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Payment of Arrears & Collection of Payment through EOABI Portal

We would like to bring to your notice that EOBI offices have stated issuing notices to companies for payment of arrears on the basis of the judgment of Honorable Sindh High Court dated 03-12-2021. You are aware of the background of this case whereby through the EOBI notifications, the Federal Government's amendment in the Minimum Wage Ordinance 1969 applicable to the Islamabad Capital territory was made applicable to all the provinces. These notifications were challenged in all the Provincial High Courts and stay orders were issued under the said notification by all the Honorable Provincial High Courts through interim orders.

Later the Honorable High Courts of Lahore through its judgment dated 13-05-2016 in Case No. W.P. 10433/2016 finally disposed of the matter by declaring that the impugned circular dated 01-03-2016 issued by EOBI in pursuance of the aforesaid amendment act has no application to the Province of Punjab. As a consequence, the demand raised against the petitioners by EOBI in Punjab in pursuance to the impugned circular was held to be unconstitutional and illegal and hence set aside.

Similarly, Peshawar High Court through its Judgment dated 30-01-2018 in case no. W.P. 1465-P/2016 declared that the impugned notices issued by the EOBI in pursuance of the amendment act is not applicable to the Province of Khyber Pakhtunkhwa and therefore the upward demand against the petitioners by the EOBI in KP in pursuance to the impugned notices is therefore held to be unconstitutional and illegal and hence set aside.

The matter is still pending in the Balochistan High Court and is awaiting a final order.

The Sindh High Court disposed of the CP by its judgment dated 03-12-2021 in which the petitions were dismissed, among others, mainly on the ground that since the impugned notification was issued under the EOBI Act 1976 which was not challenged by the petitioners, the instant petitions were not tenable in law.

The Employers Federation of Pakistan along with petitioner companies has already filed an appeal against the Judgment of the Sindh High court in the Supreme Court of Pakistan and the matter is pending before the Supreme Court for admission and hearing.

You will appreciate that in the light of the above background, it is extremely unfair for the EOBI to issue notices, demanding arrears of contribution at an enhanced rate and using coercive means for its recovery, particularly when the matter is sub judice before the Supreme Court.

Moreover, it has also been brought to our notice that EOABI has decided to collect contributions through its portal and has directed banks not to accept contributions paid by the companies at a rate less than Rs. 13,000/- per month and the same has been notified for not only Sindh but also Punjab and Peshawar.

You will appreciate that since the High Court of Lahore and Peshawar have set aside EOABI notification demanding contribution at rates demanded in the impugned notifications, the EOABI's act of setting the above limitation in the portal system may amount to contempt of Court and needs to be immediately withdrawn in the Province of Punjab and KP. If it is not done, this will only result in unrest and frustration among our members and they may once again be forced to approach the Court of Law for forced demand of contribution by EOBI at higher rates through the portal system which is meant to facilitate rather than creating barriers in the smooth payment process.



EMPLOYERS' FEDERATION OF PAKISTAN

A Company Setup Under Section 42 of The Companies Act 2017
The Apex Body of Employers of Pakistan

We understand that the dialogue process initiated by EFP with EOBI under your leadership was a genuine and sincere exercise in improving the current stalemate caused by the litigation environment which somehow could not be carried out because of reasons best known to us.

EFP is still of the opinion that the social dialogue should continue to find a better solution to the current issues and challenges faced by Employers and EOBI based on voluntary initiatives.

We look forward to the pragmatic consideration of the above point. EFP will be most willing to discuss the above matter in a meeting which you may like to convene on the subject as soon as possible if you agree to the proposition.

With warm regards,

Ismail Suttar
President

Zaki Ahmed Khan
Vice President