

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-1829 / 2025

(Umer Sarfaraz Vs. Province of Sindh & Others)

Present:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and order: 04.09.2026.

Mr. Aamir Zaheer, Advocate for Petitioner.

Mr. Ali Safdar Deepar, Assistant Advocate General Sindh.

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

- “a) *That this Court may be pleased to call the record and proceedings of recruitment for the post of police constable and, after scrutiny, declare that the petitioner is eligible for appointment in the police department.*
- b) *To direct the respondents to issue the appointment letter to the petitioner as he has already been selected by the Government of Sindh, Police Department.”*

2. The petitioner, Umer Sarfaraz, seeks appointment as Police Constable (BPS-05) in Sindh Police pursuant to the recruitment process initiated for Karachi Range in 2021-2022. He asserts that he fulfilled all prescribed requirements, passed the physical and written tests, interview, and medical examination, and was included in the final merit list. However, during verification of his character and antecedents, FIR No.1367/2021 under Sections 147, 148, 149, 440 and 337-A(i) PPC, registered at Police Station Preedy, was found against him. The petitioner states that he has since been acquitted and submitted the certified copy of the acquittal order to the respondents, but his appointment was not finalized. Relying upon the Sindh Police Recruitment Policy, 2022 and certain earlier judgments of this Court, he contends that his acquittal ought to have been considered and seeks a direction for issuance of his offer of appointment letter.

3. The learned AAG submits that the petitioner was indeed selected for the post of Police Constable (SPD-480), subject to fulfillment of all codal and recruitment formalities. He added that during verification of his character and antecedents, however, his involvement in the aforementioned FIR was detected. His case was accordingly placed before the Sindh Police Recruitment Board (SPRB) in its meeting dated 26.07.2023. The Board, keeping in view the sensitive nature of police service and the judgment of this Court dated 09.03.2023 in C.P. No.D-5703 of 2022, as well as the Supreme Court judgment reported as **2017 PLC (CS) 279 (AIG Police Karachi v. Muhammad Ismail Lashari)**, recommended withdrawal of his selection and rejection of his offer of appointment. The respondents further rely upon Para 4.1.18 of the Sindh Police Recruitment Policy, 2022, under which even where a candidate is subsequently acquitted, the acquittal order/case is to be scrutinized by the Sindh Police

Recruitment Board to determine his suitability for appointment. Thus, according to the respondents, acquittal by itself does not confer an automatic right to appointment in the Police Department. The petition is therefore stated to be misconceived, not maintainable and liable to dismissal.

4. We have heard the learned counsel for the petitioner as well as the learned AAG and have carefully examined the record, the rival submissions and the applicable law.

5. The controversy, in substance, is whether the petitioner, who had successfully undergone the recruitment process and was selected for appointment as Police Constable, could lawfully be denied appointment merely because an FIR had previously been registered against him, when admittedly the said criminal case had subsequently culminated in his acquittal on 01.10.2021 much before initiation of recruitment process.

6. The record indicates that the petitioner was selected for the post of Police Constable (SPD-480), subject to completion of codal formalities. He successfully passed the physical and written tests, interview, and medical examination and was included in the recruitment process. His appointment was withheld only when, during verification of character and antecedents, FIR No.1367/2021 under Sections 147, 148, 149, 440 and 337-A(i), PPC, registered at Police Station Preedy, was found against him. It is equally undisputed that the petitioner was subsequently acquitted by the competent criminal Court and furnished the certified copy of acquittal order to the respondents. Thus, at the time his candidature was finally considered, there was no subsisting criminal case or conviction against him.

7. The respondents principally rely upon the sensitive nature of police service, under rule 4.1.18 of Police Recruitment Policy, 2022 and the judgment reported as 2017 PLC (CS) 279 (Additional Inspector-General of Police, Karachi v. Muhammad Ismail Lashari). There can be no cavil with the proposition that police service is a disciplined and sensitive service and that the competent authority is entitled, and indeed obliged, to verify the character and antecedents of a candidate. However, suitability for appointment to police service may legitimately be examined and such power has to be exercised in accordance with law and cannot be converted into an unrestricted power to permanently exclude a citizen merely because an FIR was once registered against him, which is simpliciter information and allegation, which needs to be proved in the Court of law.

8. The legal position has now been authoritatively settled by the Honorable Supreme Court in its order dated 22.10.2024 in Civil Petitions Nos.81-K and 82-K of 2024. The Apex Court, while considering the very same Sindh Police Recruitment Policy, 2022, declined to interfere with the judgment of this Court

and held that under rule 4.1.18 of the Police Recruitment Policy, 2022, a candidate who has been convicted, but the provision cannot, by any reasonable interpretation, be extended to a person who has been acquitted upon conclusion of the criminal trial. The Supreme Court further upheld the interpretation that the mere registration of a criminal case which ultimately resulted in acquittal does not constitute a statutory disqualification from appointment.

9. The aforesaid pronouncement is binding upon this Court under Article 189 of the Constitution. It is, therefore, no longer open to the respondents to treat the mere factum of registration of an FIR, which information has culminated in acquittal, which cannot be found as permanent disqualification from appointment. It is well-settled that where the candidate has been acquitted, and there is no other adverse material demonstrating his unsuitability, rejection of his candidature merely on account of the previous FIR is not sustainable in law. The acquittal removes the statutory impediment contemplated by Section 15 of the Sindh Civil Servants Act, 1973 and that the Supreme Court's order dated 22.10.2024 superseded the contrary view taken in *Abdul Ghani* case. The rejection of candidature on the sole basis of registration of FIRs is not sustainable in law.

10. In the present case the petitioner is a candidate for initial appointment who was never convicted of the offence alleged against him and whose criminal case has already culminated in his acquittal. A precedent dealing with departmental action against a serving police officer having an established patchy service record cannot be applied mechanically to deny initial appointment to an acquitted candidate.

11. The principle stated by the Supreme Court in *DPO Mianwali v. Amir Abdul Majid* (2021 SCMR 420) requires to be understood in its proper context. The Supreme Court recognized that, in appropriate circumstances, an employer may possess independent material enabling it to assess suitability notwithstanding an acquittal, because the standard and object of criminal adjudication are different from an administrative assessment of suitability. However, that principle does not authorize an authority to treat every acquittal as a continuing stigma or to reject a candidate without identifying any independent, credible and legally relevant material showing present unsuitability.

12. In the present case, the material placed before this Court does not disclose any independent adverse material against the petitioner apart from the FIR in question. There is no allegation before us of any conviction, subsequent criminal involvement, adverse departmental record or any other legally sustainable circumstance demonstrating that the petitioner presently lacks the character or suitability required for appointment. The Recruitment Board's decision dated 26.07.2023 appears to have proceeded substantially upon the existence of the FIR, the sensitive nature of police service and the authorities' interpretation of under

rule 4.1.18 of Police Recruitment Policy, 2022. Such approach, in view of the subsequent binding interpretation rendered by the Honourable Supreme Court, cannot be sustained merely because the Board had earlier reached a different conclusion.

13. It is also significant that under rule 4.1.18 of Police Recruitment Policy, 2022 cannot be read in isolation or in a manner which creates a disqualification not enacted by the competent authority. The policy expressly distinguishes between a candidate who stands convicted and one against whom investigation or trial is pending. Once the criminal proceedings have culminated in acquittal, the candidate no longer falls within either of those categories. The Supreme Court has expressly held that the disqualification under rule 4.1.18 of Police Recruitment Policy, 2022 remains effective during the subsistence of conviction and cannot be extended to an acquitted candidate.

14. The petitioner, therefore, cannot be deprived of his candidature on the basis of an accusation which never resulted in a conviction. To permit otherwise would effectively convert an FIR into a perpetual disqualification, notwithstanding the final judgment of the competent criminal Court. Such interpretation would not only be contrary to the express language of the recruitment policy but would also offend the fundamental principle that a person is not to be treated as guilty of an offence after having been acquitted by a competent Court, unless some independent and lawful material justifies an administrative finding of present unsuitability.

15. At the same time, the Court does not hold that every acquitted person acquires an unconditional or automatic vested right to appointment in the police force. Appointment remains subject to fulfillment of all lawful recruitment requirements, availability of the post, merit position and other codal formalities. What the respondents cannot do is to treat the previous FIR, by itself, as a disqualification after the petitioner has been acquitted. Where no independent adverse material survives, the discretion of the authority has to be exercised consistently with the binding interpretation of the Supreme Court and cannot be arbitrary or discriminatory.

16. In the circumstances, we are of the considered view that the decision of the Sindh Police Recruitment Board dated 26.07.2023, insofar as it recommended withdrawal/rejection of the petitioner's selection merely on account of his involvement in FIR No.1367/2021 despite his subsequent acquittal, is not sustainable in law. The respondents' reliance upon under rule 4.1.18 of Police Recruitment Policy, 2022 and the judgment in *Muhammad Ismail Lashari* cannot override the subsequent authoritative interpretation of the same policy by the Honourable Supreme Court.

17. Before parting with the case, it is clarified that the present order shall not be construed as taking away the lawful authority of the Police Department to conduct character and antecedent verification. Such verification, however, must be undertaken for the purpose for which it is authorized by law and cannot be

used to impose a disqualification which neither the statute nor the recruitment policy prescribes. The competent authority must consequently distinguish between a subsisting conviction or credible independent adverse material, on the one hand, and a criminal accusation which has finally ended in acquittal, on the other.

18. 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.”

19. Consequently, the instant petition is allowed. The impugned decision/recommendation of the Sindh Police Recruitment Board, to the extent it denies the petitioner appointment solely on account of the aforesaid criminal case, is set aside. The respondents are directed to process and issue the petitioner's offer of appointment order as Police Constable (SPD-480), subject to only verification that he fulfills all other prescribed recruitment/codal requirements and that no independent lawful disqualification or adverse material, other than the already-acquitted criminal case, exists against him. The exercise shall be completed expeditiously, preferably within 30 days from receipt of this order.

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