

1971  
Oct. 23

[A. LOIZOU, J.]

MARIA  
PARASKEVO-  
POULLOU  
v.  
REPUBLIC  
(EDUCATIONAL  
SERVICE  
COMMITTEE)

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

MARIA PARASKEVOPOULLOU,

*Applicant,*

*and*

THE REPUBLIC OF CYPRUS, THROUGH THE EDUCA-  
TIONAL SERVICE COMMITTEE.

*Respondent.*

(Case No. 405/70).

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*Public Officers—Secondary Education—Schoolmistress—Recourse against non emplacement on scale B. 10—On the material before the respondent Educational Service Committee it was reasonably open to them to arrive at the sub judice decision and it cannot be said that they have acted under any misconception of fact or law or in excess of power—See further infra.*

*Secondary Education—Schoolmistress—Emplacement on Scale B. 10—See supra ; see also immediately herebelow.*

*Schemes of Service—Interpretation—Interpretation of the expression “equivalent qualification” in the relevant schemes of service required for emplacement of a Schoolmistress on scale B. 10 of the Secondary Education—Regard must be had to the context in which such expression is used in the relevant schemes of service and their wording as a whole—Interpretation of the schemes of service in the instant case and of the aforesaid expression used therein by the respondent Committee was a reasonable one—See further immediately herebelow.*

*Schemes of Service—Interpretation—The Interpretation of the schemes of service is within the province of the appropriate authority or organ and the Supreme Court will not interfere in cases where it was reasonably open to such organ or authority to reach the conclusion that it did—Cf. supra.*

*Evidence—Assessment—Testimony of a person of an eminent position—However eminent the position of such person is, his testimony has to be weighed as against the rest of the available material.*

Cases referred to :

*Christoforos Petsas and The Republic*, 3 R.S.C.C. 60, at p. 63;

The facts of this case sufficiently appear in the judgment of the Court. dismissing this recourse whereby the applicant—a Schoolmistress in the Secondary Education—attacked the validity of the decision of the respondent Educational Service Committee refusing to emplace her on Scale B. 10.

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### Recourse.

Recourse against the refusal of the respondent to emplace applicant as a Schoolmistress on scale B. 10 of the secondary education.

*L. Papaphilippou*, for the applicant.

*G. Tornaritis*, for the respondent.

*Cur. adv. vult.*

The following judgment was delivered by :—

A. LOIZOU, J. : The applicant by her present recourse applies for a declaration by the Court that the act and/or decision and/or refusal of the respondent Committee, dated the 19th October, 1969, to emplace her as a Schoolmistress on scale B. 10 of the Secondary Education, for the reason that she does not possess the qualifications required by the relevant schemes of service, is null and void.

The grounds of law upon which the application is based are, that the respondent acted in excess of power and/or misconception of fact and that they did not take into consideration the qualifications and academic titles of the applicant.

The applicant has been teaching French since 1947, when she was appointed as a schoolmistress in the St. Joseph School of Nicosia. In 1956 she was appointed at the Pancyprrian Gymnasium to teach French, English and shorthand, whilst still continuing to do part-time teaching at the St. Joseph School ; she was doing so under a provisional licence until 1959 when, in November of that year, she was given a licence to teach French in Secondary Schools under the provisions of the Secondary Schools Law, Cap. 205 and

Regulation 10 of the Secondary Education regulations. Her qualifications were : Graduate of the Greek Communal School of Beirut and the St. Joseph School of Nicosia, Certificate D' Etudes Primaires, Brevet Elementaire, and Diplome De Fin D' Etude Primaire Seperieures.

The applicant in 1961 obtained a " Diploma in the French Language and Literature (Summer period) for the teaching of French—abroad," (see *Exhibit 1*)

The applicant applied to the respondent Committee on the 2nd December, 1969, for her emplacement in Class A of Secondary School teachers, under the old schemes of service. The refusal of her application was the subject matter of a recourse to this Court No. 63/70. Whilst that recourse was still pending the respondent Committee undertook to re-examine the position. Applicant's counsel wrote to the respondent Committee on the 15th July, 1970, bl. 134-133 of *Exhibit 6* giving them, as he claimed, facts which had not been placed before the respondent Committee earlier, and asking that the applicant be placed in scale B. 10. In effect he argued therein that the diploma, *Exhibit 1*, is equivalent to a four-year University course ; and that she was, at the time, engaged in the preparation of a thesis for a University Doctorate, a pre-requisite of which was that she must have concluded the first two cycles of studies which are " equivalent to four years and ten months of attendance at the University of Sorbone ".

The respondent Committee re-examined the applicant's case. They appointed a committee of experts to examine the qualifications of the applicant and submit their opinion to them. Their submission and the reasons thereof which were accepted by the respondent Committee are quoted in *Exhibit 5*, their minutes of the 19th October, 1970. I quote :

" 1. The diploma ' Diplome de Langue et de Litterature Francaises ' (bl. 58) which Miss Paraskevopoullou possesses cannot be considered that it is ' equivalent to a four-year cycle of studies '. (See letter of the advocate of Miss Paraskevopoullou bl. 134, para. 2).

(a) This was obtained after attendance in two summer courses of a duration of 42 days each. Evidently the training in two short summer courses is not possible to be considered as equivalent to a four year university course.

In this diploma only attendance is mentioned but no examinations. University titles however

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are obtained after enrolment, attendance and examinations at the University. The lessons which Miss Paraskevopoullou attended during the summers of 1960 and 1961, are included in this diploma.

- (b) In a letter of the Director of the Institut des Professeurs de Francais a l'Etranger which is the successor institution of Ecole Superieure de Preparation et de Perfectionnement des Professeurs de Francais a l'Etranger (from which institution the diploma of Miss Paraskevopoullou emanates, bl. 58) it is stated specifically that the diploma Langue et Litterature which Miss Paraskevopoullou possesses in no circumstances can be considered as equivalent of Licence (which Licence is the first university diploma).

2. The allegation of Miss Paraskevopoullou that she is writing a thesis for a doctorate does not change the position because—

- (a) the only indication that Miss Paraskevopoullou is writing a thesis comes from Mr. R. Millieux (bl. 131) Director of the French Cultural Centre. In spite of our respect for Mr. Millieux his assurance is not binding since he does not represent the University authorities.
- (b) If Miss Paraskevopoullou is really writing a thesis for a doctorate then she should have complied with the conditions referred to in the University Regulations p. 2-42, since as she alleges it is a University Doctorate. (See Universites de Paris : Informations a l usage des Etudiants etrangers). In her file there is no indication that she complied with these conditions. The allegations of Miss Paraskevopoullou that she completed the first and second cycle cannot stand because had she completed the first and second cycle and she had undergone successfully the examinations she would possess the Licence, something which is not so. (See University of Paris Regulations, 2-40-3-43).

As far as the calculations of Miss Paraskevopoullou and her advocate by which they raise the hours of attendance to 60 and 90 during the two summer periods and two 20 U.V. etc. see pages 134-5 and 129, we believe that they do not prove anything because even if these

calculations were correct these calculations do not consequently give a university degree or equivalent qualifications which would justify the emplacement of Miss Paraskevopoullou in the first class since she did not undergo and pass the examinations. In any event, it is known that the French, when it is for foreigners, are flexible for the admission of students without academic qualifications for graduate or post graduate studies, considering some times as sufficient pre-requisite a previous wide experience.

The Committee taking into consideration the aforesaid submission of the committee of assessment of the level of the qualifications of the said schoolmistress and studying the relevant facts and documents that can be found in her file, finds that she does not fulfil the qualifications required by the schemes of service for emplacement in scale B. 10 that is to say ' diploma of a Greek University in language and literature, or

- (a) school leaving certificate of a Greek 6th class school, or other corresponding secondary education school of Cyprus, or Foreign ; and
- (b) diploma or degree of any other University in the relevant language or literature or equivalent qualification '.

For the above reasons it is decided that the application of the said schoolmistress be dismissed."

The aforesaid decision was communicated to the applicant by letter dated 19th October, 1970, *exhibit* 4. The certificate of Mr. Milliex dated 24th March, 1970, bl. 131 in *exhibit* 6,—(Greek translation of which is bl. 130)—is to the effect that he became aware of the correspondence that was exchanged between the University of Paris and the applicant and he had ascertained that the applicant was authorized to prepare a University thesis Doctorat et Lettres. He goes on to say that from the fact that she was accepted to submit this thesis her diploma obtained in 1961 (*i.e.* *exhibit* 1) must have been considered as equivalent to a University degree, that is to say a Licence.

Mr. Milliex, who is the Cultural Attaché of the French Embassy, was called and gave evidence before me. His testimony does not take the case of the applicant any further than his attestation of the 24th March, 1970, (Blues 130 and 131 in *exhibit* No. 6).

Letters relating to the preparation of a thesis of doctorate were also produced and are *exhibits* No. 2 and 3 dated 19th April and 18th May, 1971, respectively. Their corresponding translations are marked *exhibits* No. 2 (a) and 3 (a). One more document dated the 25th November, 1970, was produced, *exhibit* -No. 7—its free translation prepared by the applicant being *exhibit* No. 7 (a). None of the aforesaid documents was before the respondent committee. It is significant, however, to note that, as stated in *exhibit* No. 7, the possession of the degree of Licence before 1968 or that of Maitrise since 1968 as a prerequisite to the submission of a thesis for a doctorate is not indispensable. The Dean of the University may on recommendation from the council allow, if he deems fit, the submission of a thesis by candidates who have other titles which are considered satisfactory. It further says that diplomas of Language and French Literature which are given to foreigners are University titles whose classification varies depending on the institute.

In arguing the case for the applicant, learned counsel has submitted that the respondent erred as to the assessment of the testimony of Mr. Milliex, which in his submission should have been accepted in view of his official position.

To my mind, however eminent the position of a person is, his attestation has to be weighed as against the rest of the available material. This appears to have been done in the present case. It is significant to quote here paragraph 4 of the letter of the 13th March, 1970, (Blue 142, *exhibit* No. 6), of the Director of the Institute des Professeurs de Francais a l' Etranger, which was also before the respondent committee, and which expresses views different than those of Mr. Milliex.

It reads :—

“ The Diplome de Langue et Litterature cannot under any circumstances be considered as equivalent with the licence. It is a diploma which allows the assurance that its possessor has a very good knowledge of the language and its literature. Only the Diplome des Professeurs de Francais a l' Etranger, which requires a three-year study, allows the equivalent for the licence de Lettres Modernes and the continuation of the studies under French régime. This diploma does not allow foreigners to work in France.”

The second argument was that once the respondents were carrying out an inquiry as to the qualifications of the applicant, they should have called and interviewed her

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as the element of her knowledge was material. This argument is connected with the third argument that the respondents interpreted the words “isodynamon proson”—equivalent qualification—, as being equivalent diploma.

In interpreting the expression “equivalent qualification” regard must be had to the context in which such expression is used in the relevant schemes of service and their wording as a whole. To my mind, it cannot merely mean knowledge of the standard of a University degree; it presupposes some type of education which leads after examinations to a certificate of such a standard that may reasonably be considered as equivalent to a University degree or title.

It appears from the whole of the reasoning of the respondent committee for their *sub judice* decision that this is how the whole question was approached. When re-examining the applicant’s claim, the respondent committee was not conducting examinations as to her standard of knowledge and consequently the applicant had to be interviewed personally being the supposed examinee.

All relevant material was placed by the applicant before the respondents and they conducted, what appeared to me to be a very proper and fair inquiry. Their interpretation of the schemes of service and at that the relevant expression of “equivalent qualification” used therein, a function which is within their competence, was reasonable. If anything need be said about it, the fact that the university that gives such diploma as *exhibit 1* does not consider it as equivalent to the licence, the lowest university degree, is an answer to any claim that the respondents did not reasonably interpret the schemes of service. The interpretation of the schemes of service is within the province of the appropriate organ, and this Court will not interfere if it was reasonably open to it to reach the conclusion that it did.

Relevant to the present case is the following passage from the judgment of the then Supreme Constitutional Court in *Christoforos Petsas* and *The Republic*, 3 R.S.C.C., p. 60, where at p. 63, it is stated :—

“As it has been stated in the Judgment in Case No. 26/61 (*Theodoros G. Papapetrou* and *The Republic (Public Service Commission)* 2 R.S.C.C., letter H, p. 62) this Court will not give to a scheme of service an interpretation other than that given to it by the Commission, provided that such interpretation was reasonably open to the Commission. Likewise, in

determining whether a certain applicant in fact possesses the relevant qualifications the Commission is given a discretion, and this Court can only examine whether the Commission, on the material before it, could reasonably have come to a particular conclusion.

The mere fact that the Commission did not call the candidates for an interview does not involve a wrong exercise of discretion. In a matter like this it is not improper for the Commission to base its decision on the application forms and other relevant documents."

Following and applying the aforesaid principle on the facts of the present case, I have come to the conclusion that on the material before the respondent committee, it was reasonably open to them to arrive at the *sub judice* decision and it cannot be said that they acted under any misconception of fact or law or in excess of power.

For the aforesaid reasons that I have endeavoured to give, the application is dismissed but in the circumstances I make no order as to costs.

*Application dismissed.  
No order as to costs.*

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