1972
Sept. 25
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GEORGHIOS ECONOMIDES
v.
REPUBLIC (COUNCIL OF MINISTERS AND ANOTHER)

[A. LOIZOU, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

GEORGHIOS ECONOMIDES,

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH

1. THE COUNCIL OF MINISTERS AND/OR THE DIRECTOR OF THE DEPARTMENT OF PERSONNEL,

2. THE PUBLIC SERVICE COMMISSION,

Respondents.

(Case No. 393/71).

Public Service and public officers—Schemes of service—Making of schemes of service a matter now governed by section 29 of the Public Service Law, 1967 (Law No. 33 of 1967)—Not necessary to be published in the Official Gazette—Article 57.4 of the Constitution and section 86(1) of the aforesaid Law inapplicable.

Schemes of service—Need not be published in the Official Gazette—See supra.

Equality and non-discrimination—Articles 6 and 28.1 of the Constitution—Principle of equality and against discrimination—Does not convey the notion of exact arithmetical equality—It safeguards only against arbitrary differentiations and does not exclude reasonable distinctions—Decision of the Council of Ministers whereby the period spent by a public officer for education abroad should not be deemed to be "administrative experience" for the purposes of the relevant scheme of service—A reasonable and not an arbitrary one—No discriminatory element therein—Prolonged absence for education abroad may result in academic knowledge as distinct from experience gained in the everyday office work.

"Administrative experience" in a scheme of service—Meaning and effect.

Promotions—Vested rights—Right to promotion not a vested right but a mere expectation—Therefore, the required qualification for a particular promotion post may validly be changed before any promotion is effected—Which means that new laws, regulations and decisions effecting changes to those existing at the time of appointment and regulating the relationship of State and civil servants, may be properly enacted or taken—Consequently it cannot be said that any decision (including the sub judice *one) in this case violates the principle against the retrospectivity of administrative acts.*

Administrative acts and decisions—Principle against retrospectivity of—Public officer on study leave abroad—Decision of the Council of Ministers, taken about three years after commencement of such leave, to the effect that such period of leave would not be deemed as service for the purposes of defining two years "administrative experience" required as necessary qualification for the promotion post concerned in this case—Subsequent interpretation and application of such decision by the respondent Public Service Commission, does not violate the principle against retrospectivity.

Retrospectivity—Principle against retrospectivity of administrative acts—See supra.

Constitutional law—The principle of equality and non-discrimination—Meaning, scope and effect—Articles 6 and 28 of the Constitution—See supra.

The facts of the case are very briefly as follows: The applicant was promoted to the post of Administrative Officer 2nd Grade on August 1, 1966. In that year he was awarded a four year scholarship at the American University of Beirut and left Cyprus on September 28, 1966. He received a B.A. degree in Public Administration and returned to Cyprus on June 26, 1970. In accordance with the decision of the Council of Ministers No. 8969 of the 7th August, 1969, varying in this respect, a previous decision of the Council No. 6342 of the 9th of February, 1969, the education obtained by the applicant at the American University cannot be considered as "administrative experience"

for the purpose of the relevant scheme of service, which requires at least two years "administrative experience" in the post of Administrative Officer 2nd Grade for the eligibility for promotion to the post of Administrative Officer 1st Grade. On July 12, 1971 the respondent Public Service Commission considering the candidates for promotion to the post of Administrative Officer 1st Grade took the view that in the light of the facts as set out above the applicant was not eligible for consideration for the aforesaid post of Administrative Officer 1st Grade, his "administrative experience" in the post of Administrative Officer being less than the two years required under the relevant scheme of service. Eventually, the commission decided to promote the interested party, which promotion is being challenged by the present recourse on two main grounds: The first ground relates to the validity of the relevant scheme of service. It is said that such scheme being in substance a decision of the Council of Ministers ought to have been published in the Official Gazette as provided by Article 57.4 of the Constitution, there being no dispute that the scheme in question was not so published but only circularized in the usual manner for the benefit of the civil service. The second ground is twofold: (a) The aforesaid decision of the Council of Ministers No. 8969 adopted and applied by the Public Service Commission (*supra*) is unconstitutional, as introducing discrimination or unequal treatment, contrary to Articles 6 and 28.1 of the Constitution; (b) The Commission in interpreting the term "administrative experience" found in the relevant scheme of service have given to the said Decision No. 8969 of the 7th of August, 1969 retrospective efffect thus invading the applicant's vested rights under the previous decision No. 6342 of the 9th February, 1969 *(supra)*.

Dismissing the recourse, the learned Judge:

Held, I. *As to the validity of the relevant scheme of service:*

(1) In my judgment one does not have to look to Article 57.4 of the Constitution regarding the making of the schemes of service, but to the organic law covering the matter since its enactment on June 30, 1967 *viz.* section 29 of the Public Service Law, 1967 (Law No. 33 of 1967).

(2) As it appears (*note:* The full text of section

29 is quoted *post* in the Judgment) in the aforesaid section there is no provision that a decision regarding schemes of service need be published in the Official Gazette; whereas, in the instances where the legislator thought that that should be done, the aforesaid Law expressly provided so in the relevant section thereof (*see* e.g. sections 31(1), 37(4), 40(3) and 44(6)).

Held, II. *As to the submission that the aforesaid decision of the Council No. 8969 of August 7, 1969 is discriminatory and, therefore, contrary to Articles 6 and 28.1 of the Constitution:*

(1) *(After quoting Article 6 and paragraph 1 of Article 28 of the Constitution (see post in the Judgment) the learned Judge went on:* The aforesaid provisions are in substance similar to Articles found in the Greek, Indian and American Constitutions, so that guidance as to their meaning and effect may be derived from decided cases from these countries. In the light of these authorities it would appear, and so do I hold, that those provisions safeguard only against arbitrary differentiations and do not exclude reasonable distinctions which have to be made in view of the intrinsic nature of things (see also *Mikrommatis* and *The Republic*, 2 R.S.C.C. 125, p. 131; *The Republic of Cyprus* v. *Nishian Arakian and Others* (reported in this Part at p. 294 *ante*) and the authorities cited).

(2) (a) The question, therefore, is whether the distinction made in the aforesaid decision No. 8969 is a reasonable and not an arbitrary one.

(b) To my mind, it is reasonable to make differentiations depending on the length of absence for education or post-graduate courses from the service. Prolonged absence may result in academic knowledge, but at the same time it may deprive one of the experience gained in the everyday office work. Therefore, I find no discriminatory

element in the said decision of the respondent Council of Ministers.

Held, III. *As to the submission that the Public Service Commission in interpreting the term "administrative experience" found in the relevant scheme of service* (supra) *have given to the aforesaid Decision No. 8969 of the Council retrospective effect:*

(1) It is a well settled principle of law, that administrative acts may not be given retrospective effect, except when they fall within the recognised exceptions with which we are not concerned here. It is equally true that a new law or regulation cannot offend a 'vested right'.

(2) But 'the vested right' must not be confused with a mere expectation of the citizen (see Kyriacopoulos, Greek Administrative Law, Vol. 1, 4th ed. p. 95). It may be said here that in my judgment there is no such vested right as a right to promotion or that the required qualification for a particular promotion post will not be changed before any promotion is effected. There is an expectation for it and nothing more (*see the decisions of the Greek Council of State:* Nos. 236/1932, 965/1935 and 928/1931).

(3) The relationship, therefore, of State and Civil servant, being a matter of public law can be regulated, in the absence of constitutional safeguards, by new laws, regulations and decisions effecting changes to those existing at the time of the appointment.

(4) So, the fact that the applicant had already been for more than two years on a scholarship abroad, did not mean that the evaluation of that period as a period of "administrative experience" or not could not be changed in the way it was done by subsequent decisions. The relevant scheme of service and decisions came into existence before the *sub judice* decision of July 7, 1969, was taken by the Public Service Commission *(supra).* Though they inevitably refer to

matters of the past, their legal consequences are brought about in the future, that is to say after they came into existence. Consequently, it cannot be said that any decision in this case violates the principle against retrospectivity.

Recourse dismissed.
No order as to costs.

Cases referred to :

Papapetrou and *The Republic*, 2 R.S.C.C. 61, at p. 62;

Ishin and *The Republic*, 2 R.S.C.C. 16, at p. 18;

Mikrommatis and *The Republic*, 2 R.S.C.C. 125, at p. 131;

The Republic of Cyprus v. *Nishian Arakian and Others* (reported in this Part at p. 294 *ante*);

Lindsley v. *Natural Carbonic Gas Co.* (1910) 220 U.S. 61;

Tigner v. *Texas* (1940) 310 U.S. 141;

Missouri Railway v. *Humes* (1885) 115 U.S. 517;

Decisions of the Greek Council of State : Nos. 236/1932, 965/1935, 928/1931.

Recourse.

Recourse for a declaration that the decision of respondent 1, whereby the scheme of service for the post of Administrative Officer, 1st Grade was made and the decision of respondent 2 to promote to the post of Administrative Officer, 1st Grade, the interested party, Nicos Zavros, are null and void.

E. Lemonaris, for the applicant.

S. Georghiades, Senior Counsel of the Republic, for the respondent.

Cur. adv. vult.

The following judgment * was delivered by :-

A. Loizou, J. : As a result of the creation of the new post of Senior Administrative Officer and the re-distri-

* For final judgment on appeal see (1974) 1 J.S.C. 18 to be reported in due course in (1973) 3 C.L.R.

bution of duties, a new scheme of service was prepared for the said post and at the same time the existing scheme of service for the post of Administrative Officer, 1st Grade, was amended. The said scheme of service (*exhibit* 1 (a)) was approved by the Council of Ministers on the 28th June, 1971 by its Decision No. 10579. It was released by circular of the Department of Personnel and came to the knowledge of the applicant on the 26th July, 1971.

The post of Administrative Officer, 1st Grade, is a promotion post, for officers already holding the post of Administrative Officer 2nd Grade, with a minimum of five years' administrative experience, two of which should be in the post of Administrative Officer, 2nd Grade.

The applicant first joined the Government service on the 21st October, 1954. On the 5th July, 1971, the Director of the Department of Personnel in the Ministry of Finance, wrote to the Chairman of the Public Service Commission informing him that it had been approved to fill a number of posts in the general administrative staff including six vacancies in the post of Administrative Officers, 1st Grade, and requesting him to take the necessary steps for that purpose.

On the 12th July, 1971 the Public Service Commission considered the filling of the posts of Administrative Officer 1st Grade. The Commission proceeded to examine the eligibility of the applicant who was serving in the post of Administrative Officer 2nd Grade. The minutes of the respondent Commission (*exhibit 1* (c)) read —

> "Mr. Economides was appointed to the post of Administrative Officer, 3rd Grade, with effect from the 16th July, 1962, and as from the 1st August, 1966 he was promoted to the post of Administrative Officer, 2nd Grade. In 1966 he was awarded a four-year scholarship at the American University of Beirut and left Cyprus on the 28th September, 1966. He received a B.A. degree in Public Administration and returned to Cyprus on the 26th June, 1970. In accordance with para. (a) of the Council of Ministers' decision No. 8969 of the 7th August, 1969, the education obtained by Mr. Economides at the American University of Beirut cannot be considered

as 'administrative experience' for the purpose of the relevant scheme of service. However, during the summer of the years 1967 and 1968 Mr. Economides while still on scholarship, at the American University of Beirut, returned to Cyprus and worked in the Department of Personnel on full pay from the 1st July, 1967 to the 7th September, 1967 and from the 24th June, 1968 to the 7th September, 1968. According to the previous decision of the Commission the said two periods should count as 'administrative experience' for the purpose of the relevant scheme of service (minutes of 25th November, 1970 referred)."

The administrative experience of the applicant was thus four years and 16 days in the post of Administrative Officer, 3rd Grade, and 1 year, 7 months and 5 days in the post of Administrative Officer, 2nd Grade. The Public Service Commission concluded by saying that "Mr. Economides has not got the two years administrative experience in the post of Administrative Officer, 2nd Grade, required by the relevant scheme of service". In view of the above, the Commission decided that "Mr. Economides is not eligible for consideration for the post of Administrative Officer, 1st Grade".

Reference is made hereinabove to decision No. 8969 (*exhibit 1* (d)) of the Council of Ministers whereby a previous decision of the Council of Ministers dated 9th February, 1969, No. 6342 (*exhibit 2*) is varied. The latter decision reads as follows:-

"The Council decided that a period of postgraduate training of an officer up to two years should be considered as service or experience for the purposes of the schemes of service for posts for which a fixed period of service or experience is required. Likewise, a postgraduate diploma obtained after a study of at least two years before the officer enters the civil service should be considered as service or experience for the same purpose."

Decision No. 8969, reads as follows :-

"With reference to decision No. 6342 the Council decided that —

(a) education abroad leading to the obtaining of a university diploma or title by a serving officer not possessing any diploma or title will not be recognised as experience or service for the purposes of schemes of service for promotion post or first appointment or promotion; and

(b) education abroad up to one year not leading to the obtaining of a university diploma or degree and not considered on the basis of the schemes of service as an advantage is recognised as experience or service on condition that the said education will be connected with the duties of the officer."

This decision was forwarded to the Chairman of the Public Service Commission by the Secretary of the Council of Ministers on the 8.8.1969.

On the 6th July, 1971, the applicant through his counsel addressed to the Chairman of the Public Service Commission a letter *exhibit* 1 (b). By the said letter the attention of the Commission was drawn to two previous recourses of the applicant regarding other promotions, namely, recourses 225/70 and 339/69, not yet determined.

Paragraphs 4(a) and (b) of the said letter which aptly sum up the position of the applicant on this issue, read as follows :-

"(a) Until now my said client has completed an aggregate actual service of one year and 9 months in the post of Administrative Officer 2nd Grade.

(b) Circular No. 193 of 19.8.1969 cannot legally be deemed to have retrospective effect. Therefore my client's service during the period from 1.8.1966, when he was promoted to the post of Administrative Officer 2nd Grade, until 19.8.1969 when the said Circular was introduced, must be deemed as actual service in the post of Administrative Officer, 2nd Grade for the purposes of the schemes of service for the post of Administrative Officer 1st Grade and therefore the requirement contained in the schemes of service, about two years experience in the

post of Administrative Officer 2nd Grade, is fully satisfied."

As finally argued by counsel, the applicant has in effect two claims; he now prays for :-

A. A declaration that the decision of the Council of Ministers—Respondent 1—whereby the scheme of service for the post of Administrative Officer 1st Grade was made, is null and void and of no effect whatsoever being unconstitutional in the sense that it violates Article 57.4 of the Constitution and contrary to law, s. 86(1) of he Public Service Law, 1967; and

B. A declaration that the decision of the Public Service Commission—Respondents 2—to promote or appoint to the post of Administrative Officer 1st Grade Nicos Zavros, the interested party instead of the applicant, is null and void and of no effect whatsoever.

The determination of the point raised by relief A., whether the applicant had a right to file a recourse directly against the said scheme of service, does not arise in this case, since he could raise the question of the validity of the scheme of service by the present proceedings in connection with the promotion of the interested party and the decision of the Public Service Commission that he was not eligible for consideration under the aforesaid scheme.

The argument in respect of relief A. was that the making of schemes of service, being the exercise of executive power, which, by the Constitution, has not been expressly given to the Public Service Commission, remained vested in the organ of the State which exercised executive power and within whose province the public service of the State normally otherwise comes. In the case of the Republic of Cyprus, such organ under Article 54 of the Constitution, and particularly paragraphs (a) and (d) thereof, is the Council of Ministers. The authorities relied upon are the cases of *Theodoros Papapetrou* and *The Republic*, 2 R.S.C.C. p. 61 at p. 62 and *Ilter Ishin* and *The Republic*, 2 R.S.C.C. p. 16 at p. 18.

In fact, there was no dispute about the aforesaid proposition. This being so, it was argued that under Article 57.4, the making of schemes of service being an enforce-

able decision, it had to be promulgated by publication in the official Gazette of the Republic, since the Council of Ministers did not otherwise state in that decision. It is agreed that the aforesaid scheme of service was not published in the official Gazette, but only circularized in the usual manner for the benefit of the civil service.

It was contended that the omission of such publication, in view of the aforesaid express provision of the Constitution, rendered same unconstitutional. It may be useful to quote here a passage to be found in the case of *Ilter Ishin* (*supra*) at p. 18 of the report. It reads :-

> "....it was further stated in the said Decision *(Papapetrou case)* that as far as the executive power is concerned, and in the absence of any organic law, the schemes of service can only be made or approved either expressly or impliedly by the Council of Ministers."

Since, however, 1967 the legislature filled the gap by enacting an organic law, the Public Service Law (No. 33/67) making provision for the functioning of the Public Service Commission, for the appointment, promotion and retirement of public officers, and for conditions of service, disciplinary proceedings and other matters relating to the public service. So in my judgment one does not have to look to Article 57.4 of the Constitution regarding the making of the schemes of service and the formalities relating to their coming into existence, but to the organic law governing this matter since then. Section 29 of the said law reads as follows :-

> "(1) The general duties and responsibilities of an office and the qualifications required for the holding thereof shall be prescribed in schemes of service made by decision of the Council of Ministers.
>
> (2) A scheme of service may provide as a prerequisite to appointment or promotion the passing by candidates of an examination."

As it appears, in the aforesaid section there is no provision that such a decision need be published in the official Gazette of the Republic. In the instances, however, where the legislator thought that that should be done, the aforesaid law expressly provided so in the

relevant sections of the law, as, for instance, in the following cases :- S. 31(1) the procedure for filling vacancies in a first entry or in a first entry and promotion office. S. 37(4) regarding permanent appointments, s. 38(3) confirmations or terminations of appointments on probation, s. 40(3) for appointments on contract and s. 44(6) in respect of promotions.

It was urged by learned counsel that a decision under section 29 should be published as coming within the ambit of s. 86(1) of the Law. This section, in so far as material to the present proceedings, reads as follows :-

> "The Council of Ministers may make Regulations, to be published in the official Gazette of the Republic, for the better carrying into effect of the provisions of this Law and for regulating generally any matter concerning the Commission, the public service and public officers."

The said section, however, in my view, does not apply to the case of a decision, as it is the *sub judice* one under section 29 of the Law, but to Regulations made by the Council of Ministers for the matters hereinabove referred to.

For the aforesaid reasons, the claim of the applicant that the said scheme of service is invalid because it was not published in the official Gazette, fails. With this outcome the first ground of law relied upon in support of relief B. hereof, is also disposed of.

The next point for consideration is whether the distinction made in Decision No. 8969 adopted and applied by the Public Service Commission in relation to the applicant is unconstitutional, as introducing discrimination or unequal treatment, contrary to Articles 6 and 28.1 of the Constitution.

Article 6 of the Constitution is as follows :-

> "Subject to the express provisions of the Constitution no Law or no decision of the House of Representatives or of either of the Communal Chambers and no act or decision of any organ, authority or person in the Republic exercising executive power or an administrative function shall

subject to unfavourable discrimination either of the two communities or any person as such or in his capacity as a member of a community."

Paragraph 1 of Article 28, reads :-

"All are equal before the Law, the administration and justice and are entitled to equal protection and treatment."

The aforesaid provisions are in substance similar to Articles found in the Greek, Indian and American Constitutions as well as in other Constitutions and guidance as to the meaning and application of Article 28.1 may be derived from decided cases from these countries. Recently, the Full Bench of the Supreme Court in Revisional Jurisdiction Appeal No. 95, *The Republic of Cyprus* v. *Nishian Arakian and Others* (reported in this Part at p. 294 *ante*) had the opportunity of going extensively into the matter and reviewing a considerable number of authorities both of our Courts and foreign Courts.

I need only, therefore, go into the matter briefly.

In *Lindsley* v. *Natural Carbonic Gas Co.*, (1910) 220 U.S. 61, it was said :-

"Equal protection of the laws means subjection to equal laws applying to all in similar circumstances."

In *Tigner* v. *Texas* (1940) 310 U.S. 141 it was said :-

"The article does not require things which are different in fact or in law to be treated as though they were the same."

And further down :-

"The reasonableness of a classification would thus depend on the purpose for which the classification is made."

In Cyprus our Supreme Constitutional Court in the case of *Mikrommatis* and *The Republic*, 2 R.S.C.C. p. 125 at p. 131 said :-

"...the term 'equal before the law' in paragraph 1 of Article 28 does not convey the notion of exact arithmetical equality but it safeguards only against

> arbitrary differentiations and does not exclude reasonable distinctions which have to be made in view of the intrinsic nature of things."

Basu in his Commentary on the Constitution of India, Vol. 1 at p. 445, citing *Missouri Railway* v. *Humes,* (1885) 115 U.S. 517, says :-

> "A classification is reasonable when it is not an arbitrary selection but rests on 'differences pertinent to the subject in respect of which classification is made'."

Though the aforesaid authorities refer to equality under legislative enactment, executive and administrative acts are treated on the same footing as laws in so far as equality of treatment is concerned. In this way, non-discrimination is ensured in the legislative and administrative spheres of the Republic.

The question, therefore, is whether the distinction made in the aforesaid decision is a reasonable and not an arbitrary one. To my mind, it is reasonable to make differentiations, depending on the length of absence for education or post-graduate courses from the service. Prolonged absence may result in academic knowledge, but at the same time it may deprive one of the experience gained in everyday office work. Therefore, I find no discriminatory element in the said decision.

What finally remains to consider, is the ground of law relied upon by the applicant, to the effect that the Public Service Commission, in interpreting the term "administrative experience" found in the relevant scheme of service, have given to Decision No. 8969 (*exhibit* 1(d)) retrospective effect.

The applicant went on study leave on the 28th September, 1966, when there was no specific decision as to how such a period of study abroad would be considered in relation to the requirement of experience found in schemes of service. The established practice had, until then, been that a period of study-leave was deemed to be service for all intents and purposes. There followed the two decisions hereinabove referred to, changing this.

It was contended that the period between September;

1966 and August, 1969 during which the applicant was studying abroad prior to Decision No. 8969 should be deemed as "administrative experience", thus rendering the applicant eligible for consideration for promotion.

It is a well settled principle of law, that administrative acts may not be given retrospective effect, except when they fall within the recognised exceptions with which we are not concerned here. It is equally true that a new law or regulation, cannot offend a vested right. Such a right is one given by law and the protection afforded to it is that the recognised legal state cannot be changed to the detriment of the person having it, without his consent; but the vested right must not be confused with a mere expectation of the citizen. (See Kyriacopoulos, Greek Administrative Law, Vol. 1, 4th Ed. p. 95). It may be said here that in my judgment there is no such vested right as a right to promotion or that the required qualification for a particular promotion post will not be changed before any promotion is effected. There is an expectation for it and nothing more.

Greek jurisprudence has dealt with the question of vested rights in respect of civil servants, as well as the notion of retrospectivity in other fields.

Decision No. 236/1932 of the Greek Council of State was a case where the age for compulsory retirement of chief pilots and pilots was reduced by law from that of sixty-five, as it was at the time of their appointment, to sixty. It was held that the appointment in the civil service is a matter of public law the contents of which are governed by the Laws and Regulations enacted from time to time and can be changed as they are not terms of contract.

In Decision No. 965/35 the aforesaid principle was reiterated by ruling that, the legal relationship between the State and the civil servant, regulated by the rules of public and not private law, can be freely changed by the legislator, so long as there is no constitutional obstacle and consequently the rights and obligations of either side are not governed always by the law in force at the time of the appointment of the civil servants and independently of subsequent legislation changing that law.

Finally, according to Decision No. 928/31 a Regulation, by which matters relating to the marking of pupils of a military school became more strict, published on the 9th February, 1931 and specifying that its validity commenced from the beginning of the school year 1930 —1931 (*i.e.* five months prior to the date of its publication) has no retrospective effect for the reason that ".... the provision of this amending regulation regarding the required marks for the final success of the pupil, and valid before the time at which the final success or failure of the pupil was due to be determined, regulated the future and not the past and therefore was not applied retrospectively". In this case the fixing of the commencement of the validity of the said regulation at a time prior to its publication, that is to say, the time of the commencement of the school year, could not be considered as giving to it retrospective effect, and it did not result to a transfer to the past of the time at which the legal consequences were brought about but to a correlation or connection of the provision of the regulation to an event that had already occurred.

The relationship, therefore, of State and civil servant, being a matter of public and not private law, can be regulated, in the absence of constitutional safeguards, by new laws, regulations and decisions effecting changes to those existing at the time of the appointment. This unlike the cases of contractual relationship falling within the ambit of private law whereby the terms of a contract may not be changed during the time that it is in force without the consent of the parties.

So, the fact that the applicant had already been for more than two years on a scholarship abroad, did not mean that the evaluation of that period, as a period of "administrative experience" or not could not be changed in the way it was done by the two subsequent decisions. The relevant scheme of service and the two decisions came into existence before the *sub judice* decision was taken by the Public Service Commission. Though they inevitably refer to matters of the past, their legal consequences are brought about in the future, that is to say after they came into existence. Consequently,

it cannot be said that they violate the principle against retrospectivity.

For all the aforesaid reasons, the present application is dismissed, but in the circumstances there will be no order for costs.

Application dismissed.
No order as to costs.