

1966
Mar. 14,
June 22

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ANTIGONI
GEORGIADOU
and
THE ATTORNEY-
GENERAL OF
THE REPUBLIC

[TRIANTAFYLIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE
CONSTITUTION

ANTIGONI GEORGIADOU,

Applicant,

and

THE ATTORNEY-GENERAL OF THE REPUBLIC,

Respondent.

(Case No. 74/65).

Secondary Education—Schoolmasters—Qualifications—Classification of schoolmasters under section 11 of the Schoolmasters of Communal Secondary Schools Law, 1963 (Greek Communal Chamber Law No. 10 of 1963)—Qualifications required for classification as secondary schoolmistress, class "B" under the said section 11—"A degree for which is required a post-gymnasium course of actual studies abroad for at least three years"—Section 11 (2) (ii)—Construction of—The aforesaid requirement covers the case of a person (such as the applicant in the present case) who exceptionally obtained such a degree after a shorter period of actual studies, during which period the said person covered the work for which normally a three years' course of studies is required—Therefore the decision of the respondents refusing to classify the applicant as schoolmistress, Class "B", as aforesaid, on the ground that she obtained her aforesaid degree after a period of actual studies abroad of only two years is bad in law—And the said decision has to be declared null and void as being contrary to law—And in excess and abuse of power.

Administrative Law—Decision erroneous in law—Contrary to law—And in excess and abuse of powers—Article 146, paragraph 1, of the Constitution—See under Secondary Education above.

Statutes—Construction of—Presumption that a statute does not intend an injustice or absurdity—Maxwell, on Interpretation of Statutes, 11th Ed., p. 193, adopted.

The respondents in this case held that the applicant was not eligible to be classified as schoolmistress, Class "B", because section 11(2)(ii) of Law 10 of 1963 (*supra*) requires

as a qualification for such classification " a degree for which is required a post-gymnasium course of actual studies, abroad, for at least three years ", whereas applicant, exceptionally, had obtained such a degree after a shorter period of studies viz. two years' course of studies in the United Kingdom, during which she covered the work of the normal three-years course of training.

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The learned Justice in granting the application and setting aside the decision of the respondents :—

Held, 1 (a) this case turns upon the construction to be placed upon the relevant provision in the said section 11(2) (ii) (*supra*).

(b) In construing a statute there is presumption against such statute intending an injustice or absurdity.

(2) Bearing such principle in mind, I have reached the conclusion that the three years' actual studies requirement under section (11) (ii) (*supra*) should be taken to refer to the length of the course of studies abroad *normally required for a given qualification*, and that a person, such as the applicant, who succeeds, exceptionally, to obtain in a shorter period of time, a degree for which, normally, a course of studies of three years is required, is just as eligible for classification under section 11 (2) (ii) of Law 10 of 1963 (*supra*), as a person who obtains the *same degree* in the normal period of three years.

(3) Therefore, the respondents erred in law, and their decision complained of has to be declared *null and void* as being contrary to law and in excess and abuse of powers and the matter has to be reconsidered afresh by the appropriate authority in the light of this judgment.

*Decision of respondents
annulled.*

Recourse.

Recourse against the decision of the Review Committee —which functioned under the Greek Communal Chamber— refusing to Applicant classification as a secondary education schoolmistress Class B, under section 11 of the Schoolmasters of Communal Secondary Schools Law, 1963 (Greek Communal Chamber Law 10/63).

G. Ladas, for the Applicant.

G. Tornaritis, for the Respondent.

Cur. adv. vult.

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The following Judgment was delivered by:—

TRIANTAFYLIDIS, J.: In this Case the Applicant complains, in effect, against a decision (see *exhibit 1*) of the Review Committee—which functioned under the Greek Communal Chamber—refusing finally to Applicant classification as a secondary education schoolmistress, class B, under section 11 of the Schoolmasters of Communal Secondary Schools Law, 1963 (Greek Communal Chamber Law 10/63).

Such decision, having been approved by the Greek Communal Chamber, was communicated to Applicant by letter dated 19th February, 1965, (see *exhibit 4*).

This recourse was filed on the 9th April, 1965. As, in the meantime, the Transfer of Exercise of Competences of the Greek Communal Chamber and Ministry of Education Law, (Law 12/65) was enacted, this Case has been quite properly filed against the Attorney-General of the Republic, under sections 14 and 15 of Law 12/65.

The classification of Applicant, who is a schoolmistress teaching English, had come before the Review Committee, because Applicant had complained to such Committee on the 3rd December, 1964 (see *exhibit 3*), after she had been given, on the 27th November, 1964, an appointment classifying her only as a schoolmistress class C (see *exhibit 7*).

By its decision (*exhibit 1*) the Review Committee held that Applicant was not entitled to be classified in class B—as she claimed—because section 11 (2) (ii) of Law 10/63 requires as a qualification for classification in class B a degree for which is required a post-gymnasium course of actual studies, abroad, for at least three years— (“πτυχίον... διὰ τὸ ὁποῖον ἀπαιτεῖται ζήτησ τοῦλάχιστον μεταγυμνασιακῆ, πραγματικῆ φοίτησις εἰς τὸ ἐξωτερικόν”)—and the relevant degree obtained by Applicant has been obtained during a shorter period of studies; as a matter of fact Applicant obtained such degree after a two years' course of studies in the United Kingdom.

The Review Committee concluded its decision by recording that, though it recognized the abilities and the excellent scientific qualifications of Applicant, it had with regret to reject her application because her post-gymnasium course of studies had not actually been a three-year one.

As it appears from the documents which were before

the Review Committee at the time when it reached its sub-
judice decision, and which documents are *exhibits 2 and 2(a)*
in these proceedings, it has been certified by the Brighton
Training College—the institution where Applicant studied in
the U.K.—that Applicant has “attended a two-year fulltime
course of teacher training at this College beginning in Septem-
ber 1960 and that in this shortened course of training, specially
designed for older more mature students she covered the
work of the normal three-year course of training. At the
end of the course she was examined by the London University
Institute of Education and the College, taking the same
examinations as the three-year students, and successfully
passed the examinations. As a result of her course she
obtained the Teacher’s Certificate of the London University
Institute of Education and therefore became a ‘qualified
teacher’ ”

It does not appear to be in issue in this Case that Applicant
would qualify, in every respect, for classification in class B,
under section 11(2) (ii) of Law 10/63, had the actual period
of her studies been a three-year one; the only reason for
which the Review Committee has refused classification to
Applicant in class B was that Applicant had not studied
abroad actually for three years, but for two years only. Thus,
this Case turns upon the construction to be placed upon
the relevant provision in the said section 11(2)(ii).

In construing any statute there is a presumption against
such statute intending an injustice or absurdity. (See Maxwell
on Interpretation of Statutes 11th edition, p. 193).

Bearing such principle in mind, I have reached the conclu-
sion that the proper construction of section 11(2)(ii) is that
it is sought thereby to ensure possession, by those to be
classified by virtue thereof, of a certain standard of education,
which is to be reached through acquiring a degree for which
there is *required* a period of actual studies abroad of at least
three years; qualifications acquired by correspondence are
thus excluded; but in my opinion, the three years’ actual
studies abroad requirement should be taken to refer to the
length of the course of studies abroad *normally required*
for a given qualification, and a person who succeeds, except-
ionally, to obtain, in a shorter period of time, a degree for
which, normally, a course of studies abroad of three years
is required, is just as eligible for classification under section

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11(2)(ii) of Law 10/63, as a person who obtains the *same* degree in the normal period of three years.

As a result, I am of the view that the Review Committee erred in law in concluding that Applicant was not eligible for classification in class B, under section 11(2)(ii), because she obtained a degree—for which a three years' course of studies abroad is normally required—in only two years; therefore, its sub judice decision has to be declared to be null and void and of no effect whatsoever, as being contrary to law and in excess and abuse of powers, and the matter has to be reconsidered afresh by the appropriate authority, in the light of this Judgment.

In view of the above it is not necessary to deal with any other ground raised by Applicant against the sub judice decision of the Review Committee.

Regarding costs, I have decided to award Applicant £15.— against costs.

Sub judice decision annulled.

Order for costs as aforesaid.