

1969  
April 23

[STAVRINIDES, J.]

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MICHALAKIS  
MILTIADOU  
v.  
REPUBLIC  
(PUBLIC SERVICE  
COMMISSION)

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

MICHALAKIS MILTIADOU,

*Applicant,*

*and*

THE REPUBLIC OF CYPRUS, THROUGH  
THE PUBLIC SERVICE COMMISSION,

*Respondent.*

(Case No. 258/66).

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*Public Officers—Appointments or Promotions—Post of Statistics Assistant, 1st Grade—Scheme of service—Applicant not qualified thereunder—Alternative qualifications possessed by him intended to be excluded for the purposes of such scheme—Consequently the Applicant lacks the locus standi required under Article 146.2 for a recourse under that Article—Application dismissed on that ground—See also herebelow.*

*Constitutional and Administrative Law—Recourse under Article 146 of the Constitution—“Legitimate interest.....”—Paragraph 2 of that Article—A candidate for appointment or promotion not possessing the qualifications required by the relevant scheme of service, lacks the said ingredient—Therefore he cannot be heard complaining under Article 146 of the Constitution of the appointment or promotion of another candidate to the post concerned.*

*“Legitimate interest”—Article 146.2 of the Constitution—See above.*

*Recourse under Article 146 of the Constitution—Requirement of legitimate interest—See above.*

The Applicant a statistics Assistant, 2nd grade, in the Department of Statistics and Research of the Government, is seeking by this recourse to annul the appointment of the Interested Party to the post of Statistics Assistant, 1st Grade. The Court found that Applicant did not possess the qualifications required by the relevant scheme of service, certain other alternative qualifications possessed by him being no substitute therefor as it was intended to exclude such alternative qualifications for the purposes of that scheme.

Article 146.2 of the constitution reads as follows.

“2. Such a recourse may be made by a person whose any existing legitimate interest, which he has either as a person or by virtue of being a member of a Community, is adversely and directly affected by such decision or act or omission”.

*Held*, (1). The examination relied upon by the Applicant is one that does not satisfy the subject scheme of service and therefore the fact that he has seventeen years' experience cannot make any difference.

(2) All in all he was not qualified for appointment to the post of Statistics Assistant, 1st Grade and hence the application must fail on the ground that he lacks the *locus standi* required for a recourse under Article 146.2 of the constitution (*supra*).

*Application dismissed  
with £10 costs.*

### Recourse.

Recourse against the validity of an appointment, made by the Respondent Public Service Commission to the post of Statistics Assistant 1st Grade in the Department of Statistics and Research.

*L. Clerides*, for the Applicant.

*M. Spanos*, Counsel of the Republic, for the Respondent.

*Cur. adv. vult.*

The following judgment was delivered by:-

STAVRINIDES, J.: The Applicant, a Statistics Assistant, 2nd Grade, in the Department of Statistics and Research of the Government, is seeking to annul an appointment to the post of Statistics Assistant, 1st Grade (hereafter “the subject post”), in that Department. So far as relevant, the scheme of service relating to the subject post (*exh.* 3 pp. 3 and 4, and *exh.* 1, hereafter “the subject scheme”) requires

“(b) One of the following qualifications –

- (i) Registered Statistical Assistant of the Association of Incorporated Statisticians and a minimum of eight years' statistical experience;

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- (ii) Intermediate of the Association of Incorporated Statisticians and a minimum of six years' statistical experience”.

The Applicant does not possess either of the qualifications set out in (i) or (ii) above other than statistical experience. But he is a holder of a certificate of the International Statistical Education Centre, Beirut, which, as appears from a letter sent by the Director General of the Ministry of Finance to the Chairman, Public Service Commission, dated October 12, 1963 (*exh. 4*), is “considered to be equivalent to those mentioned in para. (b)” of the scheme of service relating to the post of Statistics Assistant, 2nd Grade (hereafter “the 2nd Grade post”). Also Mr. Clerides for the Applicant stated, without being contradicted, that his client had had seventeen years' statistical experience; and he argued that in view of that certificate, coupled with such experience, his client was eligible for appointment to the subject post. Mr. Clerides's argument may be put in this way: One of the qualifications required by the scheme of service relating to the 2nd Grade post (*exh. 3*, p. 4, hereafter “the other scheme”) is

“(b) One of the following examinations or another examination of equivalent standard –

- (i) Registered Statistical Assistant of the Association of Incorporated Statisticians and a minimum of five years' statistical experience;
- (ii) Intermediate of the Association of Incorporated Statisticians and a minimum of three years' statistical experience.”

To obtain the certificate of the International Statistical Education Centre, Beirut, the Applicant had passed an examination (hereafter “the Beirut examination”) which was recognized, for the purposes of the other scheme, as “another examination of equivalent standard” to that required for becoming a “Registered Statistical Assistant of the Association of Incorporated Statisticians” and therefore, coupled with a minimum of five years' statistical experience, satisfies the requirements of para. (b) (i) of that scheme. Since what para. (b) (i) of the subject scheme requires is, length of statistical experience apart, the same as what is required by para. (b) (i) of the other scheme and the Applicant possesses seventeen years' such experience,

the Beirut examination "cannot be disregarded—it is within the spirit of the subject scheme". This is an ingenious argument, but I cannot uphold it. The very fact that no mention of "another examination of equivalent standard", or any other set of words to the same effect, appears in the subject scheme shows that it was intended to exclude such an alternative qualification for the purposes of that scheme; and none the less so when one takes into account that (as appears from a note at the bottom of the subject scheme and of the other scheme, as set out at pp. 4 and 3 of *exh. 3* respectively), the subject scheme was adopted several years after the other scheme, so that when it was being prepared the alternative requirement contained in para. (b) (i) must have been considered and rejected.

It follows that the examination relied upon by the Applicant is one that does not satisfy the subject scheme and therefore the fact that he has seventeen years' experience cannot make any difference. All in all he was not qualified for appointment to the subject post and hence the application must fail on the ground that he lacks the *locus standi* required for an application under Art. 146, para. (2), of the Constitution.

*Application dismissed with  
£10 costs.*

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