

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D- 1015 of 2025

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before;

Adnan-ul-Karim Memon, J;
Abdul Hamid Bhurgari, J;

Petitioner Nizakat Ali, through Mr. Rab Dino Makwal, advocate.

Province of Through Mr. Zulfiqar Ali Naich, Assistant Advocate
Sindh & others General of Sindh.

Date of hearing and order: 08-06-2026.

ORDER.

Adnan-ul-Karim Memon J:- The petitioner named above, through the instant petition, prayed as under:-

- a) To declare the act of the respondents for not allowing/not getting an interview from the petitioner is quite illegal, unlawful, ultra-virus, and nullity in the eyes of the law because the petitioner has already been acquitted from the FIR Crime No. 225/2023 vide judgment dated 19-04-2024.
- b) That this Hon'ble Court may be pleased to direct the respondents to get an interview from the petitioner and appoint him as Constable (Commando) in SSU, as he already passed the written test and secured 78 marks.
- c) Award the costs of the petitioner.
- d) Grant any other better relief/reviews which this Hon'ble Court may deem fit and proper under the circumstances of the instant case.

2. The case of the petitioner is that his fundamental rights under the Constitution of the Islamic Republic of Pakistan, 1973, are fully protected and cannot be abrogated. He states that he applied for the post of Police Constable (Commando) in the Special Security Unit (SSU) through SIBA Testing Services and successfully passed all stages of the recruitment process, including the written test, in which he secured 78 marks, as well as the psychometric and other assessments. He was otherwise eligible to be called for an interview. However, his interview was withheld on account of a criminal case.

3. It is his grievance that, despite his successful performance and satisfactory character verification, including CRO clearance, he was not called for an interview. The petitioner's counsel contends that the sole reason for his exclusion was his alleged involvement in FIR No. 225/2023 under Sections 353, 337-A(i),

337-F(i), 186, and 506(2) PPC. He submits that this FIR was false and fabricated, and that he has already been acquitted of all charges through a judgment dated 19.04.2024, which was duly placed before the competent authority. He further states that despite repeated requests, the respondents refused to allow him to appear in the interview based on the said FIR, disregarding his acquittal in a criminal case much before the institution of the recruitment process, as pointed out. The petitioner's counsel maintains that he belongs to a poor family and is in dire need of employment. He asserts that he fulfilled all requirements, including passing the prescribed tests and obtaining verification from the relevant authorities, yet he has been deprived of appointment without lawful justification, which is in violation of Article 27 of the Constitution. He therefore invokes the constitutional jurisdiction of this Court, contending that no alternate, adequate, or efficacious remedy is available against such illegal action. Accordingly, he prays that the respondents' action in denying him the interview be declared illegal, unlawful, and without lawful authority; that the respondents be directed to call him for an interview and appoint him as Constable (Commando) in SSU on merit. He prayed to allow this petition.

4. On the other hand, learned AAG submits that the recruitment process for SSU constables was conducted through STS in accordance with policy, and candidates who qualified physical, written, and psychometric tests were subjected to character and antecedents verification. He states that the petitioner was found involved in FIR No. 225/2023, due to which his interview was initially withheld in view of the sensitive nature of SSU duties requiring high standards of integrity. However, he further clarified that, in order to provide equal opportunity, a supplementary interview was later conducted on 31.07.2025 for previously withheld candidates, and the petitioner was also called and participated in the interview process. He relies on departmental policy and relevant recruitment rules, including the Sindh Police Recruitment Policy 2022, which provides that cases involving criminal records require scrutiny of acquittal orders for suitability assessment even after clearance. The learned AAG also relies on judicial precedents, including decisions of the Hon'ble Supreme Court and this Court, emphasizing that involvement in criminal cases, even where acquittal is on technical grounds, may

be considered in assessing suitability for police service due to its sensitive nature and candidature could be denied. He submits that candidates' antecedents and character remain relevant criteria for induction into the police force. He further submits that similar matters have been considered by the Hon'ble Supreme Court of Pakistan, where interference in departmental discretion regarding police recruitment was declined, and by this Court, which upheld the requirement of satisfactory antecedents for police induction, while allowing consideration of cases based on the nature of disposal of criminal proceedings. He added that the Supreme Court has also suspended the operation of the judgment of this court and issued notice in connected matters concerning induction into the police force, emphasizing scrutiny of candidates with criminal backgrounds. In view of these submissions, the AAG prays that the petition be dismissed.

5. We have heard the learned counsel for the party and perused the record with their assistance and case law cited at the bar.

6. Prima facie, the petitioner has been declared as a successful candidate for appointment in the police service, and approached this Court against the non-issuance of his appointment letter. The sole ground taken by the respondents was that the petitioner had been named in the subject FIR, although he had already been acquitted for lack of evidence before initiation of the recruitment process vide judgment dated 19-04-2024. The learned AAG argued that, being a disciplined force, the police department could refuse appointment based on criminal antecedents.

7. This "rule of thumb" is misconceived. It is observed that the law does not permit automatic exclusion of a candidate merely because he was once implicated in a criminal case; rather, it requires the competent authority to form a reasoned and objective opinion whether the candidate's antecedents genuinely pose a risk to discipline or public confidence in the police force. No such independent assessment or adverse material from competent sources has been shown in the present case; this assertion of learned AAG is misconceived.

8. This Court has noted that the petitioner had been fully acquitted, with no other criminal record pending against him. It is held that mere involvement in an FIR, without conviction or

supporting material indicating persistent criminal conduct, cannot be treated as a “criminal record” to deny public employment. Such mechanical refusal by the respondents is declared arbitrary, contrary to Section 24-A of the General Clauses Act, 1897, and violative of Articles 18, 25, and 27 of the Constitution. The learned Lahore High Court, in reported matter **2024 P L C (C.S.) 826**, has already opined by concluding that discretion had been exercised unlawfully on conjectures rather than reasoned assessment, the Court struck down the refusal of appointment and directed the authorities to issue appointment letters to the petitioners in the aforesaid case.

9. It is an established principle that although the police force is a highly sensitive institution requiring strict standards of integrity, the discretion vested in the appointing authority is not unfettered or mechanical. Any adverse inference from criminal antecedents must be based on a reasoned, objective, and material-based assessment, rather than a blanket or “rule of thumb” exclusion. The law is equally settled that mere registration of an FIR, which culminates in acquittal, does not by itself constitute a “criminal record” to justify permanent exclusion from public employment, until and unless conviction remains in the field, which prima facie disqualifies the candidate for holding such a sensitive position; that is not the case at hand.

10. This principle has been consistently reinforced by superior Courts, wherein it was held that even in cases of acquittal, the competent authority must independently evaluate whether any surviving material or credible antecedents render a candidate unsuitable for police service. The aforesaid decision further clarifies that automatic disqualification based on FIR involvement alone is impermissible, and discretion must be exercised judiciously, not arbitrarily.

11. The Supreme Court in Civil Petitions No.81-K and 82-K of 2024 refused the leave to appeal vide judgment dated 22.10.2024 and held that the Government of Sindh had invited applications for 894 posts of Police Constables (BPS-5), and the respondents, after completing the recruitment process conducted through Pakistan Testing Service, were duly recommended for appointment. However, their appointments were not finalized without justification, leading them to approach this, which ruled in their

favour. The Supreme Court, while considering leave to appeal under Article 185(3), observed that once a transparent, merit-based recruitment process is completed and candidates are recommended, the Government cannot withhold appointments arbitrarily. Any refusal must be based on lawful and justified reasons consistent with constitutional principles of fairness, non-arbitrariness, and Articles 4 and 25 of the Constitution. Therefore, the assertion of learned AAG negates section 15 of the Sindh Civil Servants Act, 1973; his point of view is discarded.

12. Now it is well settled that refusal of appointment based on mere FIR involvement, despite acquittal, amounts to a mechanical exercise of power, violative of Section 24-A of the General Clauses Act, 1897, as well as Articles 18, 25, and 27 of the Constitution. The citizen cannot be deprived of his right to public employment on conjectures or surmises, and that “criminal record” implies a pattern of criminal conduct, not a solitary allegation later found to be unsubstantiated.

13. In the present case, the record reflects that the petitioner was ultimately acquitted, and no material has been produced by the respondents to demonstrate either persistent criminal conduct or any adverse findings from competent investigative sources that could justify his exclusion from consideration. On the contrary, the petitioner successfully passed all stages of recruitment, including written, psychometric, and physical assessments, and was otherwise found eligible. The points raised by the learned AAG are of no use at this stage.

14. In these circumstances, the Court finds that the impugned action of withholding the petitioner from the appointment/interview process was based on a misapplication of law and an erroneous assumption of “criminal record”, without lawful justification or due application of mind. Such action is inconsistent with the constitutional mandate of equality and fair treatment under Articles 18, 25, and 27 of the Constitution, and violates the principle of reasoned decision-making under Section 24-A of the General Clauses Act, 1897.

15. Accordingly, the petition is disposed of, and the impugned decision is declared to be without lawful authority and of no legal effect. The respondents are directed to consider the petitioner’s

candidature for appointment strictly in accordance with law, ignoring mere FIR-based allegations which have culminated in acquittal long ago, and to extend to him all consequential benefits arising from his successful participation in the recruitment process, if otherwise found eligible. Pending applications are disposed of accordingly.

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Nasim/P.A