

Order Sheet
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

CP No. D- 1761 of 2011
CP No. D- 1763 of 2011
CP No. D- 614 of 2012

BEFORE :

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Adnan Iqbal Chaudhry

Date of hearing 01.12.2021

Petitioner(s): Syed Imran Ali in CP No. D- 1761 of 2011,
Muhammad Jalil in CP No. D- 1763 of 2011 & Mst.
Akbaro in CP No. D- 614 of 2012 through
Ms.Naseem Bano Abbasi, Advocate.

Mr. Ghulam Muhammad Soomro, Advocate

Mr. Ayaz Ali Rajpar, Asstt: A.G.

ORDER

ADNAN-UL-KARIM MEMON, J: - The case of the petitioner(s) is that they were employees of M/s. Textile Corporation of Pakistan (Ltd.) and at present running under the name of Bajwa Textile Mills Ltd; subsequently they moved the application to respondents 2 & 3 for pension which was allowed; their pension started but subsequently stopped, the petitioners, therefore, preferred appeals to respondent No.1 The Appellate Authority, Board of Trustee Employees' Old-age Benefits Institution who vide common decision dated 24.3.2011 dismissed the appeals of petitioners.

2. Learned counsel for the petitioners argued that the impugned decisions of respondents 1 to 3 are bad in law as the same is based upon conjectures and surmises and it has been passed without the opportunity of hearing to the petitioners and the law requires that no one should be condemned unheard; that valuable rights of the petitioners are involved, if the impugned decision is not set-aside the petitioners will be seriously prejudiced; that the labor law benefits the labor class, thus it should be interpreted liberally; that the

petitioners were enjoying pensionary benefits since years, thus the law of estoppel is fully applicable in this matter. She lastly prayed for allowing the instant petition.

3. We have heard the learned counsel for the petitioners and perused the material available on record.

4. The decision of the adjudicating authority of EOBI concurred by the appellate authority vide common order dated 24.3.2011 in Appeal No. HYD-003/2008 explicitly show that the petitioners were receiving an old-age pension for some years but on the verification of their insurable employment their record was found bogus, hence, they stopped their pension and issued them Show Cause Notices. The reply of said notices were found unsatisfactory hence their pensions were not restored. The appellants being aggrieved by and dis-satisfied with the aforesaid decisions filed petitions before the learned Adjudicating Authority-I. The authority also rejected their respective petitions under Section 33 of EOB Act, 1976, hence they filed appeal. Their appeals also met with the same fate with the following reasoning:-

“The representative of the respondent has denied the period of insurable employment claimed by the appellants. He relied upon the general register of the employer according to which insurable employment was suspicious. The representative of the respondent submitted that the institution reserves the right to stop pension if it is subsequently proved that the pension was granted on wrong information and on the basis of bogus/fictitious documents.

The appellants were provided a full opportunity of hearing and deducing the evidence to their claim by the Appellate Authority, but the appellants were failed to prove the authenticity of their claim nor produced any evidence in the support of their claim. In order to ponder in this matter a commission comprising of Mr. Raja Faizul Hassan Fiaz, DDG (Law), and Mr. Habibudin Junaidi, Member BOT was constituted.

The commission has submitted a report wherein, it is stated that it has examined the produced record in detail and observed that the pensions were issued to the appellants on bogus/fictitious evidence.

In view of the above, the request of the appellants for restoration of their pension is hereby rejected. The appeals are therefore, dismissed.”

5. The question involved in these petitions is whether this court under Article 199 of the Constitution should interfere in the concurrent findings of facts and law or otherwise.

6. Primarily the adjudicating authority has deliberated the issue and after providing full opportunity of hearing to the petitioners decided against them with certain reasoning as discussed supra. The appellate court was also of the same view. Learned counsel for the petitioners has not been able to show to us any misreading of the evidence. Thus in our view no case for further appraisal of evidence is required at our end under Article 199 of the constitution.

7. These petitions are found to be not maintainable, therefore are dismissed with no order as to costs.

JUDGE

JUDGE

Karar_hussain/PS*