

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D-203 of 2023

(Ayaz Ali Mughal Vs. Province of Sindh & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before;

Adnan-ul-Karim Memon, J;
Muhammad Abdur Rahman, J;

Date of hearing and order: 25-04-2024.

Mr. Illahi Bux Jamali, advocate for the petitioner.
Mr. Ghulam Mustafa G.Abro, Assistant A.G, Sindh.

ORDER.

Adnan-ul-Karim Memon, J;- Through this Order, the titled Constitutional Petition is sought to be decided.

Petitioner Ayaz Ali Mughal seeks appointment for the post of Police Constable in Sindh Police on the analogy that after completing all codal formalities including fitness, he was found eligible for the post of Police constable (BPS-05) in Special Protection Unit (SPC) (CPEC) in the year 2022; however, during the verification of his character and other antecedents, he was found involved in FIR No.40/2019 at Police Station Agra, registered for the offence under section 365-B PPC; however, after conducting an impartial investigation, the case was recommended for disposal under "B" class and such report was submitted to the Senior Superintendent of Police Khairpur; and, later-on the Summary Report under section 173 Cr. P.C. was submitted before the learned Ist Civil Judge & Judicial Magistrate Gambat and the case was finally disposed of under "Cancel Class" vide order dated 02-12-2019.

Learned counsel for the petitioner has submitted that when the matter has been disposed of under “C” Class, his involvement in the subject crime becomes doubtful, as such he cannot be termed to be disqualified to hold the post of Police Constable; however, he has been refused appointment by the Sindh Police Recruitment Board (SRB) on 31-08-2022.

Learned AAG has opposed this petition and has relied upon the cases of President National Bank of Pakistan and others versus Waqas Ahmed Khan (2023 SCMR 766), Saqib Ali versus Government of Punjab and others (2023 PLC (CS) 310), Mirza Shahzeb versus City Police Officer, Police Line, Rawalpindi, and 4 others (2023 PLC (CS) 749) and an unreported order of the Supreme Court dated 11.06.2012 passed in the case of Shahid Hussain versus District Police Officers and others (CPLA No.165-K of 2012). He prayed for dismissal of this petition.

We have heard learned counsel for the parties and have gone through the material available on record with their assistance.

This Court in identical facts and circumstances of the case has decided the issue involved in the present proceedings vide common Judgment dated 23-04-2024 passed in Constitution Petition No.D-6135/2023 (*Re. Abdul Ghani Vs. P.O Sindh & others*) and connected petitions and held that the accused discharged by the Court in “C” class can seek employment with the police department as their antecedents and character does appear to be satisfactory as per the criterion laid down by law as well as the judgments of the Supreme Court. Prima-facie in the present case the learned Magistrate has disposed of the Criminal Case pending against the petitioner under “C” class vide order dated 12-12-2019 in Summary No. 17/2019, final Reprot No. 06/2019 submitted by Investigating Officer Agra in Crime No. 40/2019 under section 365-B PPC recommending the cancellation of FIR under “B” class. If this is the position of the case, this Court is left with no option but endorse the Judgment passed by this Court in the aforesaid proceedings for the reason that Section 15 of the Sindh Civil Servants Act, 1973, stipulates that no person

convicted for an offence involving moral turpitude shall unless the Government otherwise directs, be appointed to a civil service or post. This provision lays two conditions, which a person, otherwise selected for any post in the civil service, has to fulfill to get the appointment: that he is not a convict and that he is not a convict in an offence involving moral turpitude. The case registered against the petitioner filed in comments by the respondents does not show that he has ever been convicted of any such offence. In absence of such material, no adverse view could be taken against the petitioner at this stage as his case has not ended in submission of challan under section 170 Cr.P.C which culminated in the beginning before framing of the charge; thus the ratio of the judgments cited by the learned AAG are of no help to him at this stage.

We, therefore, do not find the decision of the Sindh Police Recruitment Board rejecting the recommendation of the petitioner to his appointment as Police Constable (BPS-05) in Special Protection Unit (SPC) (CPEC), as sustainable in law, and consequently, set aside the same. Resultantly, the petition is allowed as prayed, with no order as to costs. The petitioner shall be issued offer of appointment letter for the subject post forthwith.

Judge

Judge