

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P No. D – 475 of 2023

Present;

Mr. JUSTICE ZULFIQAR ALI SANGI

Mr. JUSTICE NISAR AHMED BHANBHRO

Petitioner : Lal Bux Narejo, through
Mr. Shafi Muhammad Bango, Advocate

Respondents : Province of Sindh and others through
Mr. Zulfiqar Ali Naich, Assistant Advocate General Sindh

Date of hearing : 26.03.2025
Date of decision : 03.04.2025

JUDGMENT

Nisar Ahmed Bhanbhro, J;- Through instant Constitutional Petition, the Petitioner has sought for the following relief;-

(a) *Direct the respondents to issue appointment order to the petitioner for the post of police constable, he was found eligible for the said post.*

2. Case of the Petitioner is that pursuant to an advertisement published by the Respondents inviting Applications from the eligible candidates for the post of Police Constable in SPU (CPEC), the Petitioner applied for the said post, after fulfillment of entire codal formalities, successfully qualified the entire tests, his name was included in the final merit list of the candidates, who were selected for the post of Police Constable, the name of the Petitioner was enlisted at Serial No.220. Thereafter on verification of the character and antecedents, he was found involved in a Criminal case bearing FIR No.73 of 2016 registered with Police Station, Agra, District Khairpur for offence under Sections 506/2, 451/2, 504, 114, 147, 148 and 149 PPC, hence the case of the Petitioner for his appointment was rejected by the Sindh Police Recruitment Broad only on the ground of his involvement in a criminal case, hence this petition.

3. Comments have been filed by Respondent No.4/Senior Superintendent of Police, Khairpur, wherein he did not challenge the selection of the Petitioner as Police Constable, but only stance taken that during verification of the character and other antecedents of the

Petitioner, he was found involved in a criminal case. The case of the Petitioner was rejected by the Sindh Police Recruitment Board being involved in the criminal case.

4. Learned counsel for the Petitioner contended that though the Petitioner after fulfillment of the entire codal formalities was selected for the post of Police Constable in SPU (CPEC) by the Respondents, whereas, a false and concocted criminal case was registered against him, in which he has been acquitted of the charges by way of judgment dated 30.03.2017 by the Court of Learned Civil Judge and Judicial Magistrate-I, Gambat in Criminal Case No.01 of 2017 (*Re- The State vs. Nabi Bux and others*) arising out of FIR No.73 of 2016 registered with Police Station, Agra, District Khairpur. He further contended that once the Petitioner has been acquitted from the criminal case, he may be presumed to have been acquitted honourably, hence the act of Sindh Police Recruitment Board for rejecting the appointment of the Petitioner is unjustified. In support of his contentions, he placed reliance upon unreported orders of this Court dated 28.02.2024 passed in C.P No.D-966 of 2023 and order dated 03.12.2024 passed in C.P No.D-1754 of 2023. He lastly contended that the Petitioner being a young energetic man and is capable to carry out the services and perform his duty as Police Constable, whereas, the stigma shown against him has also been removed through judgment passed by the concerned trial Court, hence he prays that this petition may be allowed.

5. Learned AAG supported the version of the Respondents and submitted that though Petitioner has successfully qualified the required tests and was selected for the post applied for in Police Department, but he was found involved in a criminal case, therefore, his case was rightly rejected by the Sindh Police Recruitment Board. He, therefore, prayed for dismissal of this petition.

6. We have heard the learned Counsel for the parties and examined the material available on record.

7. In the similar circumstances, this Court has already decided the issue regarding appointment of candidate(s), who were involved in criminal cases and were acquitted by the trial Court in C.P No.D-1754 of 2023 (*Gulab vs. Province of Sindh and others*) and C.P

No.D-966 of 2023 (*Ghulam Abbas vs. Province of Sindh and others*) so also by the Honourable Apex Court in the cases of *Chairman Agricultural Development Bank of Pakistan and another vs. Mumtaz Khan (PLD 2010 SC 695)* and *Dr. Muhammad Islam vs. Government of NWFP through Secretary, Food, Agriculture, Livestock and Cooperative Department Peshawar and 2 others (1998 SCMR 1993)* where the Honourable Courts have been pleased to hold that the acquittal of an accused after full fledged trial is always an honourable acquittal and mere involvement of a person in a criminal case cannot deprive him of his right of appointment, more particularly when a final verdict of innocence on merits has been given by the Courts of law.

8. It is pertinent to mention that the case of petitioner for appointment was rejected by the Sindh Police Recruitment Board on 06.09.2022, whereas, the verdict in favour of the Petitioner acquitting him of the charge of FIR No.73 of 2016 of Police Station, Agra was given on 30.03.2017 meaning thereby that at the time of deciding the fate of the Petitioner for appointment as police constable there was no criminal case pending against him.

9. The Sindh Civil Servants Act, 1973 (the Said Act) lays a mechanism for recruitment in civil service. Section 15 of the said Act places an embargo on appointment of any convicted person in the following manner:

15. No Person convicted for an offence involving moral turpitude shall, unless Government otherwise direct, be appointed to a Civil Service or Post.

The disqualification for appointment to Civil Service or post attracts only in case when candidate is convicted in an offence involving moral turpitude but there was no statutory provision existing under the law impeding the appointment of a person to a Civil Service or Post if involved a criminal case, if this version of the Police Department is applied *ipso facto* then it will be applicable even to the persons already in service meaning thereby that a person in police services shall stand disqualified on account of registration of a criminal case against him, which in fact would be an incorrect interpretation of the laws.

10. For what has been discussed hereinabove, we are of the view that the decision of Sindh Police Recruitment Board dated 06.09.2022 rejecting appointment of the Petitioner is beyond the bounds of law and thus cannot be sustained and is liable to be set-aside. We do not

feel hesitation to exercise our discretion under writ jurisdiction in favour of the Petitioner, holding that he was entitled to be appointed as a Police Constable. We, therefore, allow this Constitutional Petition and direct the Respondents to issue Appointment Order in favour of the Petitioner Lal Bux Narejo within a period of 60 (Sixty) days from the date of receipt of this order. Office is directed to send a copy of this order to Respondents No.2, 3 and 4 for compliance.

Judge

Judge

ARBROHI