

HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

C.P No.D-652 of 2025

*[Syed Mutahar Ali Shah
Vs.
Province of Sindh & others]*

Present:

Mr. Justice Arbab Ali Hakro,

Mr. Justice Abdul Hamid Bhurgri,

Petitioner : Syed Mutahar Ali Shah son of Syed Safeer Ahmed Shah, through Mr.Sajid Hussain Mahessar Advocate.

Respondents by : Mr. Liaquat Ali Shar, Additional Advocate, General, Sindh.

Dates of hearing & decision : **27.11.2025**

ORDER

ARBAB ALI HAKRO, J.- Through this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner Syed Mutahar Ali Shah seeks issuance of a writ against the Respondents for their failure to issue appointment order as Police Constable (BPS-07) against the merit criteria in District Larkana, despite his successful completion of the recruitment process and acquittal in a criminal case.

2. Petitioner had applied for the post of Police Constable under Advertisement and was declared successful in the final merit list. His appointment was withheld due to prior involvement in a criminal case based on FIR No. 21/2022 registered at P.S. Allahabad, Larkana, under Sections 494, 506/2, 114, 148 and 149, PPC. During pendency of trial in Cr. Case No. 216 of 2022 he was acquitted by the Court of Vth Civil Judge & Judicial Magistrate, Larkana on 06.10.2023 in terms of Section 249-A, Cr.P.C.

3. The petitioner has placed on record certified copy of the order of acquittal, the Offer Letter dated 24.03.2025, issued by the Senior Superintendent of Police, Larkana as well as the letter dated 19.06.2025 issued by the AIGP Establishment-II on behalf of Inspector General of Police, unequivocally recommending his eligibility for appointment. The Committee, constituted under the directives of the Inspector General of Police, Sindh, conducted thorough verification of antecedents, found no fresh adverse material against the Petitioner, and unanimously recommended him as suitable for recruitment in the Sindh Police.

4. Learned counsel for the Petitioner has argued with commendable clarity that the disqualification under Paragraph 4.1.18 of the Revised Sindh Police Recruitment Policy, 2022, applies only to candidates who have been convicted and not to those who have been acquitted. He contends that mere registration of a criminal case culminating in an acquittal cannot be grounds for disqualification.

5. Conversely, the learned Additional Advocate General (A.A.G), appearing for the Respondents, has attempted to justify the non-issuance of appointment orders by invoking Paragraph 4.1.18. However, when confronted with the plain language of the said provision, the learned A.A.G was unable to point to any regulation, policy, or instruction that prescribes disqualification on the basis of mere involvement in a criminal case that has ended in acquittal.

6. We have heard learned counsel for the Petitioner and learned Additional Advocate General and have meticulously perused the record. The pivotal question is whether a candidate acquitted of criminal charges can be denied appointment under the Revised Sindh Police Recruitment Policy, 2022.

7. Paragraph 4.1.18 of the said Policy reads:

“In case a candidate is found to have been convicted in a court of law in any criminal case, he shall not be offered appointment irrespective of the nature of the offence and the period of sentence.” [Emphasis is supplied]

8. The language is unambiguous and categorical. The disqualification is triggered only upon conviction. It does not extend to cases where the candidate has been acquitted. The policy further provides that where an investigation or trial is pending, the offer of appointment may be held in

abeyance until the candidate is cleared, and in the present case, the Petitioner was acquitted.

9. The Supreme Court of Pakistan, in its Order dated 22.10.2024, passed in Civil Petitions No.81-K and 82-K of 2024, has interpreted this provision in the terms that *“By no stretch of the imagination, the paragraph can be construed as extending the disqualification to a candidate who has been acquitted upon conclusion of a criminal trial.”*

10. This Court is bound by the principle of *stare decisis* and must follow the interpretation rendered by the apex Court. Any deviation from such binding precedent would amount to judicial impropriety.

11. Furthermore, Section 15 of the Sindh Civil Servants Act, 1973, provides that no person shall be appointed to a civil post unless he is found suitable in all respects. Suitability must be assessed on the basis of current character and antecedents, not on stale allegations that have been judicially discarded.

12. The Committee Report dated 04.07.2025, signed by the Senior Superintendent of Police and other senior officers, confirms that the petitioner has not been involved in any subsequent criminal activity and are fit for recruitment. Despite such findings, the Respondents' continued refusal to issue appointment orders is not only arbitrary but borders on administrative obstinacy.

13. This Court cannot remain a mute spectator to such blatant disregard of law and policy. The Respondents' conduct is not merely negligent; it is legally reprehensible. To deny a citizen his rightful appointment on the basis of acquitted charges is to trample upon the presumption of innocence, a cornerstone of our criminal jurisprudence. Such action is not only *ultra vires* the Recruitment Policy, but also violative of Articles 4, 9, and 25 of the Constitution.

14. The Respondents have acted in a manner that is capricious, discriminatory and devoid of lawful justification. Their refusal to honour the recommendations of their own Committee and the binding precedent of the Supreme Court of Pakistan is a manifestation of bureaucratic high-handedness and institutional defiance.

15. For the foregoing reasons, instant petition is **allowed**. Consequently, the Respondents/Competent Authority are hereby directed to issue

appointment order in favour of the Petitioner, strictly upon fulfillment of all codal formalities, within a period not exceeding one calendar month.

16. Before parting, it is imperative to underscore that the continued refusal to appoint candidates exonerated by courts of competent jurisdiction amounts to a jurisprudential anomaly that warrants unambiguous eradication. The Constitution does not countenance penal consequences in the absence of a subsisting conviction, nor shall this Court.

17. Office is directed to transmit a copy of this Order to the Inspector General of Police, Sindh, for compliance and record.

JUDGE

JUDGE

Qazi Tahir PA/*