

**IN THE HIGH COURT OF SINDH, KARACHI**

**C. P. NO. D-1381 / 2024**

*(Osama Saeed Vs. Home Department & Others)*

**Present:**

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

**Date of hearing and order:- 24.08.2026.**

Mr. Hassan Ali Shaikh & Sabit Ali Shah, Advocates  
for Petitioner.

Mr. Abdul Jalil Zubedi, Assistant Advocate General Sindh.  
DSP Muhammad Yasin on behalf of AIG (Legal).

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**Adnan-ul-Karim Memon, J.**      The Petitioner has filed this Petition under Article 199 of the Constitution of Islamic Republic of Pakistan for the following reliefs: -

- “a)      To pass an Order and direct the Respondents to appoint the Petitioner as a Constable / on the vacant post for which he has given the test.
- b)      To direct the Respondent No.02 & 03 to take strict departmental and legal action against the said respondents, who have deprived the petitioner of his job of constable.
- c)      To pass an Order restraining the Respondents from further procedure/appointment in Sindh Reserve Police as Constable, till final disposal of instant Petition.

2.      The petitioner has filed the instant Constitutional Petition under Article 199 of the Constitution, seeking his appointment as Police Constable in the Special Protection Unit (SPU-CPEC), Sindh. He contended that Sindh Police had advertised 1,500 posts of Police Constables through SIBA Testing Services (STS), for which he applied, qualified the physical and written tests and interview, and was placed at Serial No.786 in the merit list. According to him, despite his selection, his name was subsequently omitted from the final list, and no appointment letter was issued. He alleged that the sole reason for his exclusion was his involvement in FIR No.44/2021, registered at Police Station Sharafi Goth under sections 147, 148, 149, 506-B and 337-A(i), PPC, although he had already been acquitted in the said case under section 249-A, Cr.P.C. vide judgment dated 27.09.2021. He therefore maintained that his exclusion was unlawful, arbitrary and without justification and sought appointment against the advertised post, along with consequential relief.

3.      The learned AAG, however, submitted that the petitioner was initially selected for the post of Police Constable, subject to completion of codal formalities. During character and antecedent verification, his criminal record was found, and

the matter was placed before the Sindh Police Recruitment Board (SPRB). The Board, in its meeting dated 26.02.2024, considered the petitioner's acquittal but, keeping in view the sensitive nature of the Police Department and the judgments of the superior Courts regarding recruitment of persons having criminal antecedents, recommended withdrawal/rejection of his selection. Consequently, the Inspector General of Police, Sindh, vide letter dated 27.03.2024, approved withdrawal of his selection. The AAG relied, inter alia, upon the judgment of this Court dated 09.03.2023 in C.P. No.D-5703 of 2022 and the Supreme Court judgment reported as 2023 SCMR 766, contending that an acquittal, particularly under section 249-A, Cr.P.C., does not by itself establish satisfactory character for appointment in a sensitive institution such as the Police Department. They further relied upon the judgment dated 23.04.2024 in C.P. No.D-6135 of 2023 and connected petitions, wherein recruitment of persons having unsatisfactory antecedents was declined, subject to the exception of cases cancelled in "C" class. He stated that the petitioner had participated in the recruitment process and that his criminal antecedents were detected during verification by the Special Branch, CIA and District Police. It was maintained that the recruitment record was within the domain of the SPU authorities and prayed for disposal of the petition, emphasizing the requirement of strict scrutiny of character and antecedents for recruitment in the Police Department. He added that although the petitioner had been selected for appointment, scrutiny of his record revealed his involvement in the aforesaid criminal case. The matter was considered by the SPRB, which, despite noting his acquittal, recommended rejection of his appointment on account of his criminal antecedents. He prayed to dismiss the petition.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. The principal controversy between the parties is whether the petitioner, despite having qualified the recruitment process and having been acquitted in the criminal case, could lawfully be denied appointment as Police Constable based on his criminal antecedents and the assessment of the competent Police authorities regarding his character and suitability for service in a sensitive Police establishment.

6. The learned A.A.G. submitted that the petitioners' name appeared in FIR No.44 of 2021 and, therefore, fell within the scope of "criminal record," relying upon the rule of thumb and the judgment in *Faraz Naveed v. District Police Officer Gujrat and another* (2022 SCMR 1770), for withholding his appointment letter. However, it was not disputed that the FIRs arose out of a dispute that was settled and was earlier acquitted of the charge vide judgment dated 27.9.2021, much

before initiation of the recruitment process; that the petitioner had been acquitted, and that he had successfully qualified the selection process and was recommended for appointment.

7. The respondents had not applied the parameters laid down by the Supreme Court in Faraz Naveed's case. The said judgment does not authorize a mechanical refusal of appointment merely because an FIR exists, particularly after acquittal. "Criminal record" implies consistent involvement in criminal activities, and the competent authority must form a reasoned opinion, based on relevant material, that the candidate poses a continuing threat to discipline or the departmental environment.

8. The Supreme Court in the case of Abdul Ghani & others versus Province of Sindh & others on 27.12.2024 passed the following order in CPLA Nos.529-K, 623-K and 666-K/2024. An excerpt whereof is reproduced as under: -

".....3. Today, the Deputy Secretary, Judicial, has pointed out that at the time of the recruitment, the Sindh Police Recruitment Policy, 2022 ("Policy") was in vogue and he also showed us the copy of the letter with the subject "Amendment in Sindh Police Recruitment Policy 2022" which was circulated amongst all ranges of Sindh Police on 05.08.2022. The copy of letter is reproduced as under:-

"In pursuance of recommendations of Sindh Police Recruitment Board dated 27.07.2022, duly approved by the Inspector General of Police, Sindh, the Sub-Para (2) of Clause 4.1.18 of Sindh Police Recruitment Policy-2022 circulated to all Ranges / Units vide letter No. 127-206/EB-III/T-7/S&S, dated 07.01.2022, is substituted with the following Para:-

*In case a candidate against whom investigation or trial in a criminal case is pending, his selection shall be cancelled after expiry of 06 months from the publication of Final Merit list if the candidate is not cleared in investigation or that whichever is earlier. Such a candidate shall not be deemed to have become overage on this account alone.*

*The candidate, if cleared subsequently within 06 months, his acquittal order / case shall be scrutinized by the Sindh Police Recruitment Board for checking his suitability for appointment in Sindh Police."*

4. All officers present in Court assured that the cases of the present petitioners will be revisited and considered by the competent authority in accordance with this policy and after consideration the order will be intimated to the petitioners within a period of three months.

5. The learned AAG also submits that the credentials/antecedent of the present petitioners will be considered in accordance with the aforesaid policy that has been placed today before this Court.

6. In view of the above statement these Civil Petitions are disposed of accordingly."

9. The mechanical exercise of discretion was contrary to Section 24-A of the General Clauses Act, 1897 and violated the petitioners' constitutional rights under Articles 18, 25 and 27 of the Constitution. Since the FIR arose from such dispute as discussed supra and there was/is no material showing any other criminal involvement, the refusal of appointment based on a mere FIR is held to be based on conjectures and surmises.

10. Accordingly, the petition is allowed, and Respondents are directed to consider the candidature of the petitioner in terms of ratio of the order dated 27.12.2024 passed by the Honourable Supreme Court in CPLA Nos.529-K, 623-K and 666-K/2024, subject to there being no adverse opinion formed in accordance with the principles laid down in Faraz Naveed's case.

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