

THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

BEFORE:

Justice Arbab Ali Hakro

Justice Muhammad Osman Ali Hadi

Const. Petition No. D-78 of 2017

[Asadullah & others Vs. SSP Jacobabad & others]

Petitioners : Through Mr. Sajid Hussain Mahessar,
Advocate

The State : Through Mr. Liaquat Ali Shar,
Additional Advocate General, Sindh,
assisted by Mr. Saeed Akbar Siyal,
Assistant A.G, Sindh
SIP Mumtaz Ahmed Gorshani, Legal
Branch, Jacobabad

Date of Hearing : 14-10-2026

Date of Order : 14-10-2026

ORDER

ARBAB ALI HAKRO, J.- Through this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, four candidates for the post of Police Constable (BPS-05) in the general recruitment of 2016 for District Jacobabad seek directions to the respondents to issue appointment orders in their favour and a writ of prohibition restraining the respondents from filling the vacancies. No objection to maintainability was taken, and none arises; the petitioners are not civil servants, and the bar of Article 212 of the Constitution does not apply to a candidate for initial appointment.

2. The petitioners, all domiciled in District Jacobabad, applied for the post in response to the advertisement. They were issued admit cards by the Senior Superintendent of Police, Jacobabad (respondent No.1), and sat the written test held on 21.08.2016 at the Police Training School, Larkana, conducted by the Sukkur Institute of Business Administration (hereinafter referred to as '**Sukkur IBA**'). In the computer-generated list downloaded

from the website, which the petition describes as the merit list, they appear at serial Nos. 166 (Asadullah), 338 (Abdul Nabi), 352 (Ghulam Yasir) and 468 (Ali Bux).¹ Their case is that they cleared the written test, the physical and medical examinations and the interview, yet no appointment order was issued to them, while candidates placed below them were appointed.

3. In the comments of the Deputy Inspector General of Police, Larkana Range (respondent No.2), it is stated that the recruitment was carried out under a uniform policy designed to exclude extraneous influence: the physical test was supervised by teams of the Pakistan Army, the written test was conducted by Sukkur IBA, and the interviews of the Jacobabad candidates were held on 25.08.2016, 29.08.2016 and 30.08.2016 before a committee that included a psychiatrist. The passing mark for the written test, originally 40%, was reduced to 35% with the approval of the Chief Minister, as conveyed in the Inspector General of Police's letter No. 21101-09/E.B-III/T-7/S&S dated 19.12.2016. The written test did not produce the final merit list; every qualified candidate was interviewed. The reasons given for the non-selection of the petitioners are that petitioners Nos.1 and 2 failed the interview, that petitioner No.3 was involved in a criminal case registered as FIR No. 29/2016 at P.S. City, Jacobabad, and that petitioner No.4 was deficient in height.²

4. At the hearing, the learned Additional Advocate General placed on record the Policy for Recruitment of Constables in Sindh Police, circulated under the Inspector General of Police's letter No. 9201-89/EB-III/T-7/S&S dated 25.05.2016 (hereinafter referred to as '**the Policy**'), together with a sheet titled "List of candidates of District Jacobabad found to be involved in criminal cases", signed by the Chairman and members of the Recruitment Committee. Petitioner No.3 appears on that sheet at serial No.4 with 38

¹ Annexures 'A' and 'B' to the petition (admit cards and pages of the Sukkur IBA list).

² Statement of respondent No.2 dated 07.11.2018, paras 2 to 7.

marks in the written test, marked "Pass", and the viva voce result is recorded as "Fail"; the remarks column begins with the words "Verify character". Earlier, on 16.09.2026, learned counsel for the petitioners placed on record the judgment dated 01.02.2017 of the learned II-Civil Judge and Judicial Magistrate, Jacobabad, in Criminal Case No. 21 of 2017, arising from the same FIR, by which petitioner No.3 was acquitted under section 245(1) Cr.P.C. after four prosecution witnesses had been examined.

5. Learned counsel for the petitioners contended that the petitioners, having qualified in the written test and having been placed on the list published by Sukkur IBA, acquired a right to appointment; that the respondents appointed candidates ranked lower on that list; and that the only ground ever taken against petitioner No.3 has disappeared with his acquittal.

6. Learned Additional Advocate General contended that the written test was merely one stage of the process; that under the Policy the interview is a separate qualifying stage whose result cannot be reassessed in the writ jurisdiction; that the height of petitioner No.4 is a question of fact; and that petitioner No.3 was rightly excluded on account of a pending criminal case. He relied on **Arshad Ali Tabassum** and **Muhammad Ashraf Sangri**.³

7. The following questions arise: (i) whether a place on the Sukkur IBA list for the written test gives the petitioners an enforceable right to appointment; (ii) whether the interview results of petitioners Nos. 1 and 2 can be interfered with in the writ jurisdiction; (iii) whether the rejection of petitioner No. 4 for deficiency in height can be examined here; and (iv) what effect the criminal case and the subsequent acquittal have on the candidature of petitioner No. 3.

³ *Arshad Ali Tabassum v. Registrar, Lahore High Court* 2015 SCMR 112; *Muhammad Ashraf Sangri v. Federation of Pakistan* 2014 SCMR 157. The orders of this Court dated 28.11.2025 in C.P. No. D-232 of 2025 and C.P. No. D-308 of 2025, also placed on record, arose from the recruitment of 2024 and turn on their own facts.

8. The clauses of the Policy that bear on the controversy are as follows. Candidates are first measured for height and chest, and those who do not meet the standard are to be summarily rejected; the minimum height for a male candidate is 5'-5" (paras 4.1.6 and 4.1.10). The written test carries 100 marks; the interview carries 50 marks, with a passing mark of 50%. It is held by the Recruitment Committee, with a psychologist as an additional member, and the average of the members' marks is the candidate's score (paras 4.1.13 and 4.1.14). The final result is the sum of the written and interview marks out of 150 and is displayed for all interviewed candidates, with a waiting list valid for three months (para 4.1.16). A candidate convicted in a criminal case is not to be offered appointment; where investigation or trial is pending, the offer may be held in abeyance until he is cleared. He is not to be deemed to have become overage on that account alone; the post may be filled from the waiting list after three months, and the candidate, if cleared subsequently, is to be offered the first vacancy when it occurs (para 4.1.18). Appointment letters are issued only to candidates appearing in the final merit list after medical fitness and verification of character and antecedents (para 4.1.19), and any recruitment made in violation of the Policy is void (para 5).

9. The document on which the petition rests is the Sukkur IBA list for the written test. Under the Policy, that list was the first of two scored stages, not the merit list. The final merit list is the aggregate of the written and interview marks, and an appointment letter follows only after that, subject to medical fitness and verification of antecedents. No offer or appointment letter was ever issued to any petitioner. It is settled that qualifying for the interview after passing the written test does not create a vested right to appointment⁴, and that even a recommendation of the Recruitment

⁴ *Waheed Gul Khan v. Province of Sindh* 2024 SCMR 1701, paras 7, 8 and 11, approving *Secretary Finance v. Ghulam Safdar* 2005 SCMR 534.

Committee, unless followed by an offer, confers no enforceable right.⁵ The doctrine of vested right and *locus poenitentiae* applied in ***Fida Muhammad***⁶ turned on appointment letters issued after completion of codal formalities and then withdrawn. There is no such letter here.

10. The allegation that candidates lower in merit were appointed does not advance the matter. The comparison is drawn from the written-test list, which is not the merit list. No appointee is named or impleaded, and the Supreme Court has approved the refusal of this Court to examine appointments of persons who were not before it and against whom no specific prayer was made.⁷ The prayer for a writ of prohibition has, in any case, outlived its purpose: the recruitment of 2016 closed long ago, and the waiting list under para 4.1.16 lapsed three months after the final result.

11. Petitioners Nos. 1 and 2 are stated to have failed the interview. The Policy makes the interview a separate qualifying stage with a passing mark of 50%, and every candidate took part on that footing. The petition contains only a bare assertion that they qualified the interview; it names no member of the committee, alleges no bias, and produces nothing to contradict the result. An interview is a subjective assessment. The Court does not substitute its own opinion for that of the Interview Board and interferes only where mala fides, bias, or an error of judgment floats on the surface of the record.⁸ In ***Arshad Ali Tabassum***, a candidate who had secured the third-highest written score in the Province and then failed the interview was refused relief because malice was asserted but not established. The case of petitioners Nos. 1 and 2 is weaker than that. No ground for interference is made out.

⁵ *Government of Balochistan v. Muhammad Akhtar* 2025 SCMR 656, paras 5 and 7.

⁶ *Inspector General of Police, Quetta v. Fida Muhammad* 2022 SCMR 1583, paras 11 and 12.

⁷ *Waheed Gul Khan* (n.4 above) para 12.

⁸ *Muhammad Ashraf Sangri* (n.3 above) para 6; *Arshad Ali Tabassum* (n.3 above) para 7; *Waheed Gul Khan* (n.4 above) paras 9 to 11.

12. Petitioner No.4 is said to fall short of the prescribed 5'-5". He has filed no rejoinder, no measurement sheet, and nothing on the file contests the figure. It may be said that under para 4.1.10, measurement precedes the written test, so that a candidate who reaches the interview must have passed it; but whether his height was correctly recorded and at which stage is a pure question of fact. The object of Article 199 is the enforcement of a right that is clear and complete, not the establishment of one, and disputed questions of fact requiring enquiry are not resolved in writ jurisdiction.⁹ Unlike the petitioners in *Arab*, Petitioner No.4 holds no appointment letter admitted by the respondents. Nothing on the record would justify a direction in his favour.

13. **Petitioner No.3: the criminal case and the acquittal.** This part of the petition warrants closer attention, as the record pulls in two directions. In the only comments on the file, the sole reason given by respondent No.2 for not selecting petitioner No.3 is the pending FIR. The committee's sheet produced at the hearing, however, records "Fail" against his viva voce. If he failed the interview on merit, his case stands with those of petitioners Nos.1 and 2, and the criminal case is beside the point. If the entry merely records that he was screened out because of the FIR, then the Policy itself governs his position, and the Policy did not authorise outright rejection. Para 4.1.18 bars appointment only on conviction. For a candidate whose investigation or trial is pending, it provides for the offer to be held in abeyance, protection against becoming overage, and an offer of the first vacancy once he is cleared. That accords with section 15 of the Sindh Civil Servants Act, 1973, which disqualifies only a person convicted of an offence involving moral turpitude. The Recruitment Committee was bound to act within the Policy and could not add a ground of disqualification of its own.¹⁰ The general

⁹ *Arab v. Province of Sindh* 2026 SCMR 300, paras 6 and 7.

¹⁰ *Muhammad Akhtar* (n.5 above) paras 5 and 6.

statement in the comments that candidates “involved/challaned in criminal cases” were “disqualified” cannot be squared with para 4.1.18.

14. An acquittal does not, however, oblige the department to appoint. The Federal Constitutional Court, dealing with a Punjab policy letter that excluded constable candidates involved in criminal cases, has held that the registration of an FIR is only an allegation, that an acquittal confers no indefeasible right to appointment, and that the authority must make an individualised and reasoned assessment, having regard to truthful disclosure, the manner in which the case ended, whether the acquittal removes the allegations, whether they bear on the duties of the post, and whether the decision rests on recorded reasons; a refusal founded solely on a past FIR, where the candidate has been acquitted and concealed nothing, was held unsustainable.¹¹ The Supreme Court has stressed that the police are a disciplined force, that the employer may weigh an acquittal given on the benefit of the doubt, and that this is, in the first instance, the department’s call¹²; an acquittal at an intermediate stage, without evidence, carries less weight, particularly where the case was concealed.¹³

15. Measured against these decisions, the acquittal of petitioner No.3 followed a full trial in which four witnesses were examined; it was not an acquittal under section 249-A or 265-K Cr.P.C. Nothing suggests concealment, as the case had been known to the committee from the verification stage. The alleged offence arose from a road-blocking procession, not from any act of dishonesty or moral turpitude. **Faraz Naveed** concerned the reinstatement of a dismissed official whose conviction for a custodial death had been set aside on the benefit of the doubt, and **Waqas Ahmed Khan** concerned an intermediate-stage acquittal

¹¹ *Inspector General of Police, Punjab v. Muhammad Akmal* (C.P.L.A. No. 51-L of 2018, decided on 16.03.2026 by the Federal Constitutional Court of Pakistan) paras 5 to 11 and 15.

¹² *Faraz Naveed v. District Police Officer, Gujrat* 2022 SCMR 1770, paras 10, 16 and 17.

¹³ *President, National Bank of Pakistan v. Waqas Ahmed Khan* 2023 SCMR 766, para 5.

coupled with concealment; neither is close to the present facts. At the same time, it is for the department, not this Court, to determine whether the "Fail" entered against his viva voce was an assessment on merit, where his aggregate stood against the last candidate selected from District Jacobabad, and whether he is otherwise suitable. Where the department's own record is inconsistent, the course approved by the Supreme Court is not to non-suit the petitioner outright but to require the department to verify its record and decide, with an independent application of mind and after hearing him, within a fixed time.¹⁴

16. Two further matters are noted. First, the committee's sheet lists the Deputy Inspector General of the Larkana Range as Chairman and the Senior Superintendent of Police, Jacobabad, as a member, whereas para 4.1.4 of the Policy excludes the DIGP of the concerned Range and the concerned District SP from the committee. The point was not pleaded, no argument was addressed to it, and the persons appointed in 2016 are not before us; it can afford no relief and is mentioned only because it bears on the weight to be given to the committee's record when the matter is re-examined. Secondly, the lapse of time since 2017 is attributable to the board of this Court and not to petitioner No.3, and para 4.1.18 itself protects him against being treated as overage on account of the criminal case.

17. For these reasons the petition is **disposed of** in the following terms:

- a) The petition of Asadullah (petitioner No.1), Abdul Nabi (petitioner No.2) and Ali Bux (petitioner No.4) is **dismissed**.
- b) As regards Ghulam Yasir (petitioner No. 3), the Inspector General of Police, Sindh, or the Sindh Police Recruitment Board constituted under para 4.1.1 of the Policy, shall decide his candidature afresh by a reasoned order within sixty days of receipt of this order, after affording him a hearing. That decision shall (i) determine, from the original record of the 2016 recruitment, whether he was interviewed and failed on

¹⁴ Arab (n.9 above) paras 7 and 8.

merit, or was screened out on account of FIR No. 29/2016; (ii) if the latter, assess his suitability in light of the judgment of acquittal dated 01.02.2017 and para 4.1.18 of the Policy, and determine where his aggregate stood against the last candidate appointed from District Jacobabad in that recruitment; and (iii) if he falls within merit and is found suitable, offer him the first available vacancy as para 4.1.18 provides, without treating him as overage on account of the criminal case. If he is found to have failed the interview on merit, no further relief shall follow.

18. There is no order as to costs. The office shall communicate a copy of this order to the Inspector General of Police, Sindh for compliance.

JUDGE

JUDGE

Zulfiqar