue an appropriate remedy, and to representations or appeals stated to have been presented in October 2022 for the unpaid arrears.

4. Conversely, learned counsel for respondents Nos. 2 and 3 submitted that the original claims lacked authentic proof of the prescribed insurable employment and had been rejected by the competent forums, including by the Board of Trustees on 14-03-2017. Only after further verification was the claimed employment accepted through the decision dated 09-01-2020, expressly providing for admissible benefits from the date of that decision. The respondents maintain that the decision stands implemented and that no arrears for 2013 to 2019 are payable, particularly having regard to section 22(3) of the Act. It was further urged that neither the consent order dated 10-09-2018 nor the disposal of the contempt application determined any retrospective monetary entitlement. Dismissal of the petition was consequently prayed for.

5. Learned Assistant Attorney General adopted the submissions advanced on behalf of respondents Nos. 2 and 3.

6. Heard. Perused. The principal question requiring determination is whether the petitioners' pension entitlement, if otherwise established for any earlier period, can be made effective only from 09-01-2020, and whether section 22(3) bars the arrears claimed for the intervening period notwithstanding the applications said to have been submitted in 2013. A subsidiary question concerns the appropriate statutory forum for examining individual entitlement, the date of application and the computation of any amount lawfully due.

7. The material presently before us indicates that the original claims were rejected for want of satisfactory proof of employment; the rejection was maintained on 14-03-2017; this Court directed verification and processing on 10-09-2018; the Board of Trustees, upon reconsideration, accepted the claimed service as insurable employment on 09-01-2020; and monthly pensions began in 2020. The record referred to by the parties does not, however, conclusively identify for each petitioner the exact date of fulfilment of every statutory condition, the documentary date and nature of the original application, the

category of pension, or the fate of the subsequent claims for arrears made in October 2022. These particulars bear directly upon the relief now claimed.

8. The Employees' Old-Age Benefits Act, 1976 is a beneficial social-security enactment, but entitlement to its benefits remains subject to the conditions provided by the legislature. Section 22(1) governs the qualifying age and contribution requirements for old-age pension; section 22(2) creates a limited exception relating to specified ages on the relevant statutory cut-off dates; the Schedule forms part of the statutory scheme; and section 22(3) governs the commencement of old-age pension and the maximum period of retroactive payment preceding the pension application.

9. In ***Amir Sultan and others v Adjudicating Authority-III EOBI, Islamabad and others 2024 SCMR 826***, the Supreme Court explained that the concessional qualifying periods under section 22(2) are linked to the dates specified in that provision, namely 01-07-1976 or the date upon which the Act became applicable to the concerned industry or establishment; the exception does not become available merely because an employee entered insurable employment at a specified age on some later date. The decision illustrates that the beneficial object of the enactment cannot justify dispensing with an express statutory condition. Whether any petitioner attracts that exception must therefore be determined upon the relevant employment and establishment record, and cannot be presumed.

10. More recently, in Employees ***Old-Age Benefits Institution, Lahore and others v Muhammad Rafique and others 2026 PLC 107***, the Federal Constitutional Court held that the qualifying requirement under section 22(1) is mandatory, but that the statutory Schedule must be read harmoniously with that requirement. In particular, the Schedule's treatment of a qualifying fractional period of six months or more as a full year cannot be disregarded by executive circular. The Court also disapproved administrative directions which retrospectively defeated rights already accrued under the Act. This authority reinforces the need to determine the actual statutory entitlement, rather than to treat a later administrative communication as independently creating or extinguishing it.

11. Of immediate significance is section 22(3) of the Act. It provides that, subject to regulations, old-age pension shall commence from the month following that in which the insured person satisfies the conditions of entitlement; however, no allowance shall be payable retroactively for more than six months preceding the month in which the application for old-age pension is submitted. This

provision contains two distinct rules: the first fixes the substantive commencement of pension by reference to fulfilment of the conditions; the second restricts retrospective payment for a period lying before the application itself. They must be applied together without confusing the date of application with the date upon which EOBI eventually accepts or decides the claim.

12. The proviso to section 22(3) does not say that no arrears may exceed six months before the date of the Board's decision, nor does it confine the accumulated instalments falling due after a valid application to the six months immediately before sanction. If an insured person had fulfilled the requisite conditions and submitted an application in 2013, a subsequent decision in January 2020 would not, by the mere passage of time or by invocation of the six-month proviso, justify rejection of every pension instalment which became due after the application. On the other hand, where eligibility matured at a later date, payment cannot commence before the month following satisfaction of the statutory conditions; similarly, payment for a period preceding the application remains subject to the express six-month limit, the applicable regulations and any other relevant provision. The precise dates are accordingly decisive.

13. The acceptance of the petitioners' employment history in January 2020 also requires proper legal characterisation. Verification of past employment may be declaratory of an earlier factual state of affairs; it is not necessarily the event by which pension eligibility first came into existence. Equally, the verification of employment by itself does not establish that the prescribed pensionable age, qualifying contribution period and other statutory conditions stood satisfied in 2013. The language of the Board's direction that benefits were admissible from its decision must therefore be examined in the context of its full reasons, the claim papers and the governing Act. An administrative direction cannot override section 22(3); nor can this Court disregard the legal effect, finality or maintainability of proceedings concerning that direction without examination by the proper forum.

14. The Act itself distinguishes employer default from a deficiency in the employee's qualifying status. Sections 9 to 13 regulate contributions, maintenance and verification of records and statutory recovery from defaulting employers. Section 14, subject to the conditions stated therein concerning the insured person's registration and particulars, protects an insured person's rights where the employer defaults in payment of contributions. It follows that a missing entry in the contribution ledger cannot, without examination of the relevant safeguards, furnish an automatic answer against a worker whose insurable employment is otherwise duly established.

15. In ***Ameeruddin v Appellate Authority, Board of Trustees, EOBI and others 2026 SHC KHI 590***, decided together with ***Muslim Khan v Appellate Authority, Board of Trustees, EOBI and others 2026 SHC KHI 589*** on 09-03-2026, a Division Bench of this Court required EOBI to verify the employment record, pursue recovery of unpaid contributions from the employer and determine eligibility under the Act. The Court emphasised that mere non-payment by an employer cannot, without more, be visited upon an insured worker. The present case is distinguishable insofar as pension is already being paid; nonetheless, the reasoning is material while examining whether an earlier period of established service was omitted only for want of employer contributions, and while applying the safeguards and recovery provisions of the Act.

16. At the same time, the record and the submissions appear to encompass both old-age pensions and survivor pensions. Survivor pension is governed specifically by section 22B of the Act, including the applicable circumstances of death, the status of the deceased insured person and the qualification of the claimant. In ***Mst. Tasawar Begum v Employees' Old-Age Benefits Institution, Adjudicating Authority-III, Islamabad 2025 PLC 121***, the Lahore High Court examined the distinct statutory conditions governing entitlement under section 22B(2). That judgment underscores that a survivor's claim must be decided in accordance with the provision applicable to that class of benefit. The six-month proviso in section 22(3), which addresses applications for old-age pension, ought not to be mechanically applied to a survivor's claim without identifying the governing provision and any applicable regulations or limitation provisions.

17. Furthermore, sections 25 and 26 respectively deal with the manner of presenting benefit claims and the consequences of failure to claim within the prescribed period, subject in the latter case to the statutory power to condone delay for reasons beyond the control of the insured person or survivor. The petitioners' assertion of applications in 2013, their continued pursuit of the statutory remedies, and the subsequent verification proceedings therefore require documentary scrutiny. A claim made in time and continuously pursued is not to be treated without reasons as though it were first presented upon eventual sanction of pension. Conversely, the existence, completeness, continuance and legal effect of each original application must be established from the official record rather than assumed.

18. The jurisdiction conferred under section 33 expressly includes disputes concerning entitlement to a benefit and its amount and duration. The Institution must notify a decision in writing stating its reasons. Review under section 34 and appeal to the Board under section 35 are available subject to the statutory

conditions. The parties have referred to representations or appeals lodged in October 2022, but no final reasoned decision upon those claims has been demonstrated before us. In such circumstances, examination by the competent statutory authority, applying the correct interpretation of section 22(3), is preferable to a first-instance calculation of several individual pension accounts in writ jurisdiction.

19. The petitioners' reliance upon the order dated 10-09-2018 in C.P. No. 972 of 2016 does not lead to a different result. That order required verification of documents and processing of claims of eligible persons; it neither awarded arrears from 2013 nor rejected them. Similarly, the dismissal of CMA No. 833 of 2022 on 22-08-2022, with liberty to avail an appropriate remedy, cannot be equated with a substantive decision that the arrears were either legally payable or wholly barred. The claim of deliberate disobedience is not established merely because the petitioners contest the date from which benefits have been released.

20. Accordingly, the position may be summarised thus: an application filed in 2013 does not by itself prove eligibility in 2013; a favourable verification decision issued in 2020 does not by itself prove that eligibility first arose in 2020; and the six-month restriction in section 22(3) concerns the period preceding the month of application, not the years consumed in deciding a properly submitted claim. The statutory authority must settle these issues petitioner-wise and benefit-wise by applying the Act, the relevant regulations and the evidence. Until that determination is made, no unconditional declaration for the entire period 2013 to 2019, and no unconditional rejection of all pre-2020 arrears, can properly be recorded.

21. For the foregoing reasons, this constitutional petition is disposed of with the following directions:

(i) The competent EOBI authority shall ascertain the status and maintainability of the arrears-related representations, complaints or appeals stated to have been submitted in October 2022. Where any proceeding is pending before a legally competent forum, the matter shall be placed before that forum; if its present procedural status requires a fresh decision under section 33 or another available provision, the petitioners shall be informed of the lawful course and the matter shall be dealt with accordingly.

(ii) The competent forum shall, after providing a reasonable opportunity of hearing to the concerned parties, pass a speaking order preferably within sixty days of receipt of a certified copy of this order, recording petitioner-wise findings on the date of the original application, the

applicable pension category, the relevant age, qualifying insurable employment and the date on which the statutory conditions first stood satisfied.

(iii) For each old-age pension claim, section 22(3) shall be applied according to its two limbs: commencement from the month following fulfilment of statutory entitlement, and the restriction on retroactive payments exceeding six months before the month in which the relevant application was submitted. No period after the proven original application shall be rejected merely by wrongly calculating the six-month limit backwards from the sanction or decision dated 09-01-2020.

(iv) Where survivor pension is involved, the authority shall determine commencement, arrears and any limitation separately under section 22B and other applicable provisions and regulations. Section 22(3) shall not be applied indiscriminately to that distinct class of benefit.

(v) The authority shall consider the complete decision dated 09-01-2020, the original pension files, the relevant contribution and registration particulars, the Directorate of Labour material including the communication dated 07-11-2018, the orders dated 10-09-2018 and 22-08-2022, and the effect of sections 13, 14, 25, 26, 33, 34 and 35 of the Act wherever relevant. If employer default is relied upon, the authority shall specifically address the statutory safeguards and recovery mechanism, without treating mere non-payment as a conclusive answer to a claim otherwise supported by the record.

(vi) If arrears are found due, they shall be calculated with an intelligible month-wise statement and released in accordance with law within thirty days of the final decision, subject to any order lawfully obtained before the competent appellate forum. If a claim is rejected in whole or part, the reasons and precise statutory basis shall be stated and a copy of the decision promptly supplied to the affected claimant.

(vii) Nothing stated herein shall amount to an adjudication of the exact arrears of any petitioner, a declaration of entitlement to the entire period claimed, or an extension of any statutory limitation. All issues of maintainability, previous finality, entitlement and quantum shall be decided in accordance with law in the light of the observations made above. Pending application(s), if any, also stand disposed of.

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Shahzad Soomro