

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT  
HYDERABAD.**

C.P. No.D-1078 of 2024

Kashif Ali Versus Province of Sindh and others

Present: Mr. Justice Muhammad Saleem Jessar

Mr. Justice Nisar Ahmed Bhanbhro

Petitioner

Kashif Ali

Through, Mr. Ashique Ali Panhwar, Advocate

Respondents:

Province of Sindh & others

Through, Mr. Rafique Ahmed Dahri,  
Assistant Advocate General.

Date of hearing &

Decision:

30.10.2025.

**JUDGMENT**

**Nisar Ahmed Bhanbhro, J.** Through the instant Constitution Petition, the Petitioner has claimed the following relief;

*A. To set aside the impugned order dated 12.06.2024 and direct the respondents to issue appointment order to the petitioner as per Revised Sindh Police Recruitment Policy 2022 section 4.1.18 as the petitioner was neither convict nor any criminal case was pending against him; rather the criminal case in which he was involved was disposed of in acquittal of the petitioner. Besides he is also entitled to the relief claimed in the light of decisions passed by the Honourable High Court Larkana in C.P No. D-608 of 2019 and Lahore High Court in Writ Petition No. 18420 of 2016 in similar natured petitions.*

*b. Any other relief which this Honourable Court deems fit, just and proper in favour of the petitioner.”*

2. Mr. Ashique Ali Panhwar Learned Counsel for the Petitioner contended that the father of the petitioner was serving in police department as Head Constable, who during service expired on 10.01.2019. That the petitioner being son, applied for deceased quota and after due diligence, proper scrutiny and passing entire tests he was offered the post of Driver Police Constable (BPS-7) in Police Department vide letter dated 08.03.2024 issued by SSP Dadu; That thereafter the petitioner was directed to submit police verification, medical fitness and other formalities; That during police verification it was found that one FIR vide crime No.44 of 2009 U/S 324, 337H(ii), 337A(i), 34 PPC was lodged by the complainant against his father wherein the petitioner

too was nominated as accused malafidely, he was just 11 years of age; That in the said crime the petitioner and his father were acquitted in terms of compromise; that inspite of above position, the respondent No.3 vide impugned order dated 12.06.2024 declined to recruit the petitioner in police department being shady record; that rejecting the appointment of Petitioner is unjustified as the stigma shown against him has been removed through order dated 22.11.2010 passed by the concerned trial Court. H lastly prayed to allow this petition.

3. Learned AAG opposed the stance of the Petitioner. He contended that though the Petitioner successfully qualified the required tests and was recommended for appointment to the post of Driver Police Constable, but he was found involved in a criminal case, therefore, his case was rejected by the Competent Authority. He contended that the policed department performed sensitive duty, Police were saddled with the responsibility to maintain law and order, therefore, the good conduct was a pre-condition for appointment in police service, which Petitioner failed to fulfill. He contended that SPRB rejected the appointment of petitioner for want of good conduct. Petition is misconceived. He 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 Drive Police Constable. The case of petitioner for appointment was rejected by SPRB in its meeting held on 09.05.2024 on the ground that he was involved in criminal case FIR vide crime No.44 of 2009 U/S 324, 337H(ii), 337A(i), 34 PPC at PS Makhdoom Bilawal. Record further reveals that vide order dated 22.11.2010 the petitioner was acquitted under Sections 345(6) CrPC by learned 1<sup>st</sup> Additional Sessions Judge, Dadu. It is for the reasons the proposition of law holds the field that an accused is presumed to be innocent until found guilty through pronouncement by the 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 person in civil

service who was a convict of an offence of moral turpitude. The bar contained in section 15 is not absolute in nature, as the Act confers discretion to the Government to induct even 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 was guilty of the charge. 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 candidate is convicted in an offence involving moral turpitude. There existed no statutory provision of law impeding the appointment of a person to a Civil Service or Post if found involved in a criminal case.

8. Section 15 excludes a person from right to appointment who is convicted under the charge of Moral Turpitude. The Petitioner was involved in an ordinary nature offence having no nexus with any issue harming the society. 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. 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. 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.”*

9. The disqualification for appointment to Civil Service or post attracts only, when aspirant candidate is convicted of an offence involving moral turpitude. The interpretation of law as has been done by the SPRB was very dangerous and if applied ipso facto then it will be applicable even to the persons already in police service, which will create hurdle in the job career of serving police officers as they could stand disqualified on account of registration of a criminal case against them, which in fact was not the command of law, intent and wisdom of the legislature.

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. 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*). Learned 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)* has 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.

12. The SPRB 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-condition for induction in police service, but such a pre-condition did not mean to rob the rights of the individuals which accrued in their favor by operation of the law.

13. It has been noticed in a number of cases that the SPRB rejects the recommendation for appointment of candidates in police service on account of registration of criminal cases. The individuals are denied the right to appointment even in the cases where trial court acquits them for want of sufficient evidence. Such practice on the part of SPRB was untenable, unwarranted under the law and without any lawful authority, thus cannot hold field. This unwarranted practice on the part of SPRB has resulted in filing of the petitions before this Court, which resulted in wastage of time and financial loss to the aggrieved person. Under the seminal principle of trichotomy of powers the Legislative is saddled with responsibility of making laws, Court to interpret and executive to implement the same. Learned Apex Court and this Court in number of cases have interpreted the application of section 15 of Sindh Civil Servants Act, 1973 in appointment matters and have held in unison that mere registration of FIR was no sufficient ground for refusal of induction in service. The SPRB being an authority discharging its functions in connection with the affairs of province for recruitment in police department was under an obligation to follow the principle of law enunciated by the Superior Courts. It is expected that SPRB shall follow the decision of superior courts in future in the matters of recruitment in police department, and would help the courts to curtail the unnecessary litigation burden.

14. Recruitment process is an internal mechanism of the concerned department. This Court sparingly interferes in matters of recruitment and does step in only in the cases where it surfaced on record that the authority failed to exercise its powers vested in it or exercised the powers beyond the bounds of law. The Petitioner was recommended for the post of Driver Police Constable under deceased Quota which did not require any special qualification. The rejection of his appointment by SPRB on account of registration of FIR went outside the circle of its powers carved out under the statute. In the case of Petitioner, SPRB the appointing authority, acted in gross violation of law that resulted in impinging upon the fundamental rights of the Petitioner, thus a case for the exercise of the powers of judicial review is made out.

15. For what has been discussed hereinabove, we are of the considered

view that the decision of Sindh Police Recruitment Board dated 12.06.2024 rejecting the candidature of Petitioner for appointment as Driver 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 12.06.2024 of Sindh Police Recruitment Board is hereby set aside. The offer order for appointment issued in favor of Petitioner is restored. Respondents are directed to issue Appointment Order of Driver Police Constable in favour of the Petitioner Kashif Ali within a period of 60 (Sixty) days from the date of this order. Petitioner shall be entitled for the service benefits with effect from the date he joins the service.

16. 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. 2 to 5 for compliance.

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