[TRIANTAFYLLIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

ANTONIOS KYRIAKOU AND OTHERS,

Applicants,

and

1. THE GREEK COMMUNAL CHAMBER, AND/OR
2. THE REPUBLIC, THROUGH THE ATTORNEY-GENERAL, AS SUCCESSOR TO THE GREEK COMMUNAL CHAMBER,

Respondents.

(*Cases* 52/65, 57/65, 60/65).

Secondary Education—Schoolteachers—Classification—The Officials of Secondary Education Schools Law, 1964 *(Greek Communal Law No.* 8 *of* 1964*) sections* 3 *and* 35(1)*—Applicants' classification as officials of Secondary Education Schools at Famagusta under section* 3 *of the Law—Validity of relevant decision—Taking into account previous temporary appointments of Applicants—Did not vitiate the exercise of the relevant powers of the appropriate organ under section* 35(1) *of the Law*—Christodoulou *and* The Greek Communal Chamber, *reported in this Part at p.* 50 *ante, distinguishable.*

The Applicants in this recourse complain against the decision of the Respondents concerning their classification as officials of Secondary Education Schools at Famagusta, made under s. 3 of the Officials of Secondary Education Schools Law, 1964 (Greek Communal Law 8/64).

In November, 1961 Applicants were given temporary appointments and they were informed that such appointments were of a temporary character, making no distinction between those with past service and first entrants, because due to lack of time it had not been possible to study each case—taking into account qualifications, past service, etc.—and to prepare appropriate appointments; it was added that matters should be put right in a few months.

Eventually Law 8/64 (*supra*) was enacted and they were given the *sub judice* appointments against which they now complain.

It was a common ground that such appointments were given to them by virtue of the provisions of s. 35(1) of Law 8/64, which provided that Secondary Education Schools' officials, found in service on the enactment of such Law, were to be given new appointments in the light of the previous post, the past salary, the qualifications, and the years and record of service of each one; such appointments were to be in respect of organic posts created by Law 8/64.

Held, (1). It is quite correct that the said 1961 appointments were not the outcome of due consideration of the individual merits of each appointee—especially as qualifications and past service were not duly taken into account in making them.

(2) But, along with the previous post and past salary, section 35(1) of Law 8/64 has laid down, as criteria for the new appointments under its provisions, the qualifications and the years and record of service of those to be appointed; so, the factors which were not duly considered in 1961 were brought fully into the picture in 1964. As a result, it was ensured that the new appointments would be made on the basis of the totality of relevant considerations, thus curing any errors that might have occurred in 1961.

(3) Moreover, once section 35(1) of Law 8/64 prescribed in express terms that the previous posts and past salaries of the Applicants had to be taken into account no question could arise of the appropriate organ erring in taking them into account when deciding on the new appointments challenged by these recourses.

(4) I cannot, therefore, hold that the taking into account of the 1961 temporary appointments of the Applicants has in any way vitiated the exercise of the relevant powers under section 35(1) of Law 8/64.

(5) The present Cases are definitely distinguishable from *Christodoulou* and *The Greek Communal Chamber* (reported in this Part at p. 50 *ante*) where the Court held that it was wrong to treat as "the appointment last offered" to the Applicant in that case—for the purposes of section 42(a) of the Masters of Communal Secondary Schools Law, 1962 (Greek Communal Law 10/63)—a previous appointment which had been referred back for reconsideration, by the Complaints Committee in the Greek Education Office, before the enactment of the relevant legislation, Law 10/63; it was found in that case, *inter alia*,

that the said appointment had lost its finality and could not be relied upon for the purposes of section 42(a) of Law 10/63, which, unlike section 35(1) of Law 8/64, did not provide for new appointments to new organic posts after new consideration of all relevant factors, but only preserved the status quo flowing from "the appointment last offered" before its enactment.

(6) For the above reasons the Applicants fail on the general issue, which they have raised as against the validity of the *sub judice* decisions, and these recourses will have now to proceed to hearing on the remaining issues.

Order in terms.

Cases referred to:

Christodoulou and *The Greek Communal Chamber*, reported in this Part p. 50 *ante*, *distinguished.*

Recourse.

Recourse against the validity of the decision of the Respondents concerning the classification of Applicants as officials of Secondary Education Schools at Famagusta.

A. Triantafyllides, for the Applicants.

G. Tornaritis, for the Respondents.

Cur. adv. vult.

The following Interim Decision was delivered by:

TRIANTAFYLLIDES, J.: The Applicants in these Cases complain, in effect, against their classification as officials of Secondary Education schools at Famagusta, as made under section 3 of the Officials of Secondary Education Schools Law, 1964 (Greek Communal Law 8/64).

The Applicants were given permanent appointments in the service of Greek Secondary Education on the 19th October, 1964 (see *exhibits* 3(*a*), 3(*b*), 3(*c*)); the Applicants in Cases 52/65 and 57/65 having been classified thereby in grade C and the Applicant in Case 60/65 having been classified in grade B.

They all objected against the said appointments on the 2nd November, 1964 (see *exhibits* (4*a*), (5*a*), 6(*a*)).

Their objections were determined, and rejected, by the Review Committee, which was functioning at the material time in the Greek Education Office of the Greek Communal Chamber, and they were informed accordingly by letters dated 5th February, 19th February and 29th January, 1965, respectively (see *exhibits* 4(*b*), 5(*b*), 6(*b*)).

In view of their similarity these Cases were heard together to begin with. Counsel for the Applicants has submitted that the *sub judice* decisions should be annulled because there have been wrongly taken into account, for the purposes of Law 8/64, the salaries under, and the terms of, temporary appointments which were given to the Applicants in 1961.

It is correct that in November, 1961, temporary appointments were given to the Applicants (see *exhibit* 2 which consists of the temporary appointments given to the Applicants in Cases 52/65 and 60/65—the similar temporary appointments given to the Applicant in Case 57/65 not being available). Then, on the 14th November, 1961, the Head of the Department of Secondary and Higher Education in the Greek Education Office informed Secondary School officials, such as the Applicants, through the respective School Committees, that the appointments given to them were of a temporary character, making no distinction between those with past service and first entrants, because due to lack of time it had not been possible to study each case—taking into account qualifications, past service, etc.—and to prepare appropriate appointments; it was added that matters would be put right in a few months (see *exhibit* 1).

The Applicants relied, apparently, on *exhibit* 1, above, and waited for new proper appointments. Eventually Law 8/64 was enacted and they were given the *sub judice* appointments against which they now complain.

The generic submission, made as aforestated, by counsel for Applicants against the validity of all three *sub judice* acts, amounts really to the contention that taking into account the 1961 temporary appointments—which admittedly were not the products of due consideration of the merits of each case, and, therefore, did not correctly fit the Applicants, who were all persons with past service and not mere first entrants—has led to the invalidity of the appointments given to the Applicants in 1964.

It is common ground in these proceedings that the 1964 permanent appointments were given to the Applicants by virtue of section 35(1) of Law 8/64, which provided that Secondary Education schools' officials, found in service on the enactment of such Law, were to be given new appointments in the light of the previous post, the past salary, the qualifications, and the years and record of service of each one; such appointments

were to be in respect of organic posts created by Law 8/64

It follows, therefore, that the temporary 1961 appointments of the Applicants were taken into account in making the *sub judice* 1964 appointments

It is quite correct that the said 1961 appointments were not the outcome of due consideration of the individual merits of each appointee—especially as qualifications and past service were not duly taken into account in making them

But, along with the previous post and past salary, section 35(1) of Law 8/64 has laid down, as criteria for the new appointments under its provisions, the qualifications and the years and record of service of those to be appointed, so, the factors which were not duly considered in 1961 were brought fully into the picture in 1964. As a result, it was ensured that the new appointments would be made on the basis of the totality of relevant considerations, thus curing any errors that might have occurred in 1961

Moreover, once section 35(1) of Law 8/64 prescribed in express terms that the previous posts and past salaries of the Applicants had to be taken into account no question could arise of the appropriate organ erring in taking them into account when deciding on the new appointments challenged by these recourses

I cannot, therefore, hold that the taking into account of the 1961 temporary appointments of the Applicants has in any way vitiated the exercise of the relevant powers under section 35(1) of Law 8/64

The present Cases are definitely distinguishable from *Christodoulou and The Greek Communal Chamber* (reported in this Part at p. 50 *ante*) where the Court held that it was wrong to treat as "the appointment last offered" to the Applicant in that case—for the purposes of section 42(a) of the Masters of Communal Secondary Schools Law, 1964 (Greek Communal Law 10/63)—a previous appointment which had been referred back for reconsideration, by the Complaints Committee in the Greek Education Office before the enactment of the relevant legislation, Law 10/63; it was found in that case, *inter alia* that the said appointment had lost its finality and could not be relied upon for the purposes of section 42(a) of Law 10/63, which, unlike section 35(1) of Law 8/64, did not provide for new appointments to new organic posts after new consideration

of all relevant factors, but only preserved the status quo flowing from "the appointment last offered" before its enactment.

For the above reasons the Applicants fail on the general issue, which they have raised as against the validity of the *sub judice* decisions, and these recourses will have now to proceed to hearing on the remaining issues.

Order in terms.