

FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Original/Appellate/Advisory Jurisdiction)

PRESENT:

Justice Amin-ud-Din Khan, Chief Justice
Justice Ali Baqar Najafi

CPLA No. 302-P of 2023

[against the impugned judgment dated
15.03.2023 passed by the Peshawar High Court,
Mingora Bench (Dar-ul-Qaza) Swat in W.P.No.17-
M of 2023]

Provincial Police Officer KPK Peshawar Petitioner (s)

Versus

Hanifullah Respondent (s)

For the Petitioner (s) : Mr. Shah Faisal Ilyas, Addl. AG KPK
Mr. Zahir Shah Inspector (L)

For the Respondent(s) : N.R.

Date of Hearing : 05.05.2026

JUDGMENT

Ali Baqar Najafi, J. Through this petition, a leave to appeal is sought against the judgment dated 15.03.2023 passed by Peshawar High Court, Mingora Bench (Dar-ul-Qaza) Swat in W.P.No.17-M/2023 whereby the writ petition filed by the respondent was allowed and the petitioner was directed to consider the respondent for the post of constable against which he had applied.

2. After hearing the learned law officer and perusing the file, it is noticed that the respondent was convicted in case-FIR No.269 dated 22.04.2018, registered under section 285/286 PPC at police station Talash District Dir Lower and sentenced to a fine of Rs.500/- on the basis of a confessional statement only which is a minor penalty and does not fall in the category of heinous crime or an offence of moral

turpitude. A trivial or less harmful offence cannot have a severe consequence so as to rule out the possibility of induction into a government service. A crime is obviously a crime, but a criminal has to be considered with reference to his bent of mind towards crime and his tendency of committing further crimes in the future. A crime under section 285/286 PPC is a negligent conduct with reference to fire or combustion or explosive substance as a crime under section 285/286 PPC. The text is reproduced as under for ready reference:-

“285. Negligent conduct with respect to fire or combustible matter:

Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to three thousand rupees, or with both.

286. Negligent conduct with respect to explosive substance:

Whoever does, with any explosive substance any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to three thousand rupees, or with both.”

3. Even otherwise the confession of a guilt is mainly made with an arrangement and understanding to avoid the wastage of the courts time with some element of repentance and remorse and with a consequence limited to that extent only. Without educating such convict about the result of making a confessional statement he cannot be bound for a life-long prohibition. Even otherwise, such information was not apparently conveyed to the respondent to reach on an informal decision as envisaged under section 243 of the Code of Criminal Procedure, 1898 [Cr.P.C.]. No sufficient cause was shown to him as to why he was not to be convicted in the said offence. Obviously, the punishment must commensurate with the crime and

it cannot damage the entire life of such criminal. The respondent as per the available record is not a habitual criminal. After admission/confession the accused becomes friend of the court and therefore, is entitled to reasonable leniency. Section 243 of Cr.P.C. is reproduced as under for ready reference:-

“243. Conviction on admission of truth of accusation: *If the accused admits that he has committed the offence [with which he is charged], his admission shall be recorded as nearly as possible in the words used by him; and, if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.”*

4. It is important to note that the respondent has a constitutional protection of his civil rights with corresponding obligations but through the due process and fair trial under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 which is reproduced as under:-

“10A. *For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.”*

5. There is no denial of the fact that under Rule 12.14 of the Police Rules, 1934¹, a recruit has to be of a good character and, therefore, a great care is required in selecting a man of suitable type for police service from the candidates presenting themselves for enrolment. Para 23 of Standing Order 6/2015², issued for efficient functioning of the police by the Govt. of the Punjab, Police Department, stipulates that candidates having criminal record and affiliation with a proscribed organization were debarred for appointment. To ensure this objective an amendment was

¹ **“Rule 12.14 of Police Rules, 1934.**

12-14. Recruit-Status of. - (1) Recruits shall be of good character and great care shall be taken in selection men of a type suitable for police service from candidates presenting themselves for enrolment.

(2) The enlistment in the police of Gurkhas of Nepalese nationality is absolutely forbidden. The enlistment of Gurkhas, who can prove British nationality or continuous domicile, is permitted, but only with the formal sanction of the Deputy Inspector-General. Before giving sanction the Deputy Inspector-General should verify the nationality of the proposed recruit by a reference to the recruiting Officer for Gurkhas.

(3) Sons and near relatives of persons who have done good service in the Punjab Police or in the Army shall, subject to the consideration imposed by rule 12.12 have preference over the other candidates for police employment.

² **Para 23 of Standing Order 06/2015.**

“.... The two offices i.e. Addl: IGP Special Branch and District Police Officer concerned shall put every effort to verify the personal character, academic certificates and other relevant facts of the successful candidates.

The verification reports shall be minutely scrutinized by the DPO before issuing appointment letter.

Candidates having criminal record or affiliation with any proscribed organization shall not be appointed.”

introduced on 1st of June, 2018³ in the said Standing Order, to further condition that such candidates would submit an affidavit for their non-involvement in the criminal cases at the time of submission of application forms and that if a case is registered after the last date of submission of the application form but he was neither challaned nor declared innocent without being a result of compromise between the parties, his candidature should not be rejected. It simply means that criminal record holders have no place in the police department. It is trite law that allegation in the registered FIR not followed by indictment or conviction, the allegations remain only allegations. There may be certain situations when FIRs are registered with motivation and are outcome of enmity between the opponents, which matter is investigated and therefore, opinion of the Investigating Officer in this regard is always relevant and carries weight for this purpose.

6. In the present case, a conviction of penalty of imposing sentence to a fine of Rs.500/- on the basis of a confessional statement, is certainly a minor penalty in minor offences with minor or negligible consequences. It cannot create a permanent embargo upon the respondent for his induction in police department, particularly when he had not concealed this fact.

7. In view of above, this CPLA is **dismissed** being found meritless and the leave is refused.

CHIEF JUSTICE

Islamabad

05.05.2026

A.Qadoos*

JUDGE

Approved for reporting.

JUDGE

³ **Amendment in para 23 of the Standing Order No.6/2015**

i) All the candidates submit an affidavit for non-involvement in criminal cases at the time of submission of application forms.
ii) If the case is registered against an applicant after the last date of submission of application form, but the applicant is not challaned and declared innocent; then that would not be a ground for rejection of an applicant. However, DPO must examine that case is not cancelled or accused declared innocent due to compromise between parties."