

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

C. P No. D – 313 of 2025

Faraz Ali Versus Province of Sindh and others

Present; **Mr. JUSTICE MUHAMMAD SALEEM JESSAR**
Mr. JUSTICE NISAR AHMED BHANBHRO

Petitioner

Faraz Ali Through Mr Riaz Hussain Khoso Advocate

Respondents:

Province of Sindh & others Through Mr Liaqat Ali Shar,
Additional Advocate General Sindh
along with ASI Qadir Bux on behalf of
SSP Kashmore @ Kandhkot

Date of hearing: 17.09.2025

Date of decision 17.09.2025

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JUDGMENT

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

*(a) That this Honorable Court may graciously be pleased to direct the
Respondents No 2 to 4 to issue appointment order to the petitioner for
the post of police constable, on deceased quota as he is already declared
successful candidate. This Honorable may be pleased to declare the act
of withdrawing the appointment process / offer letter is null and void,
ab initio, misuse of powers / authority and sort of depriving the poor
persons from their jobs.*

2. Mr. Riaz Hussain Khoso Learned Counsel for the Petitioner contended that
The Petitioner applied for the post of Police Constable pursuant to an
advertisement published in leading newspapers inviting applications from the

eligible candidates under sons / daughters of deceased / Shaheed and differently able police officials. He argued that the Petitioner applied for the said post, qualified the entire tests, his name was included in the final merit list of the candidates, who were selected. He argued that the name of the Petitioner was enlisted at Serial No. 4 of the merit list in District Kashmore. He further argued that the SSP Kashmore @ Kandhkot sent letters dated 06.03.2024 to Assistant Director NADRA Kashmore and Deputy Commissioner Kashmore for verification of the credentials of the Petitioner. He argued that the petitioner was declined the appointment by the Sindh Police Recruitment Board in its meeting held on 09.05.2024 on the ground that an FIR No. 28 of 2021 was registered against him at Police Station, A Section Kandhkot. He argued that such decision was communicated to the Petitioner vide letter dated 12.06.2024 issued by AIGP Establishment II for Inspector General of Police Sindh. He argued that Petitioner was recommended for appointment as Police Constable on merits. He contended that the Petitioner was booked in a false and concocted criminal case, in which he was acquitted of the charges by way of judgment dated 28.09.2021 passed by the Court of Learned Additional Sessions Judge -I, Kandhkot in Sessions Case No 167 of 2021 (Re- The State vs. Taj Muhammad and others). He further contended that once the Petitioner was acquitted from the criminal case, he was presumed to have been acquitted honourably, hence the act of Sindh Police Recruitment Board for rejecting the appointment of Petitioner is unjustified. In support of his contentions, he placed reliance upon unreported orders of this Court dated 27.02.2025 passed in C.P No.D-704 of 2023 and CPD 81 of 2024 and order dated 22.10.2024 passed by Honorable Apex Court in CPLA No 81 - K of 2024. He lastly prayed that the Petitioner being a young energetic man, is capable to carry out the services and perform his duty as Police Constable, whereas, the stigma shown against him has been removed through judgment passed by the concerned trial Court, hence he prays that this petition may be allowed.

3. Mr Liaqat Ali Shar Learned AAG opposed the stance of the Learned Counsel for the Petitioner and contended that though the Petitioner has successfully qualified the required tests and was selected for the post of Police Constable, but he was found involved in a criminal case, therefore, his 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 Petitioner failed to fulfill. He therefore, prayed for dismissal of this petition.

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

5. Meticulous perusal of the record revealed that the Petitioner was found eligible for appointment to the post of police constable through competitive process. The case of petitioner for appointment as police constable was rejected by the Sindh Police Recruitment Board in its meeting held on 09.05.2024 on the ground that he was involved in criminal case, stemming from FIR No 28 of 2021 recorded at police station A Section Kandhkot for offences punishable under section 365 – B, 452, 148, 149 PPC. Record further evidenced, that the report under section 173 CrPC in FIR No 28 of 2021 was submitted before concerned magistrate and matter was sent up for trial before the Court of Learned Ist Additional Session Judge Kandhkot for disposal in accordance with law. It was assigned Session Case No 167 of 2021 titled Re – The State Versus Taj Muhammad and others. The criminal case after full-fledged trial culminated into acquittal of the accused including Petitioner vide judgment dated 28.09.2021. This fact finds mention in the decision of Sindh Police Recruitment Board meeting. The acquittal of the Petitioner in the criminal case established that he was 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.

6. 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.

7. 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.

8. 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. ”

9. 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." .

10. In the case of Abdul Rashid Mughal Versus Muhammad Shabir Abassi reported as 1984 S C M R 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.

11. In the case of Divisional Superintendent, Postal Services D.G. Khan Versus Nadeem Raza and another reported as 2023 S C M R 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.²⁴ 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.

12. 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.

13. It is pertinent to notice that the Petitioner was acquitted on 08.09.2021 and his case for appointment was declined by the Sindh Police Recruitment Board in its meeting held on 09.05.2024. It was abundantly clear that at the time of deciding the fate of the Petitioner for appointment as police constable he was 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 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.

14. 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.

15. 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.

16. For what has been discussed hereinabove, we are of the considered view that the decision of Sindh Police Recruitment Board dated 09.05.2024 rejecting the candidature of Petitioner for appointment as Police Constable on account of the registration of FIR 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, this petition is allowed. The impugned decision dated 09.05.2024 of Sindh Police Recruitment Board is hereby set aside. The Respondents are directed to issue Appointment Order of Police Constable in favour of the Petitioner Faraz Ali within a period of 60 (Sixty) days from the date of this order.

17. The Petition stands disposed of with no order as to the cost. Office is directed to send a copy of this order to Respondents No. 1 to 5 for compliance.

Judge

Judge

Larkana

17.09.2025

Approved for reporting