**JUDGMENT SHEET**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**

**W.P. NO. 3336 OF 2023**

**MUHAMMAD SHAFIQUE**

**VS**

**EOBI THROUGH ITS CHAIRPERSON, ETC**

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| **Petitioner by** | **:** | **Raja Muhammad Rafique Janjua, Advocate. Petitioner.** |
| **Respondents by** | **:** | **Mr. Khurram Mahmood Qureshi Advocate for the Respondents.** |
| **Date of hearing** | **:** | **18.09.2025.** |

**MUHAMMAD AZAM KHAN, J.**

**1.** Through the instant Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the **"Constitution"**), the Petitioner [Muhammad Shafique] has impugned the decision dated 21.01.2022 **("Impugned Decision")** issued by the Adjudicating Authority-III, EOBI and also impugned the order dated 18.09.2023 **("Impugned Order")** issued by the Convener/Member, Appellate Authority, Board of Trustees, Employees' Old-Age Benefits Institution.

**2.** The brief facts of the case as per the Memo of Petition are that the Petitioner was employed as Manager at M/s Shan CNG Khanna Pul, Rawalpindi from 01.07.2003 to 09.09.2014 (11 years, 2 months, 8 days) and later at M/s Al-Haseeb CNG Station from 10.09.2014 to 02.07.2018 (3 years, 9 months, 22 days), making a total insurable employment of 15 years. He was registered with the EOBI on 01.07.2003 under Registration No. 4600E216857, and his age at the time of registration was 45 years. The Petitioner applied for pensionary benefits, which were processed under PPO No. 4600570516 dated 08.12.2021, to get Old-Age Grant benefits of Rs. 32,000, by forfeiting the pensionary benefits. Aggrieved, he filed an appeal under Section 33 of the Employees' Old-Age Benefits Act, 1976 **("EOB Act")** before the Adjudicating Authority-III, Islamabad, which was disposed of on 21.01.2022 with directions to Respondent No. 2 "to check the

comprehensive record of all the employees including this employee as short payment since registration of the establishment with the EOBI, issue demand, initiate recovery and after recovery of contribution award due benefits to the Petitioner and report to this Authority". Following this, the Petitioner filed a second appeal under Section 35 of the EOB Act, before the Board of Trustees, EOBI, Karachi, which was dismissed on 18.09.2023. Being aggrieved by the decision dated 21.01.2022 and order dated 18.09.2023, the Petitioner has filed the instant Writ Petition.

**3.** Learned counsel for the Petitioner argued that this Court's consolidated judgment in W.P. No. 41 of 2020 dated 23.12.2020 (2021 PLC (CS) 1200) clearly defines three categories in paragraph 13, and the Respondents must decide the Petitioner's case accordingly. Despite providing a copy of this judgment, the Respondents have refused to comply. The Petitioner approached lower forums but was denied relief, compelling him to seek constitutional remedy. The Petitioner invoked Articles 2-A, 4, and 25 of the Constitution, emphasizing the right to fair treatment, justice, equality before the law, and due process. The Respondents' conduct amounts to discrimination and violation of these fundamental rights. As no other remedy is available, the Petitioner seeks acceptance of this Writ Petition, setting aside the orders dated 21.01.2022 and 18.09.2023, summoning the Respondents with records, and directing implementation of the judgment dated 23.12.2020, including issuance of the PPO by Respondent No. 3.

**4.** Learned counsel appearing on behalf of the Respondents resisted the arguments advanced by the learned counsel for the Petitioner and prayed for dismissal of the instant Petition.

**5.** I have heard the learned counsel for the Parties and perused the record with their able assistance.

**6.** The Petitioner has asserted that he remained in the service of M/s Shan CNG and M/s Al-Haseeb CNG for a period of 15 years and, on that basis, claimed entitlement to Old-Age Pension (OAP). However, upon verification of the contributory record, it has been established that the Petitioner's actual contributory service falls short of the statutory period of 15 years. Therefore, he is not eligible for Old-Age Pension under the applicable law. The Respondent Institution duly

processed the Petitioner's claim and, in accordance with Section 22 of the EOB Act, rejected his request for pension. However, considering the available record, the claim was accepted under Section 22A of the Act for Old-Age Grant (OAG) on the following grounds:-

> *(i) One of the aforesaid employer of the petitioner namely, M/s Shan CNG is already a closed unit since long; and*
>
> *(ii) M/s Al-Haseeb CNG could not provide any record to justify the service of the petitioner.*

**7.** Section 9 of the Employees' Old-Age Benefits Act, 1976 provides that no contribution shall be payable in respect of an insured person who is either in receipt of Old-Age Pension under the Act or has attained the age of sixty years (or fifty-five years in the case of a woman). A plain reading of the above-referred provision places a restriction upon the respondent institution from collecting contributions in respect of insured persons under the following two circumstances: -

> (a). When the insured person is in receipt of an old-age pension, or
>
> (b) When the insured person has attained the age of sixty years in case of males and fifty-five years in case of females.

**8.** The case of the Petitioner leaves no room for ambiguity upon a plain reading of the relevant statutory provisions discussed above. A literal interpretation of the proviso to Section 9 of the EOB Act makes it abundantly clear that the Institution is barred from collecting contributions in respect of an insured person who has attained the age of superannuation. As the Petitioner has crossed the prescribed age limit, no contribution is payable in his case.

**9.** Further**,** the Petitioner has placed strong reliance on the consolidated judgment of this Court in W.P. No. 41 of 2020, which definitively interprets the concessional clauses under Section 22(2) of the EOB Act. The Court in that judgment set aside the Respondent's Circular No.3/2017-18 and established a clear legal principle: the benefit of a reduced qualifying period for pension is to be determined based on the insured person's age at the time of their registration with the EOBI, creating three distinct categories as outlined in paragraph 13 of the judgment. The Petitioner, who was 45 years old at the time of his registration on 01.07.2003, squarely falls into the third category, which requires a minimum

of five years of insurable employment. His claim of over 15 years of service, if verified, far exceeds this statutory threshold. Therefore, the Petitioner's argument that his case should be decided in accordance with this judgment is legally sound.

**10.** However, the application of the W.P. No. 41 of 2020 judgment is predicated on the Petitioner first substantiating his foundational claim of insurable employment through verifiable contributory records. The core dispute in this case is not the legal interpretation of Section 22(2), but a factual one: the Petitioner's inability to provide sufficient evidence from his employers, M/s Shan CNG and M/s Al-Haseeb CNG, to prove that he completed the contributory period required even under the concessional category. One employer is a closed unit with no available records, and the other has failed to provide any justification for his service. The Respondents, in their order dated 21.01.2022, have already directed a comprehensive check of records and recovery of contributions, but this process is contingent on the existence of verifiable data. In the absence of such proof, the Petitioner cannot avail the benefit of the concessional period, regardless of its legal correctness.

**11.** It is essential to understand that the primary objective of the EOB Act is to provide benefits to insured persons who are not only duly registered under the Act but in respect of whom timely contributions have been made by the employer. The law does not protect the interest of any insured person against whom regular and uninterrupted contributions have not been deposited. This is because such contributions form the financial backbone of the system and are invested by the Institution to disburse benefits to eligible beneficiaries.

**12.** The law prescribes specific qualifying conditions for claiming Old-Age Pension (OAP) under Section 22 of the Act. An insured person must (i) have attained the age of sixty years (fifty-five years in the case of a woman), and (ii) possess a minimum of fifteen (15) years of insurable employment to qualify for OAP.

**13.** However, certain relaxations are available in terms of service duration, subject to strict conditions under Sections 22(2) and 22(3) of the EOB Act. If an insured person joined the EOBI scheme on 01.07.1976 or thereafter, on the date the Act became applicable to the relevant industry or establishment, and was aged

between forty and forty-five years at the time of joining, then the qualifying period is reduced to seven (7) years. In case the insured person was above forty-five years, he must complete at least five (5) years of insurable service to become eligible for old-age pension.

**14.** It is critical to emphasize that these relaxations are conditional and connected to the date of applicability of the EOB Act to the employer's establishment, not merely the date of joining by the insured person. If the insured person joined employment after the EOB Act became applicable to the establishment, then the benefit of the relaxed qualifying period cannot be extended to such a person. The Petitioner joined the CNG industry on 01.07.2003, long after the EOB Act became applicable to such establishments. Therefore, the benefit of the relaxed qualifying period under Sections 22(2) and 22(3) cannot be extended to him, and he remains subject to the standard requirement of 15 years of contributory service. Therefore, both the date of applicability of the Act to the employer and the date of joining of the insured person must coincide for the relaxation clause to apply.

**15.** Moreover, the provisions of Section 22(2) of the EOB Act are of general application and cannot be interpreted in an employee-specific manner. These provisions must be read in conjunction with the date on which the Act became applicable to the employer/establishment. The interpretation of this provision cannot be divorced from the institutional framework of the EOBI and the legislative intent underlying the statute.

**16.** In the present case, the Petitioner, as per the available record, does not meet the statutory threshold of fifteen (15) years of insurable employment required for entitlement to Old-Age Pension under Section 22 of the EOB Act. His claim of having completed the requisite service could not be substantiated through credible documentary evidence.

**17.** Under such circumstances, the Petitioner may only be considered for Old-Age Grant (OAG) under Section 22-A of the EOB Act. This provision is designed as an alternative benefit for those insured persons who, despite attaining the age of superannuation, have not fulfilled the required service period for pension eligibility. Given the Petitioner's failure to meet the conditions for OAP, he falls

within the purview of Section 22-A, and his case has rightly been processed under that provision.

**18.** In view of the above discussion, the instant petition is hereby **dismissed**.

**(MUHAMMAD AZAM KHAN)**
**JUDGE**

***Announced in the Open Court on _____.***

**JUDGE**

***//Sajid//****