

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP No.D-411 of 2013
(Baluchistan Engineering Work: Ltd v EOBI & others)
CP No.D-412 of 2013
(Die Casters v EOBI & others)
CP No.D-413 of 2013
(Alpha Engineering v EOBI & others)
CP No.D-414 of 2013
(Welcome Industrial Services v EOBI & others)
CP No.D-415 of 2013
(R.H.M Enterprises v EOBI & others)
CP No.D-416 of 2013
(Muhammad Hayat v EOBI & others)
CP No.D-417 of 2013
(Gold Star Enterprises v EOBI & others)

Date _____ Order with signature of Judge _____

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 30.01,2026

Mr. S.M. Iqbal, advocate for the petitioners
Ms. Meiu'een Ibrahim, DAG
Mr. Manzoor Hameed Arain Advocate
for the respondents
Barrister Moiz Ahmed Advocate for
EOBI in C.P. No. D-412 of 2013

ORDER

Adnan-ul-Karim Memon, J.- Through these petitions under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioners are seeking the following relief:

- i. *Uphold all the grounds urged above in favour of the petitioners and set aside both the above orders as illegal and arbitrary.*
- ii. *That rejecting the request to keep appeals pending till constitution of a valid Board of Trustees, could not deprive the petitioners from arguing the appeals on merits.*
- iii. *That the alleged interim stay order in the intra-court appeal cannot be treated as a final order in favour of the Institution.*
- iv. *Hold that the appointment of the Chairman and the reconstitution of the Board of Trustees of the Institution by the Federal Government by the two above mentioned notifications are illegal, invalid, and in violation of the Constitution.*

- v. *That the rejection of the objections, request of keeping appeals pending and dismissing/rejecting appeals in one go at the same time are with malafide intentions, be held as illegal against the all , cannons of justice, equity and fair play and the same deserve to set aside and rejected by this Court and the appeal be still as pending to be heard finally by the valid Board of under the Act.*
- vi. *That ignoring the Supreme Court decision reported at 201 I SCMR 1254, and the order dated 27.9.2011 of the Sindh High Court directly on the legal issues involved violates the law.*
- vii. *That the Chairman and the Trustees of the Institution are not competent to decide constitutional issues like the Superior Courts.*
- viii. *Order/direct to wait and appeals be heard after the final decision of the Lahore High Court in the intra-court appeal filed against the order/decision dated 12.04.2012 of the S.B of Lahore High Court.*
- ix. *That the officials of the Institution have no powers under the Land Revenue Act, 1967, based on the interpretation of the exact provision of law in the case reported at 2009 PLC (CS) 799 decided by this Court.*
- x. *That claims of the Institution as if being a department of the Federal Government instead of a statutory institution are illegal and in violation of law.*
- xi. *Give any other orders and reliefs in the circumstances of the case.*

2. The case of the Petitioners is that they are duly registered Public Limited Companies as well as contractors, all covered under the Employees' Old-Age Benefits Act, 1976 ("the Act"). The Petitioners have regularly paid EOBI contributions, and all records up to 30.6.2009 stand duly verified, settled, and cleared by the Institution. It is submitted that despite this settled position, Respondent No.2 arbitrarily raised demands for the periods July 2009 to June 2011 without providing any lawful basis, month-wise details, or calculations, despite repeated written requests by the Petitioners. The Petitioners categorically offered verification through attendance registers and pay-sheets strictly in accordance with Section 2(p) of the Act (as amended on 29.06.2005), which adopts minimum wages under the Minimum Wages for Unskilled Workers Ordinance, 1969, as the sole basis for contribution. However, Respondent No.2 acted mala fide, ignored the statutory scheme, and insisted upon irrelevant account books with the sole intent to harass the Petitioners.

3. Learned counsel submits that the impugned demands and subsequent recovery notices issued under the Land Revenue Act, 1967, are wholly without jurisdiction, illegal, and contrary to settled law, as repeatedly held by this Court. Despite the pendency of lawful objections, Respondent No.3

dismissed the Petitioners' complaint under Section 33 of the Act in a mechanical manner, whereafter the Petitioners preferred an appeal under Section 35 of the Act. It is further submitted that after the 18th Constitutional Amendment, labour stands devolved to the provinces, and the Federal Government ceased to have lawful authority over EOBI. The appointment of the Chairman, reconstitution of the Trustees, and assumption of control over EOBI by the Federal after 19.4.2010 are unconstitutional, illegal, and have already been done so by superior courts, including the Lahore High Court. Learned counsel submits that during the pendency of an intra-court appeal on the very issue of devolution, the Chairman of the Institution, acting without lawful authority and with mala fide intent, hurriedly fixed dozens of long-pending appeals on short notice. On 14.6.2012, no arguments on merits were heard; rather, the Petitioners only raised jurisdictional and constitutional objections and requested that the appeals be kept pending till constitution of a valid Board of Trustees. Without deciding those objections separately, the Chairman passed a composite order dated 18.6.2012 dismissing the entire appeal, which was received by the Petitioners much later. It is submitted that the impugned order is a nullity in law, passed in violation of due process, principles of natural justice, and binding constitutional precedents. The Chairman lacked lawful appointment and could not sit or decide appeals as a Trustee. The alleged interim stay order in the intra-court appeal was never supplied to the Petitioners and, in any event, could not be treated as a final decision authorizing arbitrary action' Learned counsel contends that the impugned orders under Sections 33 and 35 of the Act are tainted with mala fides, passed without jurisdiction, and in blatant disregard of the 18th Amendment, Article 270-AA, and authoritative judgments of the Supreme Court and this Court. The simultaneous rejection of objections, refusal to defer proceedings, and dismissal of appeals in one stroke amounts to abuse of power and mockery of justice. It is, therefore, submitted that the impugned orders are liable to be set aside, the appeals be declared pending, and the matters be directed to be heard afresh by a lawfully constituted Board of Trustees, strictly in accordance with the Constitution and the Act. He prayed to allow these petitions.

4. Learned DAG, assisted by counsel for the respondents, submitted that the instant Petitions are not maintainable and liable to be dismissed at the threshold. The Petitioners have failed to provide any documentary proof such as the memorandum/articles of association or board resolution establishing

that the Petition was duly authorized. The impugned decision dated 18.6 2012 of the Appellate Authority of EOBI was rendered in accordance with due process under the Employees Old-Age Benefits Act, 1976 ("EOB Act"), a valid federal law protected under Article 270AA(6) of the Constitution. Consequently, the Petitioners are not aggrieved under Article 199 of the constitution. It is added that 19. any dispute regarding administrative or supervisory control of EOBI falls within the exclusive domain of the Federal or Provincial Governments and, if contested, before the Supreme Court under Article 184(1). The Petition is a disguised attempt to evade statutory contributions under the EOB Act, which are payable on wages defined under the Minimum Wages for Unskilled Workers Ordinance, Petitioners failed to maintain employee records or file returns under 10 and 12 of the EOB Act, prompting lawful inspections and demand notices under section 12(3) and 13(2), recoverable as arrears of land revenue. It is further submitted that the EOB Act and EOBI remain valid federal statutory bodies post-Eighteenth Amendment, with administration transferred to the Ministry of Human Resource Development and provincial representatives continuing on the Board of Trustees under Section 7. Petitioner's complaints and appeals under Sections 33 and 35 were dismissed, and intra-court appeals filed by respondents remain pending. Alleged irregularities raised by the Petitioners are false or selective, and the Petitioners acted mala fide to evade contributions. Being based on factual disputes and misinterpretations of law, the Petition cannot form the basis of a constitutional petition. Learned DAG and counsel for respondents, therefore, submit that the Petitions are wholly misconceived and liable to be dismissed with costs.

5. We have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

6. The Petitioners' case primarily revolves around challenging demands raised by the Employees' Old-Age Benefits Institution (EOBI) for the periods July 2009 to June 2011, alleging mala fide action and procedural irregularities in the issuance of the impugned orders dated 29.12.2011 and 18.06.2012. Learned counsel for the Petitioners contends that the demands were raised without a lawful basis or proper computation, that the verification was sought on irrelevant grounds, and that the appeals were dismissed by an unlawfully constituted authority without due process and in violation of the 18th Amendment, Article 270-AA of the Constitution, and binding jurisprudence.

An excerpts of orders dated 29.12.2011 and 18.6.2012 are reproduced as under:

"Excerpt of order da 29.12.2011

3. To resolve the dispute, this Authority proposed to constitute a commission to check books of accounts/records of the establishment for determining actual liability but the complainant stated that there is no need of commission to ascertain the matter

4. Having heard arguments of both parties and perusal o/ record available in the file this complaint is dismissed and upheld the demands issued by the region. "

Excerpt of order doted 18.6.2012

25. The vires of the EOB Act were challenged before the Honorable Lahore High Court in Syed Imran Ali Shah vs. Govt. of Pakistan & others (lf.P. No. 1579/2012) and Atta Mohammad Khan vs. The Government of Pakistan & Others (W.P No. 5081/2012), EOBI filed an Intra Court Appeal against the judgment of the Honorable Lahore High Court in the aforesaid writ petition vide LC.A. No. 283/2012, titled as s' Old-Age Benefit Institution vs. Atta Mohammad Khan etc. The Divisional Bench of the Honorable Lahore High Court vide its dated 03.05.2012 has been pleased to grant stay with the clear direction that impugned order is suspended.

26. In view of above the order of the Adjudicating Authority dated 29.12.2011 is hereby upheld, as it suffers from no illegality. The appeal is hereby dismissed in terms of the above."

7. On the other hand, learned DAG and counsel for the Respondents have submitted that these Petitions are not maintainable in constitutional jurisdiction under Article 199 of the Constitution. The Respondents have demonstrated that the impugned order dated 18.6.2012 was passed in accordance with the Employees' Old-Age Benefits Act, 7976 ('EOB Act'), which remains a valid federal statute protected under sub-clause (6) of Article 270AA of the Constitution. Under Article 270A, all federal laws in force immediately before the commencement of the Eighteenth Constitutional Amendment continue to operate until amended or repealed by a competent authority, and no obligation exists for automatic transfer of such federal schemes to provincial control. Furthermore, the Petitioners have failed to place on record any documentary evidence, such as the memorandum and articles of association or a board resolution showing that the Petitioner was duly authorized by the Board of Directors of the corporate entity. Without such proof, the locus standi and authority of the Petitioners to institute the constitutional petition cannot be established, which is a fundamental requirement for maintainability of such a writ petition.

8. It is well-settled that constitutional jurisdiction under Article 199 of the Constitution cannot be invoked to resolve purely factual disputes or questions

of fact, such as the computation of statutory contributions, when alternative statutory remedies exist. In cases where a statute provides specific enforcement and appeal mechanisms, such as Chapters III and proceedings under Sections 33 and 35 of the EOB Act, petitioners cannot bypass these remedies and seek constitutional relief simply because they are dissatisfied with the outcome. It is well-settled that where a statute creates a right and prescribes a remedy, the statutory procedure must be followed before approaching this Court under constitutional jurisdiction.

9. Moreover, the Petitioners' challenge to administrative and supervisory control of EOBI post-18th Amendment is a dispute between Governments regarding devolution of powers that, if legitimately raised, falls exclusively within the jurisdiction of the Supreme Court under Article 184(1) of the Constitution, not Article 199. This aligns with the settled legal position that constitutional petitions are not maintainable where alternative remedies or specialized statutory fora exist to address grievances.

10. Even if the Petitioners' grievances were accepted on technical grounds, EOB Act g compulsory social insurance and contributions, which are fundamentally beneficial and welfare-oriented legislation enacted for the 6 protection of employees, a principle consistently recognized by courts when interpreting welfare statutes in favour of employees.

11. For these reasons, the Petitioners' case is wholly misconceived and legally untenable. The impugned orders were passed in accordance with law and procedure. The Petitioners have not demonstrated any arguable constitutional violation that would warrant interference.

12. Accordingly, the captioned Petitions are dismissed along with pending application(s) with no order as to costs.

Office to place a copy of this order in the connected petitions.

JUDGE

JUDGE