

# HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Before:

Justice Mrs. Kausar Sultana Hussain  
Mr. Justice Khadim Hussain Soomro

CP No. D- 320 of 2016

[Danish Kareem vs. Province of Sindh & Ors.]

CP No. D- 1431 of 2021

[Muhammad Usama vs. Province of Sindh & Ors.]

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**Petitioners** : **Through Mr. Faisal Ali Raza advocate**

**Respondents** : **Through Mr. Allah Bachayo Soomro, Addl: A.G**

**Dates of hearing** : **01.02.2024 , 13.02.2024, 20.02.2024  
22.02.2024 and 13.03.2024**

**Date of decision** : **19.03.2024.**

## J U D G M E N T

KAUSAR SULTANA HUSSAIN J. In the captioned constitutional petitions, a common question of law is involved; therefore, both are being taken up and heard together for disposal through this common judgment.

2. Case of both the petitioners is that after completion of all the codal formalities in accordance with law though they were selected for the post of Police Constable, yet respondents refused to issue them appointment order on the ground of their alleged involvement in Crime No.75 of 2014.

3. Learned counsel for the petitioners argued that vide advertisement dated 15.08.2013 the respondents had invited applications for appointment against various vacant posts including the post of Police Constable (**subject post**) in Police Department; that petitioners being eligible applied for the subject post from Hyderabad Region; that petitioners subsequently appeared in written test and interview and qualified the same and accordingly respondent No.4 SSP Hyderabad vide letter dated 16.06.2016 directed the petitioners to get them medically examined; that petitioners appeared before the Medical Superintendent and both the petitioners were declared medically fit; that respondent No.4 SSP Hyderabad also called report with regard to character of petitioners from Special Branch and SHOs concerned; that vide

letters dated 17.06.2014 and 19.06.2014 the SSP Special Branch had reported that there is nothing politically adverse against the petitioners; that SHOs concerned had also reported that petitioners maintain good character, yet respondent No.4/SSP Hyderabad had refused to issue appointment orders to petitioners on the ground of their alleged involvement in Crime No.75 of 2014.

4. During course of arguments, however, learned counsel has filed statement 21.02.2024 attaching therewith photocopy of Appointment Order dated 14.09.2021 issued by respondents in favour of petitioner Danish Kareem. Learned counsel while continuing with his arguments submits that though during pendency of these petitions appointment order has been issued in favour of petitioner Danish Kareem, yet petitioner Muhammad Usama, whose case is on similar footings, has been denied his right. Arguing further learned counsel emphasized that petitioners were falsely implicated in above crime by the complainant on account of enmity, as it appears that alleged crime was shown to have happened on 20.06.2014 whereas prior to this, petitioners were selected in Police Department and it does not attract to a prudent mind that a person going to be appointed in Police Department may commit such crime at the verge of his appointment, while there is no previous criminal record of petitioners except above false FIR; that even otherwise petitioners were acquitted by the competent Court of law in above crime vide judgment dated 19.02.2015, and though appointment order has been issued in favour of one of the petitioners, yet appointment order in respect of other petitioner is not being issued for the reasons best known to respondents. He prayed that directions may be issued to respondent to treat petitioner Muhammad Usama similarly as that of petitioner Danish Kareem, as cases of both petitioners are on similar footings.

5. Learned Additional A.G Sindh, while referring to the comments filed by respondents, state that no doubt petitioners had qualified the written test and interview for the subject post and thereafter they were also declared medically fit by the Medical Superintendent and there was no adverse as to the character of petitioners, however, both petitioners were involved in Crime No.75 of 2014 registered at P.S Cantt: Hyderabad for offence punishable under Section 392, 511 and 34 PPC, as such appointment orders were not issued to them. He further submits that a candidate having criminal record cannot be appointed against any post in a Government Department. However, learned AAG is unable to reply that though both the petitioners were involved in

same FIR, wherein both were acquitted, and since one has been issued appointed order then why second petitioner has not been treated similarly.

6. We have heard the learned counsel for the petitioners as well as learned Additional A.G Sindh and have also perused the material available on record.

7. Perusal of record shows that pursuant to an advertisement dated 15.08.2013 both the petitioners had applied for the subject post from Hyderabad Region and accordingly they appeared in written test and interview and qualified the same. Record further shows that petitioners were also declared medically fit and SSP Special Branch as well as SHO concerned had also verified the good character of petitioners, however, they were denied appointment orders on account of their alleged involvement in Crime No.75 of 2014.

8. Perusal of comments filed on behalf of respondents reflects that they have admitted the selection of petitioners against subject post on merit so also their subsequent declaration of being medically fit, however, they have refused to issue appointment orders to petitioners only on the ground of their alleged involvement in above crime. However, during pendency of these petitions petitioner Danish Kareem was issued appointment order by the respondents at their own, yet petitioner Muhammad Usama has been denied similar treatment.

9. Now the question before us is whether a candidate, having been selected on merit and also declared medically fit for a public/government post, can be denied appointment against said post for mere his/her involvement in a criminal case?

10. In order to answer the aforesaid question, we have gone through the Sindh Civil Servants Act, 1973 and the rules framed thereunder and since the subject post relates to Police Department, as such we have also gone through the Police Rules, 1934, and Disciplinary Rules, 1988 and found that there is no restriction for appointment against a civil/public post mere on account of pendency of a criminal case. So far as Section 15 of the Sindh Civil Servants Act, 1973 is concerned, same even provides that no person convicted for an offense involving moral turpitude can be, unless government otherwise direct, appointed to a civil service or post, however, same is not the case here, as record shows that both the petitioners were acquitted of above crime vide judgment dated 19.02.2015 [available at page-21 to 31 of the Court file].

11. The discussion in preceding paragraph establishes that no candidate/person, if qualify for a civil/government post in accordance with law, can be denied right to job against said post on account of mere registration/pendency of a criminal case, unless he/she is convicted in a criminal case, which too involving moral turpitude.

12. There is no previous criminal record of petitioners except FIR No.75 of 2014, which too was lodged on 20.06.2014 while record shows that entire exercise (*as to the appointment of petitioners on subject post*) which includes medical fitness, verification of character reports dated 17.06.2014 and 19.06.2014 forwarded by SSP Special Branch so also reports furnished by SHOs concerned dated 17.06.2014 and 18.06.2014, as such it does not attract to a prudent mind that persons, having no previous criminal record, committed a crime at the verge of their appointment, which too in Police Department. Irrespectively, vide judgment dated 19.02.2015 passed by learned VIII<sup>th</sup> Judicial Magistrate Hyderabad in Criminal Case No.471 of 2014, both the petitioners have been acquitted in only criminal case bearing No.75 of 2014 registered against them.

13. Since the subject post relates to a disciplinary force (Police Department), as such we have also take care of said fact, as in a disciplinary force the candidates/persons possessing character above the board and free from any moral stigma can be inducted. In our view petitioners possess the qualifications required for a disciplinary force, as vide reports dated 17.06.2014 and 19.06.2014 forwarded by SSP Special Branch as well as reports furnished by SHOs concerned dated 17.06.2014 and 18.06.2014 , the Police Department itself reported that petitioners possess good moral character and there is no politically adverse against them.

14. Since the petitioner Danish Kareem has already been issued appointment order by the respondents at their own, as such his petition bearing No.D-320 of 2016 has become infructuous and the same stands disposed of accordingly.

15. In view of the above discussion as well as the fact that case of petitioner Muhammad Usama is on same footings as that of petitioner Danish Kareem, we allow petition bearing No.D-1431 of 2021 with directions to respondents to provide similar treatment to petitioner Muhammad Usama as has been provided to Danish Kareem and consequently issue appointment order in

favour of petitioner Muhammad Usama for the subject post within one month from today.

16. Captioned petitions stand disposed of in the above terms.

JUDGE

JUDGE

Sajjad Ali Jessar