

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Constitutional Petition Nos. D – 2232 of 2016 and 2307 of 2016

Order with signature of Judge(s)

Constitutional Petition No. D – 2232/2016

1. For hearing of CMA No.10030/2016
2. For hearing of main case

Constitutional Petition No. D – 2307 of 2016

1. For hearing of CMA No.10036/2016
2. For hearing of main case

21.09.2021

Mr. Manzoor Hameed Arain, advocate for EOBI
Mr. Muhammad Nishat Warsi, DAG.
Mr. Abraiz, advocate for EOBI along with Mr. Qadeer Ahmed, Director (Law)
EOBI

None present for the petitioner. These petitions are listed since 2016. Matter was listed on 28.3.2017 and 19.4.2017. Issue raised in these petitions pertains to contribution of workers. Petitioners are employers and contends that they are not liable to pay the contribution as demanded by the EOBI (Federation) as after 18th Amendment, this subject is Provincial, whereas in Constitutional Petition No. D – 4668/2015, Secretary Labour appeared with contention that as per CCI (Council of Common Interests) decision, the Provincial Board is not functional, hence that petition was disposed of. Relevant paragraph 7 of the order passed in Constitutional Petition No. D – 4668/2015 is reproduced as under: -

*“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, captioned petitions are disposed of along with listed applications in the same terms and conditions. Office to place a copy of this order in connected petition.

JUDGE

JUDGE