

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P No.D-3463 of 2017

C.P No.D-2505 of 2018

C.Ps No.D- 2773, 3168, 3311, 3342, 3354, 3356, 3378, 3393, 3417 of 2022

C.P No.D-649 of 2023

C.Ps No.D-1207 and 1364 of 2024

Present: **Mr. Justice Zulfiqar Ali Sangi**
Mr. Justice Arbab Ali Hakro

Petitioners by : M/s Zeeshan Ali Memon, Khalil-ur-Rehman Laghari, Ms.Faiza Ubed Memon, Irfan Ali Khaskheli, Syed Shahzad Hyder Shah, Zain-ul-Abdin Sahito, Badal Gahoti, Khalid Mustafa Shoro, Naeem Hussain Gadehi, Amjad Hussain Rajpar, Ali Shahzad & Zubair Ahmed Khuawar,

Respondents by : Mr. Rafique Ahmed Dahri, A.A.G
Mr.Irfan Ali Talpur, A.P.G along with SIP Noor Muhammad Bhurgri on behalf of DIGP Hyderabad, Inspector Aamir Hussain Shah, on behalf of SSP Jamshoro, SIP Jan Muhammad Sand, on behalf of DIGP TNT, Karachi

Dates of Hearing : **21.01.2025**

Date of Decision : **14.02.2025**

JUDGMENT

ARBAB ALI HAKRO, J:- Through this common Judgment, we intend to dispose of captioned petitions as similar law questions, facts, and almost identical relief(s) are involved.

2. The matters before this Court pertaining to the appointment of Police Constables within the Sindh Police. Specifically, the facts delineated in the aforementioned Petitions indicate that the Petitioners had applied for positions as Police Constables (BPS-05 and BPS-07), Driver Constables (BPS-05), and Junior Clerk (BPS-11) within the Sindh Police Department, Government of Sindh, from various Districts, namely Tando Muhammad Khan, Tando Allahyar, Shaheed Benazirabad, Badin, Dadu, Matiari, and Jamshoro. According to the Petitioners, they successfully navigated the entire process of written examinations, physical assessments, and viva voce/interviews. However, upon the Respondents' solicitation for the verification of character and antecedent reports of the Petitioners from the relevant authorities, the Petitioners were implicated in criminal cases, with each

Petitioner being associated with at least one such case. Consequently, the concerned Recruitment Committee disqualified their candidatures/appointments, notwithstanding the Petitioners' acquittal in these criminal cases.

3. In all petitions, para-wise comments and reports were solicited from the official respondents, which they have duly submitted. In their submissions, they reiterated that the appointments of the Petitioners were repudiated due to their alleged entanglement in criminal proceedings.

4. At the very outset, learned counsel representing the Petitioners contended that the Recruitment Committee/Board declined their appointments despite being cognizant of the petitioners' acquittal in the criminal cases. They further contended that every acquittal, whether on merits or other grounds, is honourable. Therefore, the petitioners ought to have been considered for their appointments as Police Constables (BPS-05 and BPS-07), Driver Constables (BPS-05) and Junior Clerk (BPS-11) in the Sindh Police Department, Government of Sindh. They further relied on the Revised Sindh Police Recruitment Policy, 2022, by referring to Para No. 4.1.18, which states that in the case of a candidate against whom investigation or trial in a criminal case is pending, the offer of appointment may be held in abeyance until the candidate is cleared during investigation or trial, whichever is earlier. Such a candidate shall not be deemed overaged on this account alone. In support of their contentions, they relied upon the case of the **Director-General, Intelligence Bureau, Islamabad¹, Chairman Agricultural Development Bank of Pakistan and another² and unreported cases of Piyar Ali³, Majid Ali Memon⁴, Mushahid Hussain and others⁵, Mehmood Khan and others⁶, Ghulam Abbas⁷, Danish Kareem and Muhammad Usama⁸**.

5. Conversely, learned Assistant Advocate General (A.A.G) and Assistant Prosecutor General (A.P.G) have opposed the petitions and contended that the petitioners are not entitled to be appointed in the police force due to their involvement in criminal cases. Consequently, they prayed for

¹ Director-General, Intelligence Bureau, Islamabad vs Muhammad Javed and others (2012 SCMR 165)

² Chairman Agricultural Development Bank of Pakistan and another vs. Mumtaz Khan (PLD 2010 S.C 695)

³ Order dated 25.7.2019, in C.P No.D-2399/2018 (Re: Piyar Ali vs. Province of Sindh and others)

⁴ Judgment dated 04.5.2021, in C.P No.D-992/2014 (Re: Majid Ali Memon vs. SSP Shikarpur & ors)

⁵ Judgment dated 08.01.2025, in C.P Nos.D-735/2024 (Re:Mushahid Hussain vs Govt. of Sindh and others), D-1383/2024 (Re:Shahid Ali vs Govt. of Sindh and other and D-1490/2024 (Re: Aamir Ali vs Govt. of Sindh and others)

⁶ Order dated 20.12.2023, in C.P Nos.D-969/2022 (Re: Mehmood Khan and others vs Province of Sindh and others and D-1018/2022 (Re: Muhammad Saleem Khan vs Province of Sindh and others)

⁷ Order dated 28.02.2024, in C.P No.D-966/2023 (Re: Ghulam Abbas vs Province of Sindh and others)

⁸ Judgment dated 19.3.2024, in C.P Nos.D-320/2016 (Re: Danish Kareem vs. Province of Sindh and others) and D-1431/2021 (Re: Muhammad Usama vs. Province of Sindh and others)

the dismissal of the petitions. They relied upon the unreported case of **Abdul Ghani and others**⁹.

6. We have heard the learned counsel for the petitioners, learned Assistant Advocate General and learned Assistant Prosecutor General and have meticulously perused the record and case law relied upon with their assistance.

7. Before delving into the merits and discussions, it is imperative to examine the nature of the Petitioners' acquittals. A meticulous perusal of the records reveals the following:

- i. Petitioner Karam Ali in C.P No.D-3463/2017 was denied his appointment on the grounds of his involvement in a murder case bearing Crime No.14/2015 under Sections 302, 337-J, and 34 PPC of Police Station Shaikh Bhirkio. He was acquitted under Section 345(6) Cr.PC after a compromise and payment of the Diyat amount (Order dated 16.12.2015).
- ii. The Petitioner Muneer Ahmed Laghari, in C.P No.D-2505/2018, was involved in Crime No.14/2014 under Sections 269, 270 PPC of Police Station Chambar and was released under Section 4 of the Probation of Offenders Act, 1961 (Order dated 25.4.2014).
- iii. Petitioner Aqib Ali in C.P No.D-2773/2022 applied for the post of Junior Clerk (BPS-11) and was found involved in multiple crimes (Crime No.117/2017 under Sections 506/2, 504, 337-A(i), L(ii), 147, 148, 149 PPC and Crime No.04/2018 under Sections 506/2, 337-A(i), A(ii), F(i), F(vi), L(ii), 504, 148, 149, 403 PPC of Police Station Taluka Nawabshah). He was acquitted by compromise under Section 345(6) Cr.PC (Orders dated 09.10.2018).
- iv. Petitioner Nadir Ali, in C.P No.D-3168/2022, was involved in Crime No.18/2018 under Sections 337-A(ii), L(ii), 506/2, 114, 147, 148 PPC of Police Station Jamal Shah Nawab Shah and was acquitted by way of compromise under Section 345(6) Cr.PC (Order dated 27.7.2019).
- v. In C.P No.D-3311/2022, Petitioner Pervaiz Ali was involved in Crime No.60/2014 under Section 395 PPC of Police Station Nindo. The case was disposed of under "C" Class upon the presentation of a final report under Section 173 Cr.PC by the SHO, which was accepted by the Court (Order dated 12.01.2015).
- vi. The Petitioners in C.P No.D-3342/2022 were involved in various crimes, with some acquitted by way of compromise, some under

⁹ Judgment dated 23.4.2024, in C.P No.D-6135/2023 (Abdul Ghani vs. Province of Sindh & others)

- Section 245(i) Cr.PC, some under Section 249-A Cr.PC and some were disposed of under the "C" Class.
- vii. Petitioner No.1 Nadeem in C.P No.D-3354/2022 was involved in Crime No.19/2017 under Sections 334, 337-A(i), F(i), 337-L(ii), 504, 34 PPC of PS Pangrio and was acquitted (Judgment dated 10.10.2019). Petitioner No.2 Jai Ram in C.P No.D-3354/2022 was involved in Crime No.221/2021 under Sections 365-B, 496 PPC of Police Station Kotri, and the case was disposed of under "C" Class (Order dated 20.8.2021).
 - viii. The Petitioners in C.P No.D-3356/2022 had cases with acquittals either by way of compromise or under judgments/orders, including Petitioner No.1 Ghulam Mahdi in Crime No.32/2020 under Sections 401, 34 PPC of PS Kakar (Judgment dated 08.10.2020), Petitioner No.2 Sehrish Gul in Crime No.136/2021 under Sections 324, 114, 34 PPC of Police Station "A" Section Dadu (Judgment dated 17.3.2022), and Petitioner No.3 Jahangeer Qadir in Crime No.29/2018 under Sections 302, 337-H(ii), 148, 149, 504 PPC of Police Station Kakar (Order dated 18.10.2019).
 - ix. The Petitioners in C.P No.D-3378/2022 were involved in different crimes, with acquittals either by way of compromise or under Sections 345(6), 249-A and 245(i) Cr.PC.
 - x. Petitioner No.1 Ali Ghulam Brohi in C.P No.D-3393/2022 was involved in Crime No.62/2016 under Sections 302, 114 PPC of Police Station Shahpur and was acquitted under Section 265-H(i) Cr.PC (Judgment dated 06.12.2019) and Petitioner No.2 Bilawal in C.P No.D-3393/2022 was involved in Crime No.14/2021 under Sections 147, 148, 149, 504, 506, 337-A(i), 337-F(i) PPC of Police Station Shahpur and was acquitted by way of compromise under Section 345(i) Cr.PC (Order dated 20.8.2021).
 - xi. Petitioner Azam Ali, in C.P No.D-3417/2022, was involved in Crime No.16/2020 under Sections 457, 380, 427, 506 PPC of Police Station Jamshoro and was acquitted under Section 245(1) Cr.PC (Judgment dated 20.10.2020).
 - xii. Petitioner Aamir Ali in C.P No.D-649/2023 was involved in Crime No.172/2020 under Sections 147, 148, 149, 440, 504, 403 PPC of Police Station K.N Shah and was acquitted under Section 245(1) Cr.PC (Judgment dated 01.10.2020).
 - xiii. Petitioner Inayatullah, in C.P No.1207/2024, was involved in Crime No.290/2019 under Section 23(1)(a) of the Sindh Arms Act, 2013, Police Station Kazi Ahmed and was acquitted under Section 265-H(i) Cr.PC (Judgment dated 04.12.2021).

xiv. In C.P No.D-1364/2024, Petitioner Hassan Raza was involved in Crime No.380/2023 under Sections 420, 34 PPC of Police Station Shahdadpur and was acquitted under Section 249-A Cr.PC (Order dated 08.01.2024).

8. The primary issue raised by the Petitioners, namely the refusal by the Respondents to issue appointment orders despite the Petitioners being successful candidates. The Respondents' justification for this refusal is the existence of criminal cases registered against the Petitioners. Learned counsel for the Petitioners has cited unreported Orders/Judgments passed by the Divisional Bench of this Court in similar cases, wherein the Petitioners were allowed appointments despite having criminal cases against them. Notably, two Orders of Divisional Bench of this Court in the cases of **Majid Ali Memon (Supra)**, in which one of us (**Zulfiqar Ali Sangi-J**) was member and **Mehmood Khan and others (supra)**, in which one of us (**Arbab Ali Hakro-J**) was member, with the latter case explicitly stating that registration or pendency of criminal cases does not constitute a disqualification for appointment in civil service. Both the Orders were challenged before the Supreme Court of Pakistan and were maintained.

9. The pivotal legal provision in this context is Section 15 of the Sindh Civil Servants Act, 1973 (the Act of 1973), which stipulates: "No person convicted for an offence involving moral turpitude shall unless Government otherwise directs, be appointed to a Civil Service or post." This provision sets forth two conditions for appointment: the individual must not be a convict, and the individual must not be a convict for an offence involving moral turpitude. The records submitted by the Respondents do not indicate that any of the Petitioners have been involved in offences involving moral turpitude, let alone convicted for such offences. Section 15 of the Act of 1973 stipulates that no person convicted of an offence involving moral turpitude shall be appointed to a civil service or post unless otherwise directed by the Government. The term "moral turpitude" refers to conduct contrary to community standards of justice, honesty, or good morals. The acquittal of the Petitioners, particularly in offences not involving moral turpitude, removes any legal impediment to their appointment.

10. The criminal proceedings instituted against the Petitioners were of a routine nature and culminated in their acquittal, achieved either on the merits of the case, through a compromise between the parties, or by the disposal of the cases under the cancelled "C" Class. It is a well-established legal principle that an acquittal obliterates any prior declaration of guilt, and the individual is thereby exonerated and can no longer be branded as guilty of the

alleged offence. The resultant expungement of the stigma of conviction by virtue of an acquittal by a competent court effectively reinstates the individual's presumption of innocence. Moreover, the prevalence of false accusations or the strategic implication of multiple family members in criminal cases cannot be equated to the disqualification contemplated under Section 15 of the Act of 1973. This section explicitly precludes the appointment of individuals convicted of offences involving moral turpitude unless otherwise directed by the Government. The practice of maliciously implicating individuals, particularly through familial associations, does not conform to the legislative intent of disqualification articulated in Section 15 of the Act of 1973. Thus, when proven to be baseless and culminating in acquittal, such unfounded allegations should not impinge upon the Petitioners' right to appointment, a right they have legitimately acquired by meeting the requisite examination standards. The legal maxim that acquittal purges the individual of any imputation of guilt reinforces the notion that once exonerated, the individual is entitled to all the rights and privileges inherent in the civil service, free from any residual taint of the criminal proceedings.

11. In addition to the statutory provisions encapsulated within Section 15 of the Act of 1973, it is imperative to consider the pertinent guidelines delineated in the Sindh Police Department's Recruitment Policies of 2016, 2019, and 2022. These policies provide comprehensive directives concerning the verification of character and antecedents of candidates. Para 4.1.18 of the said policies unequivocally stipulates that the verification process is to be meticulously conducted by the concerned District Superintendent of Police, the Special Branch, and the Crime Record Office. This procedural mandate thoroughly scrutinises a candidate's past conduct and legal standing. The policies explicitly articulate that candidates found to have been convicted in any criminal case shall unequivocally be disqualified from being offered an appointment. Moreover, these guidelines prudently state that if a candidate is under investigation or undergoing trial, the offer of appointment may be held in abeyance until the candidate is either exonerated or the charges are unequivocally dismissed. However, it is paramount to underscore that the Petitioners in question, having been acquitted of the charges levied against them, are not encumbered by the disqualifications articulated in the aforementioned policies. The jurisprudential axiom that an acquittal effectively nullifies any prior declaration of guilt fortifies the Petitioners' eligibility for appointment. The legal maxim that acquittal washes away the taint of criminal accusation underscores the principle that once acquitted by a competent court, an individual regains their presumption of innocence and is entitled to the rights and privileges pertinent to their eligibility for civil service

appointments. The malicious practice of false implication, or the common stratagem of entangling multiple family members in criminal cases, does not constitute a legitimate basis for disqualification under Para 4.1.18 of the Recruitment Policies, nor does it impinge upon the legislative intent embodied within Section 15 of the Act of 1973.

12. Given the Petitioners' acquittal, there remains no juridical or procedural impediment to their appointment. The equitable application of the Recruitment Policies, in consonance with the acquittal of the Petitioners, mandates that their eligibility for appointment be recognised and upheld, thereby ensuring adherence to principles of justice, fairness, and due process. The acquittal of the Petitioners reaffirms their entitlement to be considered for appointment without the residual stigma of the prior criminal proceedings, thereby safeguarding their rights and the integrity of the recruitment process.

13. In the case of *Mehmood Khan and others (Supra)*, it was held that the registration or pendency of criminal cases does not disqualify an individual from appointment if acquitted. The Supreme Court of Pakistan upheld this decision vide an Order dated 22.10.2024, in Civil Petitions No.81-K and 82-K of 2024), reinforcing that an acquittal nullifies any disqualification arising from the registration of criminal cases.

14. In the seminal case of *Chairman Agricultural Development Bank of Pakistan and others (Supra)*, the Supreme Court of Pakistan elucidated the equivalence between an acquittal secured through compromise under Sections 309 and 310 of the Pakistan Penal Code and an acquittal obtained under Sections 245 or 265-H of the Criminal Procedure Code. The doctrine of "**Badal-i-Sulh**", a cornerstone of Islamic jurisprudence, emerges as a pivotal mechanism for the reconciliation and resolution of disputes, particularly in cases where the offended party consents to forgo retributive justice in exchange for compensation or restitution. The provisions of Sections 338-E(1) and 345(6) of the Cr.PC unequivocally articulate that the composition of an offence, whether through judicial or extrajudicial settlement, culminates in the acquittal of the accused. Specifically, Section 338-E(1) underscores that in cases of Qisas and Diyat, the waiver or compounding of the right of Qisas by the Wali (heir of the victim) unequivocally results in the exoneration of the accused. Section 345(6) further reinforces this principle by stipulating that the compromise or composition of an offence, once duly ratified by the competent Court, mandates the acquittal of the accused. "**Badal-i-Sulh**", derived from the Arabic terms "**Badal**" (substitute) and "**Sulh**" (settlement), signifies a

conciliatory mechanism wherein the aggrieved party agrees to absolve the accused in consideration of compensation. This restitution framework is deeply ingrained in the ethos of restorative justice, aiming to mend the social fabric disrupted by the offence and restore harmony between the conflicting parties. The relevant Paras No. 7, 8, and 9 of the said Judgment are reproduced hereunder:-

"7. After hearing the learned counsel for the parties and going through the record of this case with their assistance and after perusing the precedent cases cited before us, we have entertained no manner of doubt that the majority verdict delivered by the Federal Service Tribunal, Islamabad reinstating the respondent in service with all the back benefits was quite justified both on facts and in law. We may observe that prior to the introduction of the Islamic provisions in the Pakistan Penal Code, 1860, an acquittal of an accused person could be recorded when the prosecution failed to prove its case against him beyond a reasonable doubt or when faced with two possibilities, one favouring the prosecution and the other favouring the defence, the Court decided to extend the benefit of the doubt to the accused person and an acquittal could also be recorded under section 249-A, Cr. P. C. or section 265-K, Cr. P. C. when the charge against the accused person was found groundless or there appeared to be no probability of his being convicted of any offence. After the introduction of the Islamic provisions in the Pakistan Penal Code, 1860, it has now also become possible for an accused person to seek and obtain his acquittal in a case of murder either through waiver/Afw under section 309, PPC or on the basis of compounding/Sulh under section 310, PPC. In the case of waiver/Afw, an acquittal can be earned without any monetary payment to the heirs of the deceased, but in the case of compounding/Sulh, an acquittal may be obtained upon acceptance of Badal-i-Sulh by the heirs of the deceased from the accused person. In the present case, the respondent had been acquitted of the charge of murder by the learned Sessions Judge, Lakki Marwat, as a result of compounding of the offence, and such compounding had come about on the basis of acceptance of Badal-i-Sulh by the heirs of the deceased from the respondent. It is true that Diyat is one of the forms of punishment specified in section 53, PPC but any discussion about Diyat has been found by us to be totally irrelevant to the case in hand because the respondent had not paid any Diyat to the heirs of the deceased but he had in fact paid Badal-i-Sulh to them for the purpose of compounding of the offence. It goes without saying that the concept of Badal-i-Sulh is totally different from the concept of Diyat inasmuch as the provisions of subsection (5) of section 310, PPC and the Explanation attached therewith show that Badl-i-Sulh is to be "mutually agreed" between the parties as a term of Sulh between them whereas under section 53, PPC C Diyat is a punishment and the provisions of section 299(e), PPC and section 323, PPC manifest that the amount of Diyat is to be fixed by the Court. The whole edifice of his arguments built by

the learned counsel for the appellants upon Diyat being a form of punishment has, thus, appeared to be utterly misconceived.

8. *The provisions of the first proviso to subsection (1) of section 338-E, PPC clearly contemplate acquittal of an accused person on the basis of compounding of an offence by invoking the provisions of section 310, PPC and the effect of such compounding has also been clarified in most explicit terms by the provisions of subsection (6) of section 345, Cr.P.C. in the following words:--*

"The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded."

9. *The legal provision mentioned above leaves no ambiguity or room for doubt that compounding of an offence of murder upon payment of Badal-i-Sulh is not a result of payment of Diyat, which is a form of punishment and that such compounding of the offence leads to nothing but an acquittal of the accused person....."*

[Emphasis is supplied]

15. Similarly, in the case of **the District Police Officer, Mianwali and 2 others**¹⁰, the Supreme Court of Pakistan reaffirmed the same view, holding that -

"It is by now well settled that a civil servant facing expulsive proceedings on departmental side on account of his indictment on criminal charge may not save his job in the event of acquittal as the department still may have reasons/material, to conscientiously consider his stay in the service as inexpedient; there are additional reasons to disregard his acquittal inasmuch as criminal dispensation of justice involving corporeal consequences, comparatively, requires an higher standard of proof so as to drive home the charge beyond doubt, an exercise to be routed through a procedure stringently adversarial, therefore, factuality of the charge notwithstanding, procedural loopholes or absence of evidence, sufficient enough to sustain the charge, at times occasion in failures essentially to maintain safe administration of criminal justice out of abundant caution. Departmental jurisdiction, on the other hand, can assess the suitability of a civil servant, confronted with a charge through a fact finding method, somewhat inquisitorial in nature without heavier procedural riders, otherwise required in criminal jurisdiction to eliminate any potential risk of error, therefore, the Tribunal has undoubtedly misdirected itself in reinstating the respondent, considering his acquittal as the sole criterion in isolation to the totality of circumstances whereunder he had succeeded to vindicate his position. Reference may be made to the cases of Dr. Sohail Hassan Khan and others v. Director General (Research), Livestock and Dairy Development Department, Punjab, Lahore and others (2020 SCMR 1708), Liaqat Ali v. Government of N.W.F.P. through Secretary Health, Peshawar and others (2011 PLC (C.S.) 990), Chairman

¹⁰ District Police Officer, Mianwali and 2 others vs Amir Abdul Majid (2021 SCMR 420)

Agricultural Development Bank of Pakistan and another v. Mumtaz Khan (PLD 2010 SC 695), Government of Pakistan through Secretary Ministry of Finance and others v. Asif Ali and others (2007 PLC (C.S.) 271), Superintendent of Police, D.I. Khan and others v. Ihsanullah (2007 SCMR 562), Sami Ullah v. Inspector-General of Police and others (2006 SCMR 554), Ractor Comsats v. Ghulam Umar Kazi (2006 SCMR 1894), Executive Engineer and others v. Zahid Sharif (2005 SCMR 824), Khaliq Dad v. Inspector-General of Police and 2 others (2004 SCMR 192), Arif Ghaffoor v. Managing Director, H.M.C., Texila and others (PLD 2002 SC 13), Mir Nawaz Khan v. Federal Government through Secretary, Ministry of Finance, Islamabad and 2 others (1996 SCMR 315), Talib Hussain v. Anar Gul Khan and 4 others (1993 SCMR 2177), Mud Izharul Ahsan Qureshi v. Messrs P.I.A.C. (1994 SCMR 1608), Muhammad Nazir v. The Superintendent of Police, Toba Tek Singh and others (1990 SCMR 1556) Muhammad Tufail v. Assistant Commissioner/Collector (1989 SCMR 316), Muhammad Saleem v. Superintendent of Police, Sialkot and another (PLD 1992 SC 369), Muhammad Ayub v. The Chairman, Electricity Board, WAPDA, Peshawar and another (PLD 1987 SC 195), The Deputy Inspector-General of Police, Lahore and others v. Anis-ur-Rehman Khan (PLD 1985 SC 134) and Begum Shams-un-Nisa v. Said Akbar Abbasi and another (PLD 1982 SC 413). However, while reaffirming the declaration of law referred to above, nonetheless, after hearing the learned Additional Advocate General and examining the record, having regard to the peculiarity of circumstances, we do not feel persuaded to non-suit the respondent, present in person, merely on account of flawed handling of his plea by the Tribunal.”

[Emphasis is supplied]

16. In examining the case of Petitioner Muneer Ahmed Laghari in C.P No.D-2505/2018, who was implicated in Crime No.14/2014 under Sections 269 and 270 of the Pakistan Penal Code (PPC) at Police Station Chambar and subsequently released under Section 4 of the Probation of Offenders Act, 1961, vide an Order dated 25.4.2014 by the competent Court, it becomes imperative to delve into the nuanced legal and rehabilitative aspects associated with such a release. The Probation of Offenders Ordinance, 1960, was enacted with a forward-looking vision centred around reforming and rehabilitating offenders, steering them towards becoming productive and self-reliant members of society. This legislative framework is designed to mitigate the adverse effects of incarceration on individuals who, while having committed offences, are deemed capable of rehabilitation outside the prison system. The Ordinance aims to foster an environment where offenders can reintegrate into society with a renewed sense of responsibility and purpose by circumventing the deleterious effects of jail life.

Section 4 of the Probation of Offenders Ordinance, 1960, empowers the Court to release on probation an offender found guilty of committing an offence, provided that such an offence is not punishable by death or imprisonment for life or does not fall under the specific categories delineated in Sections 4 and 5 of the Ordinance. The Court's discretion in this regard is exercised with a view towards the offender's potential for reformation and the broader societal interest in reducing recidivism. However, it is crucial to underscore that a release on probation, while providing an opportunity for rehabilitation, does not equate to an acquittal. The legal status of the offender remains that of a convict, albeit one who has been granted the leniency of probation instead of a custodial sentence. The probationary release acknowledges the offender's culpability and an opportunity for redemption rather than an exoneration of the offence committed. In the context of Petitioner Muneer Ahmed Laghari's case, the Court's decision to release him on probation under the provisions of the Ordinance 1960 must be viewed through this dual lens of conviction and rehabilitation. The Petitioner's release on probation is a legally recognised conviction, reaffirming his culpability while offering him a chance for reformation and reintegration into society. The objective of probation is to aid in the offender's rehabilitation, steering him away from the criminal justice system's punitive measures and towards a constructive role within the community.

17. The unreported Judgment dated 23.4.2024, delivered by the Divisional Bench of this Court in the case of **Abdul Ghani and others (supra)**, cited by the learned A.A.G, deliberated upon various unreported judgments/orders from different benches of this Court, including the case of **Mehmood Khan (supra)** and **Majid Ali Memon (supra)**. It was determined that these judgments were per incuriam as they did not address the proviso to Section 6(3) of the Act of 1973, nor did they attempt to distinguish between the two judgments of the Supreme Court, resulting in the denial of relief sought by the petitioners to be appointed in the police force. Notably, the orders in the case of **Mehmood Khan and Majid Ali Memon** were challenged by the Government before the Supreme Court of Pakistan through Civil Petitions No. 81-K and 82-K of 2024 and Civil Petition No.1009-K of 2021, respectively. The Supreme Court refused the leave to appeal and upheld the order passed in the case of **Mehmood Khan** vide an Order dated 22.10.2024, stating that the Court had accurately interpreted the provisions of the Policy of 2022 and Section 15 of the Act of 1973 and the learned Additional Advocate General failed to demonstrate any legal infirmity in the impugned judgment warranting interference. Whereas the petition was dismissed in the later case of **Majid Ali Memon**. Consequently, the orders

passed by the Honourable Supreme Court are binding on this Court, superseding the order passed by the Divisional Bench of this Court in the case of ***Abdul Ghani and others (supra)***.

18. Based on the above discussion, we conclude that the Petitioners, having been acquitted either by trial, compromise in a murder case through the payment of Diyat, or the disposal of the case under cancelled "C" Class, are legally entitled to their appointments, therefore, all those petitions are **allowed**. However, the Petitioner in C.P No.D-2505/2018, who was released on probation, constitutes a conviction; therefore, the petition for this particular Petitioner is **disallowed**.

19. For the foregoing reasons, the Respondents/concerned authorities are directed to issue appointment orders to the Petitioners within one month positively, ensuring compliance with the relevant legal provisions and judicial precedents discussed herein, except for the Petitioner, who was released on probation, as his petition is disallowed on the grounds of his conviction.

JUDGE

JUDGE