

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 814 of 2021

Date of hearing	Order with signature of Judge
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Hearing of case

For hearing of main case

09-02-2022

Mr. Habib-ur-Rehman Shaikh, Advocate for the Petitioner.
Mr. Shahryar Imdad Awan, Assistant Advocate General Sindh.
Mr. Aftab Ahmed Shar, Additional Prosecutor General.

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Through this Petition, the Petitioner has sought the following relief(s):

- a) *To direct to Issue appointment Letter / Notification to in favour of Petitioner without any further delay for the post of Assistant District Public Prosecutors (BS-17) and maintain the Seniority of Petitioner with the batch mates of as mentioned in the Notification dated 22-04-2021.*
- b) *To direct respondents No. 1 & 2 accept joining report of Service of petitioner on 23.04.2021.*
- c) *Any other relief(s), which this Honourable Court may deem fit and proper.*

Notice was ordered, and in the comments, it has been stated that the appointment order has not been issued for the reason that the Petitioner is involved in some FIR. On the other hand, we have been assisted that the controversy, as raised in this Petition, has already been decided by a Division Bench at Circuit Court, Larkana in C. P. No. D-992 of 2014 vide judgment dated 04-05-2021 in the following terms:

“9. We have carefully examined the Sindh Civil Servants Act, 1973, and Rules framed thereunder so also the Police Rules, 1974, and the Disciplinary Rules, 1988, and could not find any provision which restrict such appointment in Civil/Public service on account of the pendency of a criminal case or where the candidate acquitted from the charges leveled in the criminal case, however, section 15 of the Sindh Civil Servants Act, 1973 provides that no person convicted for an offence involving moral turpitude shall unless government otherwise direct, be appointed

to a civil service or post, which is not the case in hand. For the case of reference section 15 of the Civil Servants Act, 1973 is reproduced as under:-

15. No person convicted for an offence involving moral turpitude shall, unless government otherwise direct, be appointed to a civil service or post.

10. From the perusal of the comments filed by the respondents it appears that they have a only ground for the refusal to issue appointment order to the petitioner was a registration of a criminal case against the petitioner, from which the petitioner was acquitted, it was in between the private parties and the same was not of a serious nature, and in absence of any provision in the aforesaid laws, where in a such situation there is no any restriction on appointment then the petitioner was entitled for the appointment if otherwise he fulfilled all other requirements, the respondents not pointed out any other reason for his non appointment.

11. In the above circumstances we allow this petition and direct the respondents/competent authority to scrutinize the candidature of the petitioner for the post of police constable without taking influence from the fact of the case registered against the petitioner and if otherwise the petitioner found fit in all respect for the appointment, then his candidature may be processed for the appointment strictly under the Recruitment Rules for the said post within one month. However, it is made clear that since this petition was filed in the year 2014 therefore the age limit if the petitioner cross after the year 2014 then the same may not come in the way of his appointment as police constable.”

Moreover, even if Section 15 of the Civil Servants Act, 1973 is examined, it only restricts appointments of a person who has been convicted for an offence involving moral turpitude and not merely on registration of any FIR. In view of such position, this Petition is **allowed** in the terms as above, and the Respondents shall act accordingly.

J U D G E

J U D G E

Abdul Basit