

IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No.D-2868 of 2024
(*Muhammad Awais versus Province of Sindh and others*)

Before:

Justice Mohammad Karim Khan Agha
Justice Adnan-ul-Karim Memon

Date of hearing & Judgment: 29.09.2025

Mr. Muhammad Hussain Raza, advocate for the petitioner.
Mr. Ali Safdar Depar, Assistant Advocate General Sindh.

J U D G M E N T

Muhammad Karim Khan Agha, J. Through this petition the petitioner seeks to call record and proceedings of recruitment for the post of police constable and after scrutinize declare that the petitioner is eligible for the appointment in the Sindh Police Department as well as direction may be issued to the competent authority to issue offer of appointment letter to the petitioner as he has already been selected by Police Department, Government of Sindh.

2. The petitioner challenges the non-issuance of an appointment order for the post of Police Constable (BPS-07) in the Special Protection Unit (SPU) CPEC Sindh despite the petitioner's successful completion of the recruitment process. The recruitment was advertised on March 6, 2023, for 1500 vacant seats, requiring an age of 18-28 years, Matric qualification, and specific physical standards.

3. The key issue is that the Sindh Police Department's letter dated March 27, 2024, listed the petitioner among 203 candidates whose appointment orders were withheld, specifically citing the reason of being a "Double Domicile holder" (Serial No. 7). The petitioner claims that to resolve this, they applied to the Deputy Commissioner, Toba Tek Singh, Punjab, for cancellation of their Punjab domicile on February 17, 2024, which was officially cancelled on February 19, 2024. The petitioner submits that despite submitting proof of this cancellation to the Sindh Police authorities, the respondents have failed to issue the appointment order.

4. The learned counsel for the petitioner argues that the petitioner has been unjustly deprived of their appointment as a Police Constable despite successfully clearing the SIBA Testing Service (STS) test. His key points of the argument are that the petitioner has submitted the Cancellation of Domicile Certificate (from Toba Tek Singh) dated February 19, 2024, resolving the "Double Domicile" objection. He added that other successful candidates have received appointment letters, but the petitioner has not, which is a clear violation of Article 25 of the Constitution (Equal Protection of Law). He submitted that The refusal is an illegal

act, and the Rule of Consistency applies, supported by the precedent set in the judgment rendered by the Supreme court in the case of *Qaiser Khan Vs Government of Khyber-Pakhtunkhwa* **2021 PLC (C.S) 738**, which directed the issuance of appointment orders in a similar case. The learned counsel argues that the petitioner's production of a Karachi domicile implies the renunciation of the Toba Tek Singh domicile. Furthermore, since the respondents have not alleged or provided material evidence that the Sindh domicile was obtained through malpractice or mis-declaration, the Police Board's cancellation of the candidature was unjustified. The counsel asserts the respondents' action is discriminatory and a transgression of fundamental rights, and therefore, the petition may be allowed, and the appointment order may be directed to be issued in favor of the petitioner.

5. The Learned Assistant Advocate General (AAG) opposed the petition, arguing that the petitioner's selection was rightfully withdrawn. The key points of the AAG's argument are that the recruitment for 1500 Police Constable (BPS-07) posts was exclusively for candidates holding a Sindh Province Domicile. The petitioner, Muhammad Awais, was provisionally selected subject to fulfilling all formalities. During document verification, a report from the DIGP SPU (CPEC) dated February 16, 2024, confirmed the petitioner had a "Double Domicile/PRC" (also issued from Punjab Province). The Deputy Commissioner, Malir, Karachi, reported that, as per policy, such double domiciles are liable to be cancelled. The Sindh Police Recruitment Board (SPRB), in its meeting on February 26, 2024, recommended the withdrawal of the petitioner's selection and rejection of his case, which was formally communicated on March 27, 2024. He argued that the legal requirements to establish residence in a new province for official documentation, i.e., Domicile Certificate under the Federal Law, which requires proof of ordinary residence for at least one year immediately before the application, with the intention to reside there permanently. He submitted that a citizen can only hold one Domicile Certificate at a time; obtaining a new one requires renouncing the previous. He added that the Permanent Residence Certificate (PRC) in Sindh under the Provincial Rule 1971 imposes stricter requirements for local government jobs and quotas. It requires the applicant (if not born in Sindh) to have resided in Sindh or been educated there for at least three years. Therefore, the AAG requested the dismissal of the petition on the aforesaid analogy.

6. We have heard learned counsel for the parties and considered the record with their assistance.

7. The questions for our determination are whether the subsequent cancellation of the petitioner's Punjab domicile (Toba Tek Singh) effectively cures the initial defect of "Double Domicile," thereby entitling the petitioner to the appointment order for the post of Police Constable and whether the

cancellation of the second domicile after the recruitment committee's objection but before the final withdrawal of the appointment qualifies as timely and sufficient fulfillment of the required "codal formalities" for a Sindh-domicile-only post? Whether the petitioner's eligibility is determined strictly on the date the objection was raised/selection was withdrawn, or on the date the defect was remedied by the petitioner.

8. It appears from the record that on March 6, 2023, the Sindh Police Department, Karachi range, advertised 1,500 vacant posts (BPS-07) for the Special Protection Unit (SPU) CPEC Sindh based on Sindh province Domicile. Eligibility: Age 18–28 years; Matriculation. Physical Standards: Height minimum 5'5"; Chest minimum 33" (with 1.5" expansion); 1600-meter run in 8 minutes. Petitioner, Muhammad Awais, was provisionally selected subject to fulfilling all formalities. During his document verification, a report from the DIGP SPU (CPEC) dated February 16, 2024, confirmed the petitioner had a "Double Domicile/PRC" (also issued from Punjab Province). The Deputy Commissioner, Malir, Karachi, reported that, as per policy, such double domiciles are liable to be cancelled. Petitioner has admitted that at the time of recruitment, he possessed double domiciles: one domicile certificate of Punjab (Toba Tek Singh), and a second of District Malir dated 7.9.2021 and PRC Certificate dated 19.6.2023; thus, he moved an application on 17.2.2024, to the Deputy Commissioner Toba Tek Singh for cancellation of his Domicile certificate No.TTS-13695-2012 whereby his original Domicile was cancelled vide office order dated 19.2.2024. However, at the same time, he also possessed the District Malir Domicile Certificate dated 7.9.2021 and PRC Certificate dated 19.6.2023.

9. Primarily, the post of Police Constable was/is a Sindh-domicile-only position, and having two domiciles simultaneously at the time of initiation of the recruitment process is considered wrong and violates the fundamental principle that a person can only possess one domicile at a time under law. Petitioner's Position (Attempting to Cure the Defect), the subsequent cancellation of the Punjab domicile cures the initial defect, making the petitioner compliant before the final withdrawal. Refusing the appointment after the defect was remedied is discriminatory (violating Article 25) and unjust. Respondent's Position (Strict Application of Rules), having two domiciles at the time of scrutiny/objection, constitutes a fatal defect that justifies the initial withdrawal of the selection.

10. Primarily, eligibility must be determined strictly on the cut-off date or the date the defect was discovered, and non-compliance at that time was/is grounds for rejection of the candidature of the petitioner. The Supreme Court in the case of District Education Officer (Female), Charsadda vs. Sonia Begum (2023 PLC(CS) 392) clarified that a person cannot obtain multiple domiciles as it is an

illegal act. This judgment confirms the basis for the Recruitment Board's initial objection.

11. The ability to change domicile from one province to another is primarily governed by the distinction between a Certificate of Domicile under the Pakistan Citizenship Act, 1951, and a Permanent Residence Certificate (PRC), particularly in Sindh. The key principles regarding the duration of residence for a Domicile Certificate under the Pakistan Citizenship Act, 1951, which governs the core Domicile Certificate, require a minimum period of residence to establish a new place of domicile within Pakistan. Residence Requirement is that a person must satisfy the concerned authority, i.e., the Deputy Commissioner, that they have been ordinarily resident in that area for a period of not less than one year immediately before making the application, with the intention to reside there permanently or indefinitely. A citizen of this country can only hold one Domicile Certificate at a time under the law discussed supra. The act of obtaining a new domicile effectively indicates the renunciation of the previous one, even if the cancellation process is a separate administrative step. The requirement for a Permanent Residence Certificate (PRC) in Sindh is more stringent, particularly for local jobs and quotas, and is governed by the Sindh Permanent Residence Certificate Rules, 1971. For applicants not born in Sindh, eligibility requires 3 years of residence in Sindh by the applicant's parents (if parents are domiciled in Sindh); **OR** The applicant must have resided or been educated in Sindh for a period of not less than 3 years (if parents are not domiciled in Sindh, but the applicant is).

12. To elaborate further on the issues at hand, Rules 13 to 15 of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 are clear in their terms. According to which post in grades 01 & 02 are to be filled in on local basis and those in grades 03 to 15 offices which serve only a particular region or district should be filled by appointment or persons domiciled in the region or district concerned, whereas post in BS-16 and above shall be filled on provincial basis in accordance with merit and regional or district quota.

13. In our view, the Sindh Government may have the right to appoint bona fide residents of the Province of Sindh; denial of such right to residents of other provinces is protected as discussed in the preceding paragraph. It is also an established principle in service jurisprudence that the domicile declared by a Government servant and accepted by the Government at the time of entry into Government service is treated as final throughout his service career, and no subsequent change in his domicile is recognized for service purposes. However, if a person lives in a particular province or district and decides to shift to another province to be a permanent resident there, then it will not affect the status of

his/her domicile; however, his/her former PRC will be cancelled. The petitioner deliberately obtained a Sindh (Malir, Karachi) domicile and qualified for the post. However, before the offer letter was issued, the respondents objected to scrutiny regarding the double domicile (Sindh and Punjab) existing at the time of initial recruitment. The critical issue is the timing; although the petitioner possessed a Sindh domicile, he failed to get his Punjab domicile cancelled in time. He only applied for the cancellation, which was later granted by the Government of Punjab in 2024, well after the initial objection and selection process.

14. In view of the above facts and circumstances of the case, this matter needs to be remitted to the Inspector General of Police (IGP) Sindh to constitute a High-Power Committee comprising DIGPs, headed by IGP Sindh. The Committee's mandate shall be to:

Scrutinize the domicile/PRC certificates of all Police Constables appointed in Sindh Police over the last ten years, whether they met the criteria of law as discussed in the preceding paragraph.

Ascertain compliance with the rule requiring candidates to be permanent residents of Sindh for approximately three years before applying for the post.

If any police constable is found to have obtained the Domicile/PRC through fraudulent documentation or by concealing facts at the relevant time, or in violation of the Police recruitment rules, the Sindh Civil Servants APT Rules, 1974, and the Sindh Permanent Residence Certificate Rules, 1971, appropriate proceedings shall be initiated after due process.

15. The IGP Sindh's High-Power Committee must complete the general scrutiny exercise within five months. Meanwhile, the IGP Sindh must also specifically examine the petitioner's case within three weeks to determine if his candidature, despite the delay in cancellation, falls within the ambit of the relevant rules and regulations. If compliant, his candidature must be considered for the subject post.

16. This petition stands disposed of in the aforesaid terms along with pending application(s) with no order as to costs. A copy of the order shall be forwarded to IGP Sindh for compliance within the time, who shall not ignore the aforementioned directions, with a compliance report accordingly.

HEAD OF CONST. BENCHES

JUDGE