
(1998) 09 RAJ CK 0014
In the Rajasthan High Court
Case No : .C.W.P. No. 5031 of 1991

Shanker Lal Verma and Others

APPELLANT

Vs

Rajasthan State Electricity Board

RESPONDENT

Date of Decision : 11-09-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 3 LLJ 796 : (1999) 1 RLW 55

Hon'ble Judges : V.S. Kokje, Acting C.J.; P.P. Naolekar, J; P.C. Jain, J

Bench : Full Bench

Advocate : Prahlad Singh, V.L. Mathur and V.K. Mathur, for the Appellant; P.K. Sharma, for the Respondent

Judgement

Kokje, A.C.J.

1. The petitioners, in these cases, are Class IV servants in Government Departments, who have acquired a qualification equivalent to Secondary School Examination like Rashtra Bhasha Parichay from Rashtra Bhasha Prachar Samiti, Vardha;

Prathama from Hindi Sahitya Sammelan, Prayag. Allahabad etc. Some of them are working in the State Secretariat and some are working in other Government Departments. Class III employees of the Secretariat are governed by the Rajasthan Secretariat Ministerial Service Rules, 1970 and those Class III servants belonging to other departments are governed by the Rajasthan Subordinate Offices Ministerial Staff Rules, 1957 (for short, "the Rules, 1970 and 1957"). In both the Rules, there is a provision for promotion from Class IV posts to Class III posts of Lower Division Clerks. The petitioners are desirous of promotion to the post of L.D.C.

2. Eligibility for promotion to the post of L.D.C. under the 1957 Rules was Secondary School Examination or its equivalent Examination recognised by the Government. Thereafter, under the amended rules, qualifications equivalent to

Secondary School Examination were deleted from the rule relating to eligibility with the result that no person who did not possess Secondary School Examination certificate from the Rajasthan Secondary Education Board or University or Board established by law in India, was eligible for promotion to the post of L.D.C. with effect from June 28, 1985. All the petitioners had acquired the equivalent qualifications prior to June 28, 1985. They were not promoted till June 28, 1985 and the respondents expressed their inability to promote them after June 28, 1985, applying the amended Rules.

3. Several employees similarly situated to the petitioners filed petitions before this Court. Many of them succeeded, while the others did not. When S.B. Civil Writ Petition No. 7328/1992 (Prem Kumar v. State) was posted for hearing before a learned single Judge (Hon'ble M.B. SHARMA, J.) on February 5, 1993, the learned Judge, by a detailed order, expressed his opinion that the eligibility and qualifications have to be taken into consideration on the day the vacancy occurred and not on any anterior date. His Lordship, therefore, concluded that the view taken by this Court in various cases, needed reconsideration in the light of cases decided by various Courts in India. His Lordship framed the following questions and requested the Hon'ble Chief Justice to refer them to a Bench of more than 2 Judges.

"1. Whether the rules can prospectively lay-down different qualifications or eligibility for appointment by direct recruitment or by promotion and whether if the rules so provide, can it be said that so far as those who have acquired the qualification which was recognised earlier making person eligible for appointment either by direct recruitment or by promotion, they are retrospective in nature?

2. Whether the eligibility including educational qualification for any vacancy is to be seen on the date the vacancy occurs or on any anterior date?

3. Whether one who has passed Rashtra Bhasha Prachar Examination or any other examination during the period it was recognised or any other examination making him eligible for appointment by direct recruitment, or by promotion, if it is derecognised, whether those who have passed the examination during the period of recognition, have any right of appointment against the vacancy which occurs after derecognition."

4. The matter then came up before a Division Bench on February 2, 1994, presided over by Hon'ble the then Chief Justice and the Bench directed it to be placed before a 3-Judge Bench as decided by the learned single Judge. This is how the matter is before us.

5. In S.B. Civil Writ Petitions No. 356/1993, 1369/1993 and 1432/1993, when the matters came up before Hon'ble A.K. PARIHAR, J., he directed them to be tagged alongwith Writ Petition No. 7328/1992 as the points involved were the same as were referred to the Full Bench in Writ Petition No. 7328/1992. When Writ Petition No. 6066/1991 was listed before Hon'ble V.K. SINGHAL, J. on November 21, 1995, he noted that the points involved in the case were the same

as were raised in Writ Petition No. 7328/1992. He, therefore, by a detailed order, requested the Hon''ble Chief Justice to constitute a Larger Bench as already requested by Hon''ble M.B. SHARMA, J. Similarly, when Writ Petitions No. 3200/1991, 3763/1991, 3884/1991, 3885/1991, 3886/1991 and 4171/1991 were fixed before Hon''ble V.K. SINGHAL, J., he again requested the Hon''ble the Chief Justice to place this matter before the Full Bench hearing reference in Writ Petitions No. 7328/1992 and No. 6061/1991.

6. When Writ Petitions No. 2788/1994 and 2789/1994 were fixed before Hon''ble N.L. TIBREWAL, J. on February 18, 1998, noting the conflict between the view taken by a Division Bench of this Court in Bhagwandeem Verma v. University of Raj. and Ors. (D.B.C.W.P.No. 1681/ 1992 decided on December 15, 1993) and the view taken by another Division Bench in Sardara Ram Dangi v. District Judge, Jodhpur and Anr. (D.B.C.W.P.NO. 331/1989 decided on August 23, 1990) his Lordship directed that the matter be placed before the Acting Chief Justice for constituting a Larger Bench relating to recognition of Prathama Examination Certificates. It appears that it was not brought to the notice of his Lordship that a Full Bench had already been constituted for considering the same question. However, the matter was referred by the Hon''ble Acting Chief Justice to a Full Bench and this is how these two cases have also come before us.

7. In a bunch of civil appeals led by State of Rajasthan and Anr. v. Lalchand (D.B.C.A.(W).No. 68/1996 decided on October 1, 1986) a case which was referred to in many latter decisions of this Court, the amendment in the 1957 Rules deleting the equivalent qualifications w.e.f. April 1, 1985 by Notification dated June 28, 1985, was under consideration. The learned single Judge, from whose decision the appeals went to the Division Bench, had declared the amendment to be ultra vires. The appeals were allowed by holding that the amendment could be made effective prospectively and not retrospectively to affect perpetually those who had acquired promotions on the basis of qualifications which were validly recognised by the Government when they acquired the same.

8. The case is clearly distinguishable, as in that case, the Government had tried to upset the promotions already given. It has been stated at the bar that the retrospective operation of the rule has also been withdrawn and it has been made effective from the date of Notification, i.e., June 28, 1985. However, while dealing with the case, the Division Bench has made certain observations which have been pressed into service by the learned counsel for the petitioners before us. It was observed by the learned Judges in this case that the petitioners had not acquired the qualifications by forgery and their certificates were also not bogus. They have lost qualification because of de-recognition of that qualification with effect from the date of the notification amending the rules. It was further observed that when the petitioners appeared in the examination with a view to make an effort to better the prospects of their career, they knew that the examination was recognised by the State and after passing the examination,

they will have a fair chance of getting promotion on the post of LDCs as per quota reserved for them. It was further observed that the principles of reasonable classification also require that there should be reasonable nexus with the objects sought to be achieved. If the examination which was considered to be of a good standard was later treated to be sub-standard, the change has to be made in such a manner that object of derecognising the examination with a view to bring a greater efficiency, is achieved without adversely affecting the rights of those to whom the said change will become applicable. It was further observed that the petitioners, at the time of appearing in the examination, knew that they were qualifying themselves for better career prospects. Derecognition of the qualification with retrospective effect would, therefore, be harsh. It was further observed that if the promotions had been given before amendment of the rules, the petitioners would have been promoted on the basis of qualifications then recognised.

9. Relying on the decision of the Supreme Court in *K.C. Arora and Anr. v. State of Haryana* 1984 (2) SLR 97 and *Aditya v State of A.P.* AIR 1985 SC 165, it was further held in the aforesaid case that retrospective amendment affecting the rights relating to seniority, increment or pension amounted to variation in service conditions and such amendments were, therefore, held to be inoperative and invalid. It was then observed that in cases before the Division Bench, the petitioners were promoted to the higher post of L.D.C. after acquiring prescribed and recognised qualifications and the promotions were given to them for various periods. It was necessary that persons in similar situations are placed on similar footing. The Government had a right to derecognise the degree, diploma and certificate or a particular institution from a particular date, but the Government had no right to so fix a particular date or day in such a manner as to cause discrimination between the persons who are similarly qualified and similarly situated. It was also observed that several petitioners had been appointed as LDC for a period of one year and if they were reverted on account of the amendment under-challenge, it may amount to penal consequences and provisions of Article 311 of the Constitution would be attracted. The Government was at liberty to derecognise the qualification, if it is of the view that the same had become substandard and efficiency was likely to fall down, but it would be reasonable that such derecognition should only be done from the date on which such amendment is issued. It is clear from the general tenor of the decision that the fact that the promotions had already been granted and the employees had worked on the promoted posts for a long period, weighed heavily on the minds of the learned Judges and the decision was mainly directed at the retrospective operation of the rule.

10. In *Omprakash Sharma v The Rajasthan Legislative Assembly* 1988 (2) RLR 584 a Division Bench of this Court followed the decision in *State of Rajasthan v. Lalchand* (supra) and held that the amendment of the rules had prospective effect and not a retrospective effect. In the facts of that case, the petitioners had acquired the equivalent qualification in February, 1985 and the amended rule

came into force earliest by April 1, 1985. The Court held that the said amendment will have prospective effect and the petitioner was entitled to be considered for promotion on the basis of the aforesaid qualification.

11. In *State of Rajasthan and Anr. v. Shiv Karan and Ors.* 1994 (3) WLC 597 a Division Bench of this Court again held that the amendment in the Rule cannot be given retrospective effect to disqualify those who had acquired equivalent examination before it was derecognised. Relying on the Supreme Court decision in *Suresh Pal and Others Vs. State of Haryana and Others*, and several Division Bench and single Bench decisions of this Court, it was held that the literal interpretation of the Rules would be unjust to the petitioner respondent. As soon as petitioner-respondent passed Prathama Examination prior to 1985, they would be deemed to have passed High School Examination in view of Notification dated May 13, 1974 recognising the equivalent qualification. It was further held that the Notification dated June 28, 1985 was not retrospective in effect and it did not affect the equivalence which was earlier granted by the notification dated May 13, 1974.

12. In *Charan Kaur v. Managing Committee* 1996 (4) SLR 113, the Punjab and Haryana High Court held that a qualification acquired by a person at a time when it was duly recognised would continue to be valid in spite of its derecognition on a subsequent date and only the persons who obtained that qualification after derecognition would be held to be ineligible. However, in the facts of the case, the petitioner had already been appointed as an Art & Craft Teacher in a school, in the year 1980 on the basis of then recognised qualification of Diploma in Art & Craft awarded by the Department of Industries, Haryana State. Her services were regularised in 1992. The qualification held by the petitioner was derecognised in the year 1985 and, in the above circumstances, it was held that it could not affect the petitioner.

13. In *Hanuman Lal Harijan v. State of Rajasthan* 1997 (3) WLC 142, the point as regards the effect of amendment changing the eligibility qualifications was not considered but the case was argued on the basis of effect of derecognition of a particular educational qualification. As regards the question of the effect of the amendments in the Rules not being directly argued in the case, the entire discussion turned on the point as to whether after derecognition of a qualification, the qualifications obtained at the time when it was recognised would also become useless. On the basis of pleadings and arguments advanced in that case which did not touch the question of effect of amendments in the Rules as such the Division Bench did not see any reason to take a different view than which was taken in earlier Division Bench decision in *State of Rajasthan v. Shivkaran and Ors.* D.B. Civil Special Appeal No. 6190.

14. A decision of the Division Bench of this Court in *University of Jodhpur, through its Registrar v. J. C. Calla and Ors.* WLR 1996 (6) Raj. 56, was cited for the observations made in it to the effect that any action taken or right accrued in pursuance of any rule or law which was valid at the time when such action was

taken or such right accrued. Such action or right cannot be challenged or taken away on the score of its infringing the subsequent enacted or made law. Accrued rights cannot be taken away by making amendment in the rules retrospective in operation. No rule can be made retrospective in operation so as to deprive any employee of the rights which have vested or accrued to him before such amendment was made.

15. In *Chairman, Railway Board v C.R. Rangadhamaiah* 1997 (6) SCC 523, it was held that a Rule which operates in nature so as to govern future rights of those already in service cannot be assailed on the ground of retrospectivity, as being violative of Articles 14 and 16 of the Constitution, but a Rule which seeks to reverse from an anterior date, a benefit which has been granted or availed, e.g. promotion or pay scale, can be assailed as being violative of Articles 14 and 16 of the Constitution to the extent it operates retrospectively. It was further observed that the expressions "vested rights" or "accrued rights" are used in the context of a right flowing under the relevant rule which was sought to be altered with effect from an anterior date and thereby taking away the benefits available under the rule in force at that time. Such an amendment having retrospective operation which has the effect of taking away a benefit already available to the employee under the existing Rule is arbitrary, discriminatory and violative of the rights guaranteed under Articles 14 and 16 of the Constitution. The question involved in this case was whether pensionary rights accrued to pensioners on the date of their retirement would be affected adversely after an amendment in the rules incorporated after the date of retirement.

16. In *Y.V. Rangaiah and Others Vs. J. Sreenivasa Rao and Others*, it was observed that vacancies which occurred prior to amended rules would be governed by the old rules and not by new rules.

17. Decision of the Supreme Court in *State of Rajasthan Vs. R. Dayal and Others*, was cited for observations therein to the effect that the post which fell vacant prior to the amendment of the rules would be governed by the original rules and not by amending Rules.

18. In *State of M.P. and Others Vs. Raghuveer Singh Yadav and Others*, the Government pursuant to amended rules had withdrawn the earlier notification and wanted to proceed with the recruitment afresh. Recruitment to the post of Inspector in Department of Weights and Measures was, involved in the case, where the qualification for eligibility was changed from mere graduate to B.Sc. Examination. Recruitment was held and interview cards were also issued. But, then, the Government changed its mind and directed that fresh process of recruitment was to be taken on the basis of amended rules. In these circumstances, the Supreme Court held that the candidates who appeared for the examination and passed the written examination had only legitimate expectation to be considered for recruitment according to the rules then invoked. The amended rules would be prospective in operation and the Government was entitled to conduct selection in accordance with the changed rules as no

candidate had acquired any vested right against State. Therefore, the State was entitled to withdraw the notification and issue a fresh notification on the basis of the amended rules.

19. The case of Rajasthan Public Service Commission Vs. Chanan Ram and Another, was cited at the bar, but the case relates to effect of amendment on the earlier advertised vacancies. Amendment in that case did not relate to qualification as such and, therefore, in our opinion, this case is not relevant for our purpose.

20. In T.R. Kapur and Others Vs. State of Haryana and Others, the Notification issued by the State Government under Article 309 purporting to amend Rule 6(b) of Class 1 Rules with effect from July 10, 1964 which rendered members of Class II Service who were diploma holders ineligible for promotion to the post of Executive Engineer in Class I Service by making a degree in Engineering essential for such promotion was under challenge on the ground that it amounted to alteration of the conditions of service applicable to members of Class II service to their disadvantage without the previous approval of the Central Government and was therefore liable to be struck down as ultra vires the State Government being contrary to Section 82(6), Punjab Reorganisation Act, 1966 which provides that conditions of service applicable immediately before the appointed day to the case of any person referred to in the Section, shall not be vested to his disadvantage, except with the previous approval of the Central Government. Previous approval of the Central Government was not obtained for changing the qualification from diploma in Engineering to Degree in Engineering and, therefore, the amendment in a Rule was itself bad. Secondly, this was also a case where promotions had already been granted and were being enjoyed by the petitioners. In some cases, the promotions which were taken away were ordered over 20 years back.

21. As regards the retrospective operation of a rule, in paragraph 16 of the judgment, it was observed as follows:

"It is equally well settled that any rule which affects the right of a person to be considered for promotion is a condition of service although mere chances of promotion may not be. It may further be stated that an authority competent to lay down qualifications for promotion, is also competent to change the qualifications. The rules defining qualifications and suitability for promotion are conditions of service and they can be changed retrospectively. This rule is however subject to a well recognised principle that the benefits acquired under the existing rules cannot be taken away by an amendment with retrospective effect, that is to say, there is no power to make such a rule under the proviso to Article 309 which affects or impairs vested rights. Therefore, unless it is specifically provided in the rules, the employees who are already promoted before the amendment of the rules cannot be reverted and their promotions cannot be recalled. In other words, such rules laying down qualifications for promotion made with retrospective effect, must necessarily satisfy the test of

Articles 14 and 16(1) of the Constitution."

22. In *Suresh Pal and Others Vs. State of Haryana and Others*, the Supreme Court was dealing with a certificate course in physical education conducted by an institution recognised by the Government of Haryana earlier, but was later on derecognised. It was a clear case in which on the basis of the recognition granted by the State of Haryana to certificate course in physical education conducted by Shri Hanuman Vayayam Prasarak Mandal, Amravati that the petitioners had joined the course and were receiving instructions in the institution when State of Haryana derecognised the certificate course, the High Court had rejected the writ petition, but the Supreme Court allowed it by passing the following order:

"We are of the view that since at the time when the petitioners joined the course, it was recognised by the Government of Haryana and it was on the basis of this recognition that the petitioners joined the course, it would be unjust to tell the petitioners now that though at the time of their joining the course it was recognised, yet they cannot be given the benefit of such recognition and the certificates obtained by them would be futile, because during the pendency of the course it was derecognized by the State Government on January 9, 1985. We would, therefore, allow the appeal and direct the State Government to recognise the certificates obtained by the petitioners and others similarly situate as a result of completing the certificate course in Shri Hanuman Vayayam Prasarak Mandal, Amravati for the purpose of appointment as Physical Training Instructor in Government Schools in Haryana."

23. It appears that this was a direction given under Article 142 of the Constitution of India. It appears that the decision only related to pipeline cases, in which the students were receiving training and this was also because they had joined the course on the basis of recognition granted by the State Government to the course. It is not specifically laid down in the case that all those who had acquired certificate in physical education from the institute earlier to January 9, 1985, would be recognised to be qualified. The case is also distinguishable on the ground that this was a case of derecognition of a particular course conducted by a particular institution and not a general amendment in the rule deleting certain qualifications from the eligibility qualifications provided by the rules. When an educational institution is derecognised, it is natural that the degrees or diplomas obtained prior to derecognition would not remain valid and recognised, but the same cannot be said when the rule is amended and the qualification itself is deleted from the eligibility qualifications.

24. In *Ex-Capt. K.C. Arora and Another Vs. State of Haryana and Others*, the Supreme Court was dealing with the case of a person who joined the Army during the emergency as commissioned officer and who after serving the Indian Army for more than five years was appointed in the service of the Haryana Government as temporary Assistant Engineer against the post reserved for the ex-emergency commissioned officer. He was to be given seniority by counting period of military service. Rules were amended with retrospective effect taking

away the benefit of counting Military service towards seniority. The Supreme Court observed that this could not be done retrospectively because as soon as ex-emergency commissioned officers joined the Haryana Government service, right to count their seniority, including their military service had vested in them.

25. In *Rajasthan Public Service Commission v. Chanan Ram and Anr.* (supra) is another case where the recruitment process was interrupted and an amendment in the rules was incorporated after the posts were advertised. By the amendment, the posts of Assistant Directors (Senior) which were advertised, were abolished and in their place, posts of Assistant Director simpliciter were created. After the amendment, the posts had to be filled in 100% by promotion from the newly created posts of marketing officers which substituted the earlier existing posts of Assistant Directors (Junior). The posts of Assistant Directors/ Secretary, Marketing Committee and these posts were substituted by newly created posts of Marketing Officers. The panel of promotion to the post of Marketing Officer was 50% by promotion and 50% by direct recruitment. The eligibility criteria for direct recruitment was also amended adding one additional qualification. The Supreme Court held in these circumstances, that the amendment in the Rules changed the complete picture in the situation. The earlier advertisement did not confer any right on the candidates applying in response thereto. The fresh advertisement under the new rules was held to be valid and lawful.

26. Decision of the Supreme Court in *Ramchandra Shankar Deodhar and Others Vs. The State of Maharashtra and Others*, was cited for the proposition that reduction of chances of promotion does not amount to variation in service conditions. A right to be considered for promotion is a term of service but mere chances of promotion are not. A rule which merely affects the chances of promotion, cannot be regarded as waiving a condition of service.

27. In *Jagdish Lal v. State of Haryana* 1997 (4) SLR 333, the Supreme Court reiterated that chances of promotion are not conditions of service which are defeasible in accordance with the Rules. It was observed, thus, that it was settled principle in service jurisprudence that mere chances of promotions are not conditions of service and a candidate appointed in accordance with the rules can still march over his erstwhile seniors in field/ lower cadre.

28. In *State of Maharashtra and another Vs. Chandrakant Anant Kulkarni and others*, also, it was held that mere chances of promotion are not conditions of service and the fact that there was reduction in the chances of promotion did not tantamount to a change in the conditions of service. A right to be considered for promotion is a condition of service, but mere chances of promotion are not.

29. In *Union of India (UOI) and Another Vs. Yogendra Singh*, the Supreme Court held that no candidate who does not possess the currently prescribed qualifications, but who may possess the educational qualifications prescribed earlier can be said to qualify or have any vested right to get appointment even

against some other unfilled vacancies. A candidate who aspires to fill any vacancy must possess the educational qualifications that are then prescribed. It is clear from the decision that in cases of direct recruitment, a candidate cannot be recruited on the basis of qualifications prescribed as on the date of the vacancy. He has to fulfil the requirements of eligibility qualification prescribed currently.

30. Similarly, in *Chairman, School of Buddhist Philosophy, Leh, Ladakh (J and K) Vs. Makhan Lal Mattoo and Another*, the Supreme Court held that even if the respondent administrative officer was holding additional charge of Principal of school and was qualified according to then existing rules which were subsequently amended with approval of the Government raising the qualifications, he could not claim to be appointed on the basis of the qualifications prescribed at the time when he was given the additional charge of Principal of school. His qualifications had to be tested on the basis of amended rules.

31. From the case law discussed above, it is clear that a rule can be amended retrospectively, but such retrospective effect cannot be allowed to take away vested rights of citizens. It has also not been disputed before us that the amended rule would apply to vacancies which arise after the date on which the amending notification was issued. The questions to be decided, therefore, are as to whether the amended qualification in the rule would apply to Class IV employees who had acquired the equivalent qualification prior to amendment of the rule, and as to whether a vested right is conferred on the petitioners on their acquiring the equivalent qualification at a time when the equivalent qualification was not deleted from the rules. The contention that all candidates who had acquired the equivalent qualifications prior to the amendment in the rules deleting the equivalent qualifications would be deemed to have acquired that qualification in the legitimate expectation that by acquiring that qualification, they would become eligible for promotion as that was the qualification then prescribed under the rules for promotion to the post of L.D.C., cannot be accepted. There is nothing on record to show that any promise was held out by the respondents to the petitioners that they would be considered for promotion if they acquired the qualifications they have acquired. Moreover, if the contention is accepted, it would lead to absurd result as different candidates for the same post at the same selection would be having different qualifications depending on the dates on which such qualifications were acquired. Thus, those who have acquired the same qualifications after the amendment in the rules would be ineligible but those who had acquired that qualification earlier to the amendment in the rules would be eligible.

32. It is also to be noted that these are not the cases of derecognition of a degree, diploma or certificate issued by a particular institution because of some fault on the part of the institution awarding the same. The cases of derecognition of particular institutions and consequently derecognition of the degrees, diplomas

and certificates issued by such institutions have to be distinguished from service matters in which certain qualifications are deleted from the rules. Removing or deleting a qualification from eligibility criteria cannot be said to be derecognition of that qualification or a degree, diploma or certificate. It only means that the degree, diploma or certificate has ceased to be the eligibility qualification for a particular post. It does not take away from the candidate, the degree, diploma or certificate conferred by the institutions. For example, if the eligibility qualification for a particular post was earlier "Graduate" and by amendment, it is raised to "Post graduate", it does not mean that degree possessed by the candidates are derecognised. What it simply means is that the eligibility qualifications are enhanced and a higher qualification is now required. It is also to be taken into account that purpose behind amendment to the rule was not to derecognise any degree, diploma or certificate, it was only to delete certain qualifications from the eligibility criteria. This may be because of the changed situation in which the employer may find that candidates who have passed the Secondary School Examination from the Statutory Boards and Universities are available in sufficient numbers and it was not necessary to consider the candidates having equivalent qualifications. The respondents cannot be forced to accept equivalence of certain qualifications and to accept such equivalence for all times to come.

33. In the result, we conclude that there is no force in the contention of the petitioners that the amended qualifications shall not apply to them because they had acquired the equivalent qualifications prior to the amendment of the rules. In, our opinion, the amended rule and the qualifications will apply even to the candidates who have obtained the equivalent qualifications prior to the date of enforcement of amended rule. However, the amended qualifications shall not be applicable to the vacancies which had occurred prior to the date of enforcement of the amended rule and such vacancies shall be filled in in accordance with the qualifications prescribed as on the date of occurrence of vacancies. We, therefore, answer the reference accordingly. The petitions shall now be listed before appropriate Bench for decision in accordance with law in the light of this decision.