

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

C. P. No.D-704 of 2023
(Karim Bux & Ors v. S.S.P Shikarpur & Ors)
C. P. No.D-81 of 2024
(Kaleemullah Jaffer v. S.S.P Shikarpur & Ors)

Date of Hearing	ORDER WITH SIGNATURE OF JUDGE
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27.02.2025.

BEFORE :

**Mr. Justice Muhammad Saleem Jessar,
Mr. Justice Adnan-ul-Karim Memon,**

Mr. Habibullah G. Ghouri, advocate for the petitioners.

Mr. Liaquat Ali Shar, Addl. A.G. Sindh, assisted by Mr. Aftab Ahmed Bhutto, Asst. A.G., along with SIP Muhammad Nawaz Sanjrani of Legal Branch SSP Office, Shikarpur.

ORDER

ADNAN-UL-KARIM MEMON, J. Petitioners have filed these petitions

seeking the following relief(s):-

a) That this Honourable Court may graciously be pleased to direct the respondents to issue appointment orders of the petitioners for the post of Police Constable in District Shikarpur, as per their final merit list dated 10.08.2023 issued by the respondent No.4 and issue a writ declaring the impugned letter dated 24.10.2023 issued by respondent No.4 as null and void.

b) To issue the writ of prohibition restraining the respondents from filling the vacancy of the petitioners.

2. The recruitment process for Police Constables in the Larkana Range, Sindh, in 2022, and specifically addresses the case of Kaleemullah, a candidate from Shikarpur. The Larkana Range Special Police Force conducted a recruitment drive in 2022, using the Pakistan Testing Service for initial testing. Successful candidates who passed physical and written tests (scoring 40% or above) were interviewed by a Departmental Recruitment Committee. The committee submitted merit lists to the Sindh Police Recruitment Board (SPRB) for approval. Approved candidates were to receive appointment letters after completing the necessary formalities.

3. Respondents submit that petitioners Kaleemullah, Karim Bux, Saddam Hussain, Sanullah and Safdar Hussain, as selected candidates from Shikarpur, were disqualified after a background check revealed their involvement in a pending criminal cases (FIR Nos.07/2022, 214/2020, 28/2012, 76/2021 and 106/2021). The Sindh Police Recruitment Board (SPRB) reviewed his case, citing this Court order (C.P No.D-5703 of 2022) that mandates screening out candidates with problematic backgrounds. A Supreme Court ruling (2023 SCMR 766) indicates that even acquittals don't guarantee innocence without a full trial. A more recent Court ruling stated that only those candidates with FIRs disposed of as "C" class can be considered for employment. Because petitioners' case was not classified as "B" or "C" class, and given the SPRB's policy against hiring individuals with criminal involvement for the sensitive police department, their selection was rejected. The SPRB also stated that they will use the most recent court ruling as a guideline for future cases.

4. In similar circumstances, the candidates denied police constable positions due to past criminal cases appealed to the Supreme Court. They submitted that their cases were resolved (C-Class, compromises, acquittals) before recruitment and that the lower court failed to detail their case outcomes. They highlighted that this court permitted consideration of C-Class cases. The Supreme Court reviewed the Sindh Police Recruitment Policy 2022 (amended 2022), which allows for selection cancellation after six months for pending cases unless resolved. If cleared within that period, the SPRB can review suitability. The Supreme Court ordered a review of the petitioners' cases under this policy within three months, ensuring their credentials are assessed accordingly. Based on these assurances, the petitions (CPLA No. 529-K and 666-K/2024, dated 27.12.2024) were disposed of.

5. In a Supreme Court case, the Sindh government's lawyer argued that the 2022 Police Recruitment Policy bars convicted individuals, regardless of the crime or sentence. However, they could not provide evidence that the policy disqualified those who were acquitted. The policy itself (paragraph 4.1.18) disqualifies only 'convicted' candidates, implying that acquittal removes the disqualification. The Supreme Court upheld this court's interpretation of the policy and the Sindh Civil Servants Act, 1973. Finding no legal flaws in this court's ruling, the Supreme Court dismissed the Sindh government's petitions (Civil Petitions No. 81-K and 82-K of 2024) on October 22, 2024.

6. We have heard learned counsel for the parties and have perused the material available on record with their assistance and case law on the subject issue.

7. The issue for determination is whether a person acquitted in a criminal case can be disqualified from the police constable position based solely on the previous FIR.

8. To appreciate aforesaid proposition, we have gone through the Sindh Civil Servants Act, 1973, and the rules framed thereunder as well as Police Rules, 1934, and Disciplinary Rules, 1988, but could not come across the provision which restricts such appointment in civil/public service on account of pendency of a criminal case, however, Section 15 of the Sindh Civil Servants Act, 1973 provides that no person convicted for an offense involving moral turpitude shall unless government otherwise direct, be appointed to a civil service or post, which means that a conviction does not automatically disqualify a candidate. The circumstances of the conviction must be considered. If the conviction does not involve moral turpitude, crime, violence, or association with anti-government movements, it should not be a disqualifier, which is not the case at hand. Even the recruitment rules do not disqualify candidates solely based on pending criminal cases. A conviction itself is not a disqualification unless it involves moral turpitude. Besides denying appointment in civil/public posts, based on pending criminal cases can lead to injustice, as the accused might be acquitted by the trial court.

9. We are sanguine of the fact that in a disciplinary force, like the police, it is expected that the persons/candidates having their character above board, free from any moral stigma, are to be inducted. Verification of character and antecedents is a condition precedent for appointment to the police force.

10. Coming to the case of the candidates having criminal records, in this regard our criminal justice is founded on the Code of Criminal Procedure, Pakistan Penal Code, and Qanoon-e-Shahadat Order, to lay norms for the admissibility of evidence. Registration of a criminal case against a person remains as an accusation of a crime or an offense till on conviction it culminates into a certainty to the guilt of a Government servant and on acquittal one is obliterated of all the allegations. The involvement of a person in a criminal case does not mean that he is 'guilty'. He/she is still to be tried in a Court of law and the truth has to be found out ultimately by the Court where the prosecution is ultimately conducted.

11. Once the candidate is acquitted of the alleged charges before the initiation of the recruitment process which means there was no accusation against him when he applied for the subject post, which does not disqualify him from participating in the recruitment process; besides that stigma was no more in his

character as the competent court of law cleared him from the charges and the state failed to file appeal against his acquittal from the criminal charges, in such a situation the candidate cannot be held disqualified for the civil/public posts. Normally a person convicted of an offense involving moral turpitude should be regarded as ineligible for Government Services. However, in cases where the Appointing Authority feels that there are redeeming features and reasons to believe that such a person has cured himself of the weakness, specific approval of the Government may be obtained for his/her employment.

12. In instant case, the guidelines as set forth would not apply, as the criminal Court has not convicted the petitioner, rather he has been acquitted of the criminal charges based on evidence and it is well-settled law that once the civil servant is acquitted in the criminal case, then on this very charge he cannot be awarded in any punishment by the department and held him disqualified for the post because acquittal for all future purposes. The aforesaid proposition has been set at naught by the Supreme Court of Pakistan in the case of the District Police Officer Mainwali and 2 others v. Amir Abdul Majid, 2021 SCMR 420.

13. There is no denial from the fact that in Government service it is expected that the persons having their character above board, free from any moral stigma, are to be inducted. Verification of character and antecedents is a condition precedent for appointment to a Government service. The candidates must have good character and provide two recent character certificates from unrelated individuals. What is discernible from the above is that the only impediment to being appointed to a Government service is the conviction on an offense involving moral turpitude, but involvement, which does not culminate into a proof by conviction, cannot be a way out or guise to do away with the candidature of the petitioners.

14. The petitioners were not denied the appointment due to concealed information or character issues. The sole reason for denial was the pendency of criminal cases, in which the petitioners had already been acquitted from the charges vide order dated 19.11.2020, 05.01.2016, 17.01.2022, and 26.03.2022, by the competent Court of law and prima facie no appeal had been preferred for claim exemption. Mere pending cases may not be the sole reason for disqualification for the civil/public posts.

15. Coming to the case decided by this court on the subject issue and its applicability in the present case, this Court in the case of Abdul Ghani, supra, the Supreme Court ordered a review of the petitioners' cases under this policy within three months, ensuring their credentials are assessed accordingly. Based on

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these assurances, the petitions (CPLA No. 529-K and 666-K/2024, dated 27.12.2024) were disposed of, as such, the case of petitioners is akin and same are disposed of in the said terms.

16. Before parting with this order, it is noted that since petitioners have been acquitted of the charges and their acquittal has not been assailed by the State/parties or the aggrieved person, thus it attained finality. Besides, on merits, the petitioners were declared successful candidates for the subject posts, hence they were deprived of their meritorious right only because of said criminal cases pending in past, which latter have been disposed of, hence their acquittal is honorable acquittal and therefore, they are eligible to be considered for appointment in the Sindh Police Department as police constables.

17. These petitions in view of the dicta laid down by the Supreme Court in the case reported as 1998 SCMR-1993, PLD 2010 SC-695, are hereby disposed of. The respondents/competent authority shall issue appointment orders to the petitioners by considering their candidatures per law, after completion of usual cum-codal formalities.