

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P No.D-294 of 2016

Date	Order with signature of Judge
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For direction.

14.09.2021

Mr. Ashraf Hussain Rizvi, advocate for the petitioner.

M/s Ali Asadullah Bullo and Manzoor Hameed Arain
advocates for EOBI.

At the outset, learned counsel for the petitioner contends that there is chance of settlement between EOBI and Amreli Steels Ltd. Since petitions No.4668/2015 and 1917/2017 were disposed of by order dated 07.09.2021, paragraphs No. 6 and 7 are reproduced hereunder:-

6. *What, prima facie, surfaces from above background could well be summarized as follows:-*

- i) *The EOBI, before 18th amendment, was the Federal subject and EOBI was functioning under Act 1976;*
- ii) *After 18th amendment the EOBI became subject of provinces but except enactment of Act 2014 by Sindh Province, the affairs relating to EOBI continued under Act, 1976 in other provinces;*
- iii) *The Sindh Province did enact the Act 2014 but could not establish the Institution;*

These had been the reasons because of which the extract of Minutes of 41st Meeting of CCI came as:-

“EOBI shall remain with Federal Government and WWF shall remain with the Federal Government till such time a mutually agreed mechanism is developed.”

We are surprised that when the position is so then why the petitioner (s) are avoiding to pay the contribution under EOBI Act 1976 when they do not dispute their registration as well payment of contributions before 18th amendment, particularly when nothing has been brought on record that they (petitioners) are paying contributions under Act 2014. None can take an exception to the fact that such position shall result into no benefit of the ‘employees’ but shall surely affect their entitlement as was/ is aimed under the EOBI whether it be Act 1976 or Act 2014. Further, learned A.A.G Sindh was fair enough that province will not claim any dues from the petitioner until issue is resolved between the federation and the provinces. The contribution by the employer is normally deducted amount of the employees themselves which by way of investment is to be returned to the employee(s) with profit, therefore, no useful purpose was / is appearing by withholding or avoiding payment of such contribution when the respondent by owning liabilities of receipt of such contribution, as arising from

Act 1976, are demanding the same. The petitioners can't take benefit of dispute between the Federation and Province, particularly when:-

- i) it is not the claim that the petitioners are being charged both by federation and province;
- ii) province itself agrees that till mutual settlement / agreement the federation shall continue with the subject;
- iii) the ultimate affectee (s) were / are employees and not the employer (s);

7. Under these circumstances, until the issue is resolved, without commenting on the ultra vires of enactment of the federal law we deem it fit that priority must be given to the employees as the Old Age Benefit law is a beneficial law, aimed for the benefit of the employees therefore in case contribution amount is not received by the EOBI ultimately it is the employees who will suffer. Hence these petitions are disposed of in terms that petitioners shall deposit the contributions and other dues according to EOBI Act 1976; all amount deposited with the Nazir shall be returned in favour of the EOBI established under the EOBI Act 1976. Petitioner shall continue old practice while depositing contribution with the Federal EOBI until issue is resolved between the Federation and the Province and legislation is being implemented and departments are functional, however, Provincial EOBI will not claim that amount from the employer (petitioners). It is pertinent to mention that if Province feel that they have any claim with regard to contribution deposited with the federal EOBI, they would be at liberty to sue that remedy against the Federal EOBI and will not drag the employer for that controversy.

Accordingly this petition is disposed of with direction to the employer / petitioner, he shall deposit contribution under EOBI Act with the Federal EOBI and Province of Sindh will not claim until issue is resolved by CCI and machinery available in Sindh. Disposed of.

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