
(2016) 01 KL CK 0034

In the High Court Of Kerala

Case No : W.P.(C) No. 11547 of 2015 and W.P.(C) No. 21276 of 2012

Thalassery Co-Op. Rural Bank Ltd.

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 12-01-2016

Acts Referred:

Citation : (2016) 2 KLT 81 : (2016) LIC 2832

Hon'ble Judges : Dama Seshadri Naidu, J.

Bench : Single Bench

Advocate : Sri. P.V. Surendranath, Sri. B.S. Syamanthak and Smt. Bindumol Joseph, Advocates, for the Appellant; Sri. Jawahar Jose and Sri. Arun Ajay Shankar, Advocates, Sri. T.R. Rajesh, Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Dama Seshadri Naidu, J.—The devil is in detail: thus goes the idiom. The fact of the present case is that the devil of delay is in the detail of chronology—the proceedings having begun in 1984, the lis refuses to die down even after thirty years.

2. In 1984, the third respondent was charged with dereliction of duty; in 1985, a punishment of reversion was imposed; the quasi-judicial proceedings dragged on and still drag on though the third respondent retired from service in 2007. Now, the petitioner Bank, the employer, wants the matter to be remanded to the Co-operative Arbitration Court so that it could have the revision heard on "merits".

3. As observed above, the chronology of events has its own tale to tell: On 19.09.1984, the third respondent, then working as an internal auditor, was transferred to the Evening Branch of the petitioner Bank at Thalasseri. The General Manager through a letter dated 17.10.1984, required the third respondent to prepare the outstanding list of Saving Bank Depositors as on 30.06.1984; the third respondent had to prepare the list by 31.10.1984. The petitioner could not.

4. On 16.11.1984 (in a fortnights" time) the Branch Manager called for an explanation from the third respondent, who, in fact, submitted it on 19.11.1984 (in three days) narrating the practical difficulties in completing the work.

5. On 21.11.1984 (the second day) the management served memo of charges on the third respondent; on 24.11.1984 (again, in two days) the third respondent submitted his written explanation. On 30.11.1983 (within a week) the President of the managing committee issued proceedings providing personal hearing to the third respondent. On 08.12.1984 (in the very next week) the third respondent, again, submitted his defence.

6. On 19.12.1984 (this time, in ten days) the management issued a revised charge memo to the third respondent. This memo included four charges; the earlier memo, however, contained only three charges. On 26.12.1984 (in a week"s time) the third respondent submitted his explanation to the revised charges. On 14.01.1984 (in about three weeks) an Enquiry Officer was appointed,

7. On 15.02.1985 (in a fortnight"s time) the management, evidently based on the enquiry report, imposed on the third respondent a major punishment: (1) reverting the third respondent to a lower rank; (2) barring promotion to him from the reverted rank for two years. The Enquiry Officer before submitting his report seemed to have disregarded the third respondent"s request to permit him to engage an advocate to assist him. It is pertinent to observe that from the date of appointing an Enquiry Officer, the management took some time to impose a major punishment:

Two weeks

8. Aggrieved, the third respondent filed an appeal before the Board of Directors, which partially allowed the appeal on 13.03.1985: It set aside the second punishment-barring promotion for two years in the reverted cadre.

9. It is pertinent to observe that initially assailing the major punishment imposed on him by the petitioner Bank, the third respondent approached the Assistant Registrar by filing A.R.C. No. 340/1984-85. The said authority has, however, dismissed the case as not maintainable. He has, in fact, held that the third respondent should approach the Industrial Tribunal.

10. Aggrieved, the third respondent filed an appeal before the Government by invoking Section 87 of the Kerala Co-operative Societies Act ("the Act"). The Government, in turn, set aside the order of dismissal passed by the Assistant Registrar and remanded the matter. On remand, the matter was re-numbered as A.R.C. No. 6/1993.

11. It is further pertinent to note that, in the interim, i.e., before the Assistant Registrar could take back A.R.C. No. 340/1984-85 on file after remand, the third respondent filed A.R.C. No. 84/1985-86 assailing the Bank"s refusal to promote him. As a result, the Assistant Registrar took up both the matters in A.R.C. No. 6/1993: Part I-the issue of punishment; Part II-the issue of denial of promotion.

12. In due course, having considered the issues on merits, the Joint Registrar passed Exhibit R3(b) order dated 30.07.1993 setting aside the enquiry proceedings. In fact, the said authority, among other things, has found that the third respondent was denied promotion illegally. Aggrieved, the petitioner Bank filed a statutory appeal, A.P. No. 120/1993, and invited Exhibit R3(c) order dated 21.12.1994. The Tribunal, having set aside Exhibit R3(b) order, remanded the matter for fresh consideration. The remand, it must be observed, was largely on technical grounds.

13. Though the matter was remanded in 1994, it was kept pending on the file of the Joint Registrar till 2004 when it was transferred to the Co-operative Arbitration Court in the light of the amendment to Section 69 of the Kerala Cooperative Societies Act. Thus, the Arbitration Court renumbered the case initially as A.R.C. No. 27/2004 and later as A.R.C. No. 2/2011. After more than a decade, on 27.08.2012, the Arbitration Court passed Exhibit P1 order, once again, setting aside the enquiry proceedings, apart from finding that the third respondent was entitled to promotion from 01.08.1985. It is interesting to note that the proceedings that began in 1984 before the primary authority could come to an end in 2012, when Exhibit P1 order was passed.

14. Further aggrieved, the petitioner Bank filed Exhibit P2 revision before the Co-operative Tribunal, which rendered Exhibit P3 order rejecting the revision because it was barred by limitation. Eventually, the petitioner Bank has approached this Court.

15. It is further relevant to state that, while the above proceedings were pending, owing to the Appellate Committee's partial modification of the punishment, the third respondent was promoted to the post of Accountant. After the initial usual rounds of litigation before the quasi-judicial fora on the issue of promotion, the petitioner Bank, contending that the third respondent lacked the qualification, has filed W.P.(C)No. 21276/2016. Because both the writ petitions are interconnected involving the same set of parties, this Court proposes to dispose of them together through a common judgment.

Submissions:

Petitioner's:

16. The learned counsel for the petitioner has submitted that though Exhibit P1 order was said to have been passed on 27.08.2012, it was served on the petitioner Bank only on 13.01.2013. According to him, having initially tried to negotiate with the third respondent for an amicable settlement, the petitioner Bank filed the revision on 13.09.2013.

17. In elaboration of his submissions, the learned counsel for the petitioner would contend that the delay of about six months had been occasioned only owing to the bona fide efforts on the petitioner Bank's part for having an amicable, out of court settlement.

18. Having drawn my attention to Section 84 of the Act, the learned counsel has further contended that there is no explicit time limit fixed for filing the revision. Given the settled principle of law, the delay, according to the learned counsel, in filing the revision should be reckoned and condoned based on the facts and circumstances of each case.

19. Assailing the legality of Exhibit P3 order, the learned counsel contends that the Tribunal has not applied its mind while concluding that the revision was barred by limitation. The learned counsel has further contended that though the petitioner Bank has assigned very cogent reasons for the delay, the Tribunal has dismissed the revision summarily, misdirecting itself.

20. Adverting to the merits, the learned counsel has contended that before imposing the punishment of reversion on the third respondent, the petitioner Bank had followed the procedure scrupulously.

21. The learned counsel has further submitted that, as far as the issue of promotion is concerned, the petitioner did not have the qualification. To support his contentions, the learned counsel has placed reliance on *Thajuddin Shameer v. Secretary Coastal Urban Co-op. Bank Ltd.*, 2004 (1) KLT 909 *Sarojini Amma v. Trivandrum District Co-operative Bank Ltd.*, (2005 (3) KLT 655) and *Joseph K.V. v. Secretary, Thodupuzha Co-operative Agricultural and Rural Development Bank*, (2012 (4) KHC 569).

22. Per contra, the learned counsel for the third respondent has submitted that ex facie the law of limitation bars the revision. In elaboration, he has submitted that this Court through a profusion of precedents has held that the Courts or Tribunals ought to entertain the revision within a reasonable time. According to the learned counsel, on more than one occasion, this Court has held that ninety days is a reasonable time.

23. Being conscious of certain judicial cleavage on the issue, the learned counsel has, however, submitted that even one were to abandon the limit of ninety days, the petitioner has not, going by the principle of reasonable time, established any valid grounds that six month's delay was reasonable. In other words, it is the singular contention of the learned counsel for the third respondent that the story of the petitioner Bank that it had tried to negotiate with the third respondent for an out of court settlement is totally unbelievable.

24. The learned counsel has essentially submitted that the issue began in 1984 and the third respondent retired in 2007. Drawing my attention to the findings of the primary authority, he has strenuously contended that in Exhibit P1 order, the Arbitration Court has specifically recorded that the petitioner Bank has failed to produce the entire record pertaining to the domestic enquiry. According to the learned counsel, absent the record, no purpose would be served if the matter were remanded to the revisional authority.

25. Adverting to the merits, the learned counsel has submitted that initially the

Assistant Registrar and later, on remand, the Arbitration Court in Exhibit P1 have rendered very cogent reasons why the disciplinary proceedings initiated against the third respondent could not be sustained. He has also submitted that if at all this Court desires, it has ample powers under Article 226 of the Constitution to hear the matter on merits, rather than remand it after decades.

26. The learned counsel has submitted that the punishment imposed on the petitioner, being a major one, has been vitiated on more than one count. According to him, the Enquiry Officer having examined two witnesses did not permit the third respondent to cross-examine those witnesses. Further, at no point in time has the management served a copy of the enquiry report on the third respondent. These procedural violations, among many other, have caused immense prejudice to the third respondent, contends the learned counsel.

27. In so far as the issue of promotion is concerned, it is fallacious on the part of the petitioner Bank, urges the learned counsel, to contend that the third respondent did not have the qualification. Having initially denied the promotion to the third respondent, the same Bank in 1994 promoted him based on the same qualification.

28. At this juncture, the learned counsel for the petitioner Bank tried to refute the third respondent's contention as regards the qualification. He contended that the Bank promoted the third respondent after obtaining the Registrar's permission. When this Court queried whether the petitioner had any record to establish it, he said it had not. On the other hand, the learned counsel for the third respondent has drawn my attention to Exhibit R1(g) in W.P. (C)No. 21276/2012. He has submitted that Exhibit R1(g), being the order of promotion, has simply recorded that the third respondent and two other persons have been promoted. There is no whisper, according to him, about the alleged allegation in the writ petition.

29. Summing up his submissions, the learned counsel for the third respondent has submitted that remanding the matter serves no purpose. Even on the merits, he contends, Exhibit P1 order is unexceptionable and needs no interference. To support his submissions the learned counsel has placed reliance on Rameshan v. Jayavally, (2007 (2) KLT 325) Roshan Deen v. Priti Lal, (2002) 1 SCC 100 Estralla Rubber v. Dass Estate (Pvt) Ltd., (2001) 8 SCC 97 and Bhupinder Pal Singh v. Director General of Civil Aviation and Ors., (2003) 3 SCC 633

Issues:

I. Can Exhibit P3 order of the Co-operative Tribunal be sustained?

II. Should the matter be remanded to the Co-operative Tribunal if Exhibit P3 order cannot be sustained?

III. Can this Court, despite the availability of an alternative remedy, entertain the writ petition on the merits of the matter?

IV. If so, can Exhibit P1 order be sustained on merits.

V. Does the third respondent has the qualification to be promoted to the post of Accountant?

Issue Nos. I & II:

30. Before adverting to the controversy as regards what is the reasonable time for filing a revision, we may have to examine whether ninety days is the maximum period allowed-at least, through judicial precedents-to be condoned. It is apposite to examine, first, the reasons assigned by the petitioner-Bank for the delay in its approaching the revisional forum.

31. The petitioner pleads that though the award was dated 27.08.2012; the award was communicated to it only on 13.01.2013; it has, however, filed the revision petition on 13.09.2013. The reason assigned for the delay is that before filing an appeal/revision, the petitioner felt it just and proper to negotiate with the third respondent and settle the matter. For adopting that course of action, the management is said to have been swayed by the following factors: (a) that the third respondent retired from the service long back, i.e. in 2007; and (b) that the enquiry file of the year 1984-85 was unavailable.

32. It is pertinent to observe that the third respondent has emphatically denied the petitioner's averment that the Bank had tried to negotiate the matter with him. In any event, the Bank's admission is unambiguous-the very enquiry file is unavailable.

33. Absent any reliable proof that the petitioner had been bona fide negotiating with the third respondent, the revisional authority has rightly rejected the reason assigned by the petitioner for the delay. The revisional authority, placing reliance on Thajuddin Shameer (supra) and Sarojini Amma (supra), has held that, first, the petitioner has not substantiated the reason for the delay; and, second, the revision is beyond the period of ninety days: the period fixed by this Court through judicial precedents as the maximum outer limit for presentation of a revision. In the present instance, the delay being over five months, the revisional authority dismissed the petitioner's Exhibit P2 revision petition.

34. It is appropriate to refer at this stage to the contention of the learned counsel for the petitioner that the Tribunal in Exhibit P3 order has even considered the issue on merits. True, in the first blush, the order in question reads to the effect that there was some consideration of the issue on merits as well. As seen, the Tribunal has extracted the pleadings on either side; that apart, it has, in the end, without adjudicating the matter further on merits, it has in the end simply dismissed the revision petition on the singular ground of limitation.

35. As much turns upon Section 84 of the Act, it is apposite to examine the said provision, which reads as under:

"84. Revision by Tribunal :- The Tribunal may call for and examine the record of

any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if, in any case, it shall appear to the Tribunal that any such decision or order should be modified, annulled or revised, the Tribunal may pass such order thereon as it may deem fit."

36. Both in *State of Gujarat v. Patil Raghav Natha*, AIR 1969 SC 1297 and *Santoshkumar Shivgonda Patil v. Balasaheb Tukaram Shevale*, (2009) 9 SCC 352 the Hon'ble Supreme Court has held that once a provision conferring the power of revision does not prescribe any limitation for its exercise, it must, however, be exercised in a reasonable time. What is reasonable time must be determined by the facts of the case and the nature of the order sought to be revised. In *Pune Municipal Corpn. v. State of Maharashtra*, (2007) 5 SCC 211 the Apex Court has opined that the reasonableness of time-interval would depend upon the facts and circumstances of each case. And no rule of universal application can be laid down.

37. This Court in *Gopalakrishnan v. State of Kerala*, 1986 KLT 817 per a learned Single Judge, has held that there is no specific provision that relief under Article 226 of the Constitution of India should not be granted if the petition is not filed within a specified time; this Court has almost always, however, insisted that the period of ninety days shall ordinarily be treated as the reasonable time within which its jurisdiction shall be invoked. Following *Gopalakrishnan* (supra), in *Narayanan v. Rent Controller*, 1988 (2) KLT 74 this Court, while dealing with Section 20 of the Buildings (Lease and Rent Control) Act, has held that even a petition under Article 226 of the Constitution normally has to be filed within ninety days.

38. Later, relying on *Narayanan* (supra), another learned Single Judge in *Thajuddin Shameer* (supra) has interpreted the very Section 84 of the Act. The learned Single Judge has held that if a revision is filed beyond a reasonable time limit, say ninety days, the petitioner should explain in the revision, the reason for the delay. Because there is no limitation prescribed, there need not be any separate petition to condone the delay.

39. In *Sarojini Amma* (supra), another learned Single Judge has held that even if ninety days was treated as a reasonable period for the revisional jurisdiction to be invoked, the revision petition ought to be filed at least within five months from the date of the award. This time frame is after adding to it the period of sixty days prescribed for an appeal under Section 82 of the Act. In the end, his Lordship has held on fact that the order of refusal by the Tribunal to entertain the revision filed more than one year and nine months could not be treated as unreasonable or arbitrary. In *Joseph K.V* (supra), having referred to much of the above case law, this Court has held that the revision petitioner having filed the revision beyond ninety days needs to assign the reasons for the delay.

40. The upshot of the above judicial pronouncements is that this Court has never laid down, as an invariable principle, that ninety days is the period within which a

revision-absent any statutory period of limitation-has to be filed. Nor has it laid down that any delay beyond ninety days alone should be explained. It appears to me that the Court has felt, as a tentative measure though, ninety days to be a safe reckoning period for filing a revision. This Court, as well as the Hon''ble Supreme Court, has been consistent in its approach that there cannot be judicial legislation, say, about what has been advisedly left open by the legislature.

41. In the facts and circumstances, I hold, reiterating the oft-repeated judicial dictum, that more than the length of delay, the nature and cause of delay assumes importance in considering whether, for example, a revision petition has been filed on time. It is more a question of laches than delay. The explanation is to the satisfaction of the adjudicatory forum. And the said satisfaction, needless to observe, varies from case to case. It is time a caveat-a word of caution-was served to the effect that this Court while exercising its powers of judicial review would be slow to interfere with the discretion exercised by an adjudicatory authority, be it a revisional forum, on the issues such as delay condonation.

42. Satisfied with the reasons assigned in Exhibit P3 order of the revisional authority, this Court does not intend to interfere with it. At any rate, to avoid any multiplicity of litigation, as has been urged by the learned counsel for the third respondent, this Court undertakes to adjudicate the issue on merits, too.

Issue Nos. III & IV:

43. Before proceeding further, as regards the justification for the course of action, this Court intends to adopt-that is, deciding the case on merits as well-we may examine certain authorities relied on by the learned counsel for the third respondent.

44. In Rameshan (supra), a learned Division Bench has held that the remedy under Article 226 of the Constitution being discretionary, the court is not bound to interfere merely on the establishment of an irregularity or illegality. The court must further be satisfied that such interference is called for to meet the ends of justice. With the interference, if the interests of justice are going to suffer, the Court will withhold its arm. The Court cannot erase justice done, according to their Lordships, in the name of correcting an error of law.

45. In a strongly worded judgment in Roshan Deen (supra), the Hon''ble Supreme Court has held that time and again the Court has reminded that the power conferred on the High Court under Articles 226 and 227 of the Constitution is to advance justice and not to thwart it. The very purpose of such constitutional powers being conferred on the High Courts is that no man should be subjected to injustice. The lookout of the High Court is, therefore, not merely to pick out any error of law through an academic angle but to see whether injustice has resulted because of any erroneous interpretation of the law. If justice became the by-product of an erroneous view of the law, declares their Lordships, the High Court is not expected to erase such justice in the name of correcting the error of law.

46. In *Estralla Rubber* (supra), the Apex Court has observed that the High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercising this power and interfering with the orders of the courts or tribunals are restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice; where, if the High Court does not interfere, a grave injustice remains uncorrected. The said proposition, though, was laid down in relation to Article 227 of the Constitution.

47. In *Bupinder Pal Singh* (supra), the management removed an employee from service without observing the principles of natural justice. By the time the matter reached the Apex Court, the employee had superannuated. Under those circumstances, the Court has held that in the normal course, it could have set aside the order giving liberty to the employer to hold a fresh enquiry. Because the employee has superannuated and much time has elapsed from the date of initiation of the disciplinary proceedings, their Lordships have thought it just and appropriate to set aside the impugned order and restore the employee, notionally though, to his original position, with certain restrictions on the benefits to be granted, however.

48. At this juncture, it is further pertinent to observe that prudence dictates that this Court while exercising its jurisdiction under Article 226 of the Constitution should consider the fact whether there is an efficacious alternative remedy available to the party. Once it is available, the court has always been averse to entertaining the writ petition on merits.

49. That said, this Court may further observe that the alternative remedy provided under any statute is required to be an efficacious one. Usually, once there is a statutory appeal available, this Court declines to entertain any writ petition; nevertheless, if the remedy is in the form of revision, which cannot be equated with an appeal, the judicial opinion is in favour of exercising the discretion either way: Depending on the facts and circumstances, this Court may as well entertain the writ petition notwithstanding the availability of revisional remedy or decline, in its discretion, to consider the matter on merits. The fact, however, remains that revisional remedy, usually, is not treated as an efficacious one.

50. In *Collector of Customs Excise v. A.S. Bava*, AIR 1968 SC 13 the Hon'ble Supreme Court has held that the existence of a remedy by way of a revision does not bar the jurisdiction of the High Court to entertain a petition under Article 226. Though in *V. G. Ramachandran's Law of Writs*, Pg.221 (Vol.1), Sixth Ed. EBC. under the sub-heading Remedies which cannot be said to be "alternative", the learned revising author has also cited many other decisions in support of the said proposition, none of them seems to be directly on the point: the right of remedy being no bar to judicial review under Article 226. In Perspective: Remand.

51. On the issue of procedural irregularities, the primary authority in Exhibit P1

order has observed that though the petitioner Bank was given sufficient opportunity to produce the file concerning the domestic enquiry along with the deposition of the witnesses and the marked documents, the Bank did not produce it before the said authority. The domestic enquiry officer was also not examined as a witness. Eventually, the primary authority has held that the punishment being drastic, the petitioner Bank has failed to establish before the primary authority that it was imposed on the basis of a validly held domestic enquiry.

52. As seen from Exhibit P2 revision, the very petitioner Bank has emphatically placed on record that the domestic enquiry file pertaining to the year 1984-85 is not available.

53. The bone of contention in the present instance is whether the domestic enquiry has been validly held or, in other words, whether there are procedural violations offending the principles of natural justice. Given the admitted fact that the enquiry report is unavailable, no substantive purpose would be served, it occurs to me, even if the matter is to be remanded to the revisional court. Promotion:

54. Both the learned counsel have also argued extensively on the issue of denial of promotion. As has been rightly contended by the learned counsel for the third respondent, the said issue is contingent on the findings visa-vis the validity of the punishment imposed on the third respondent. Once the court holds that the domestic enquiry has been vitiated, and the consequential major punishment of reversion could not be sustained, it obviates the need of adjudicating the issue of denial of promotion.

Punishment:

55. As regards the validity and legality of the domestic enquiry, this Court is of the opinion that the burden is on the petitioner Bank. It has, indeed, failed to discharge its burden; it has failed even to place before the primary authority the necessary records. As a result, this Court cannot but hold, in tune with Exhibit P1, that the domestic enquiry has been vitiated; and, therefore, the punishment imposed cannot be sustained. It is deemed that the petitioner had never been reverted. Accordingly, it is further declared that the petitioner is entitled to all consequential benefits as if there had been no reversion at any point in time.

W.P. (C)No. 21276/2012:

Issue No. V:

56. In the light of the judgment rendered in W.P.(C) No. 11547/2015, this Court desires to hold that no decision needs to be rendered in this writ petition in which the third respondent's (first respondent's) promotion was assailed. The learned counsel on either side have, however, submitted that the issue of qualification for promotion still needs to be determined, lest it should lead to a multiplicity of proceedings.

Qualification:

57. On the issue of qualification, the Bank's singular contention is that the third respondent has not been qualified to hold the promotional post, i.e. Accountant. The third respondent was initially working in the post of Internal Auditor, which is an ex-cadre post. Later, on his reversion, in the light of the fact that the Committee on appeal set aside the second limb of the punishment, i.e. barring promotion for two years, the third respondent sought promotion to the post of Accountant, which is-though equal to the post of Internal Auditor-a sanctioned post.

58. In the above context, the question of qualification has arisen. The unamended Rule 186 (ii) of the Kerala Cooperative Societies Rules ("the Rules") speaks of the "other supervisory and ministerial posts" than the posts that required technical qualifications. Evidently, the post of Accountant was included under clause (ii) of sub-rule (1) of Rule 186. The twin criteria fixed for those posts are that a candidate should have passed SSLC or equivalent qualification and completed Subordinate Personal Cooperative Training Course (Junior Diploma in Co-operation). The post in question, at the same time, ought to have the unrevised pay scale below Rs. 250/-.

59. When we examine Appendix III attached to the Rules, an Accountant in Urban Banks, which the petitioner is, has the pay scale of Rs. 225-400. Thus, the third respondent having satisfied both the criteria, it could not be said that he had suffered any disqualification to have been promoted to the post of Accountant.

60. At any rate, the learned counsel for the petitioner has placed reliance on Exhibit P2 to contend that by 1985 when the third respondent staked his claim for promotion, the post of Accountant carried a minimum pay scale of Rs. 300/-. It is pertinent to observe that Appendix III attached to the unamended Rules would show that the basic pay for the post of Accountant started at Rs. 225/-. Even if one were to accept that subsequently the pay scale was revised or raised to Rs. 300/-, the fact remains that the unrevised pay scale during third respondent's promotion in terms of the unamended Rule 186 should alone be considered.

61. Further, in 1994 the petitioner Bank promoted the third respondent as an Accountant with the same qualification of SSLC-that is, without insisting on graduation. Thus, there being no statutory change between 1983 and 1994 reducing the qualification criteria, the petitioner Bank is estopped from contending that initial denial of promotion was sustainable. As a result, the promotion earned by the third respondent cannot be called in question.

62. For the foregoing reasons, I hold that both the writ petitions are merit less and accordingly dismiss them. No order on costs.