

IN THE HIGH COURT OF SINDH, KARACHI

Before:

Justice Muhammad Saleem Jessar
Justice Nisar Ahmed Bhanbhro

CP No.D-1624 of 2023

(Saif Ali v. Province of Sindh and others)

CP No.D-5608 of 2023

(Saeed ur Rehman v. the Inspector General of Sindh Police and others)

CP No.D-6083 of 2024

(Usman and 07 others v. Province of Sindh and others)

CP No.D-5495 of 2025

(Haseeb v. Province of Sindh and others)

Mr. Qamar Riaz Virk, advocate for the petitioner in CP No.D-1624 of 2023

Mr. Mansoor Ahmed Khan, advocate for the petitioner in CP No.D-5608 of 2023

Mr. Jabbir Khan, advocate for the petitioners in CP No.D-6083 of 2024

Mr. Bilawal Channa, advocate for the petitioner in CP No.D-5495 of 2025

Mr. Abdul Jalil A. Zubedi, Assistant Advocate General

Date of hearing and order: 19.01.2026

ORDER

Nisar Ahmed Bhanbhro, J. We propose to decide the fate of the captioned petitions through this single order as in all the petitions common questions of law and facts are involved.

2. In all the captioned petitions, the petitioners have sought similar relief on the ground that according to Revised Sindh Police Recruitment Policy -2022, they are fit and eligible candidates for the post of Police Constable. They have further sought directions of this Court against the official respondents to issue them offer letter/appointment letter for the post of Police Constable (BPS-05).

3. Mr. Qamar Riaz Virk, learned Counsel for the petitioner in CP No. D-1624 of 2023 argued the matter, the other learned Counsels adopted his arguments. Learned Counsel contended that the petitioners applied and submitted his credentials for consideration against the post of Police Constables, pursuant to an advertisement published by the respondents in the year 2021, strictly in accordance with the prescribed procedure. Learned counsel further argued that after submission of the applications, the respondents conducted a written test through testing service, in which the petitioners successfully qualified, and result was officially published on the respondents' website. Thereafter, the petitioners were subjected to subsequent stages of the selection process, including physical test, psychometric evaluation, and medical examination, all of which they cleared successfully, as duly reflected in the officially published results. It was further contended that the interview process was thereafter conducted by the respondents, wherein the petitioners also qualified. However, instead of issuing the appointment letter, the respondents, in an arbitrary and unlawful manner, issued letter dated 25-02-2023, thereby rejected the petitioners' candidature on the sole ground of alleged involvement in a criminal case/FIR and recommended withdrawal of selection for appointment as Police Constable. Learned counsel vehemently submitted that the said action of the respondents is *ex facie* illegal, unjustified, and discriminatory, as the petitioners were already been acquitted in the said criminal cases under section 265-H(i), Cr.P.C., by the concerned Courts. Learned counsel submitted that the respondents failed to appreciate the legal effect of acquittal and mechanically rejected the petitioner's candidature without lawful justification, thereby violating the settled principle that every person is presumed innocent unless proven guilty, and once acquitted by a court of competent jurisdiction, such presumption stands reinforced and doubled. It was further argued that the impugned rejection is based solely on discrimination and non-application of mind, as similarly placed candidates have been treated differently, which amounts to violation of Articles 4, 9, and 25 of the Constitution of Islamic Republic of Pakistan, 1973. In view of the foregoing submissions, learned counsel prayed that the instant petition may kindly be allowed, the impugned rejection letter be set aside, and the respondents be directed to restore the petitioner's selection and issue appointment letter in accordance with law.

5. Learned Assistant Advocate General Sindh opposed the stance of the learned Counsel for the Petitioners and contended that though the Petitioners have successfully qualified the required tests and selected for the post of Police Constable, but were found involved in criminal cases, therefore, their case was rightly rejected by the Sindh Police Recruitment Board. He contended that the police were saddled with critical responsibility of maintaining law and order in the province. He argued that the good conduct was a pre-condition for appointment in police service, which Petitioners failed to fulfill. He therefore, prayed for dismissal of this petition.

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

7. Meticulous perusal of the record revealed that the Petitioners were found eligible for appointment to the post of police constable through competitive process. The case of petitioners for appointment as police constable was rejected by the Sindh Police Recruitment Board in its meeting held on 31.08.2022, 06.02.2023, 26.07.2023 and 21.11.2023 on the ground that Petitioners were involved in criminal cases, stemming from **FIR No.248/2021, under sections 337-J(ii) PPC and 25 of Sindh Arms Act, 2013, Police Station Frere, Karachi; FIR No.48/2020 under Sections 279 PPC registered at PS SITE-A; FIR No.156/2019 under Sections 170, 171 PPC at PS Aziz Bhatti Karachi; FIR 371/2020 under Sections 371/A, 371/B, 354, 46/B/34 PPC registered at PS Jamsheed Quarters District East Karachi.** Record further evidenced, that the report under section 173 CrPC in above FIRs was submitted before concerned magistrate and matter was sent up for trial before the Court of concerned Judges for disposal in accordance with law. The criminal cases after full-fledged trial culminated into acquittal of the accused including Petitioners vide respective judgments. This fact finds mention in the decision of Sindh Police Recruitment Board meeting. The acquittal of the Petitioners in the criminal cases established that they were facing trumpeted charges. It is for the reasons that an accused is presumed to be innocent until a finding of guilt is pronounced against him by the competent court of law.

8. The Sindh Civil Servants Act, 1973 (the Act) is the governing law regulating the service of a civil servant in the province of Sindh. Under the

provisions of the Act, there was no impediment to refuse appointment to a person otherwise eligible for induction, if he was involved in any criminal case. Section 15 of the Act places an embargo on induction of a convict, which envisions that a person convicted of an offence of moral turpitude shall not be appointed in Government Service, unless directed by the Government. The bar contained in section 15 is not absolute in nature as it confers discretion to the Government to even induct a convict in government service, if so desired. The registration of a criminal case was not a sufficient proof of the guilt of moral turpitude in absence of the verdict of the competent Court of law holding the person facing accusation guilty of the offence. Section 15 reads 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.

9. The perusal of above provision of law made it crystal clear that the disqualification for appointment to Civil Service or post attracts only in case when aspirant 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.

10. The expression "moral turpitude" has been defined in Merriam Webster Dictionary as follows:

"an act or behavior that gravely violates the sentiment or accepted standard of the community or a quality of dishonesty or other immorality that is determined by the Court present in the commission of a criminal offence."

In Words and Phrases, Permanent Edition 27-A, the expression "moral turpitude" has been explained as follows:

"In determining whether crime is one involving 'moral turpitude', the test is whether the act denounced by the statute offend generally accepted moral code of mankind."

Expression "moral turpitude" has been explained in Legal Terms and Phrases (Judicially defined) by M. Ilyas Khan, Advocate, as follows:

The term "moral turpitude" is not defined anywhere but in general parlance it connotes anything done against justice, honesty, modesty or good morals. It is deprivation of character, and devoid of morality."

11. Broadly speaking "moral turpitude" is a vague term, and its meaning depends to some extent on the state of public morals; it is anything that is done contrary to justice, honesty, principle, or good morals; and act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man, or to society in general, contrary to the accepted and customary rule of right and duty between man and man; it implies something immoral in itself, regardless of fact whether it is punishable by law.

12. In the case of **Abdul Rashid Mughal Versus Muhammad Shabir Abassi** reported as 1984 SCMR 1172, Honorable Supreme Court of Pakistan enunciated the following principle to dub a person convicted of an offence of moral turpitude. It was held that:

"It is obvious that in the absence of any legal evidence learned Judges were somehow persuaded to hold, merely on the basis of the contents of the F.I.R., that appellant was convicted for an offence involving moral turpitude. Unfortunately they failed to notice that both the documents produced in support of the allegations against appellant, namely, F. I. R. and certificate from Deputy Superintendent, District Jail, Rawalpindi, were inadmissible evidence and, by themselves, furnished no proof upon which a conclusion could be drawn, much less a judgment rendered, that appellant was held guilty and convicted for an offence involving moral turpitude. The judgment of the High Court having been based on conjectures rather than any legal evidence is set aside and the appeal is allowed. The parties are, however, left to bear their own costs."

13. In the case of **Divisional Superintendent, Postal Services D.G. Khan Versus Nadeem Raza and another** reported as 2023 SCMR 803, Honorable Supreme Court of Pakistan upheld the major penalty of removal from service, when the employee was found involved in the embezzled of funds as the same constituted an offence of moral turpitude. It was held that:

*11. Being relevant to the instant case, another question that arises is with regards to the applicability of the test of proportionality to interfere with a penalty imposed for misconduct which involves moral turpitude. "Moral turpitude" was defined in *Imtiaz Ahmed* as "the act of baseness, vileness or the depravity in private and social duties which man owes to his fellow man, or to society in general contrary to accepted and customary rule of right and duty between man and man." In *Ghulam Hussain*, it was held that moral turpitude includes anything which is done contrary to the good principles of morality, any act which runs contrary to justice, honesty, good moral values or established judicial norms of a*

society. Therefore, for all intents and purposes, misappropriation or embezzlement of public funds while in Government service would be considered as gross misconduct involving moral turpitude.

12. *The modern notion of proportionality requires that the punishment ought to reflect the degree of moral culpability associated with the offence for which it is imposed. In order to render punishment compatible with justice, it is not enough to restrict punishment to the deserving, but also to restrict the degree of punishment to the degree that is deserved. The degree of wrongfulness is described variously as the "moral culpability", "gravity" or "depravity" associated with the offence. Therefore, along with the gravity of the misconduct, interference on the grounds of proportionality in the penalty imposed for misconduct is also assessed in view of the depravity or moral culpability associated with the same. The test of proportionality is, therefore, more stringent in cases of misconduct involving moral turpitude in view of the depravity or moral culpability involved.*

14. In wake of above discussion an ineluctable conclusion can be drawn that mere registration of an FIR against a person will not bring his case within the ambit of section 15 disqualifying him from the right to appointment, when otherwise he was found eligible. Therefore, threshold to discard a person from the right to induction in civil service was that he should be convicted of an offence involving moral turpitude.

15. It is pertinent to notice that the Petitioner were acquitted on by the Trial Court much prior to the decision of the Sindh Police Recruitment Board. It was abundantly clear that at the time of deciding the fate of the Petitioners for appointment as police constable they were not facing any criminal charge. As discussed supra disqualification for appointment to Civil Service or post attracts only, when aspirant candidate is convicted of an offence involving moral turpitude but there was no statutory provision existing under any law impeding the appointment of a person to a Civil Service or Post if an FIR stands registered against him or he was facing trial under a criminal charge. If this interpretation of law as has been done by the Sindh Police Recruitment Board is applied ipso facto then it will be applicable even to the persons already in police service meaning thereby that a person in police services shall stand disqualified from further service on account of registration of a criminal case against him, which in fact was not the command of law, intent and wisdom of the legislature.

16. 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 was always treated as an honourable acquittal and mere involvement of a person in a criminal case cannot deprive him of his right to appointment in civil service, more particularly when a final verdict of innocence on merits has been given by the Courts of law.

17. The Sindh Police Recruitment Board was misled in holding that involvement of a person in FIR would disentitle him from appointment in police service, no doubt police force was saddled with responsibility to wipe out crime from the society and observance of the Good Conduct was a pre requisite to serve under police service, but such a pre-condition did not mean to rob the rights which accrued in favor of a person by operation of the law. It is an alienable right of every citizen to be dealt in accordance with law and such right is the guaranteed under the constitutional command through articles 4, 9 and 14. The Petitioners have not been dealt in accordance with law and deprived of lawful earning of bread and butter through an arbitrary exercise of discretion, which requires indulgence of this Court to exercise the powers of judicial review.

18. For what has been discussed herein above, we are of the considered view that the decision of Sindh Police Recruitment Board rejecting the candidature of Petitioner for appointment as Police Constable on account of the registration of FIRs was beyond the bounds of law, thus not sustainable, warranting interference of this Court to exercise powers of judicial review conferred under article 199 of the Constitution of Islamic Republic of Pakistan, of 1973. Consequently, these petitions are allowed. The Respondents are directed to issue Appointment Order of Police Constable in favour of all the Petitioners within a period of 60 (Sixty) days from the date of this order.

19. Office is directed to send a copy of this order to the officials Respondents for compliance. Office to place signed copy of this order in the connected petitions.

JUDGE

JUDGE
HEAD OF CONST. BENCHES

Not approved for reporting

Nadir *