

1975
Oct. 22

[TRIANTAFYLIDIS, P., STAVRINIDES, HADJIANASTASSIOU,
MALACHTOS, JJ.]

NIKI MICHAEL
(No. 2)
v.
REPUBLIC
(PUBLIC SERVICE
COMMISSION)

NIKI MICHAEL (NO. 2),

Appellant,

and

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondent.

(*Revisional Jurisdiction Appeal No. 159.*)

- Public Officers—Promotions—Post of “Topographer—Irrigation Engineer” in the Water Development Department—Qualifications—Schemes of service—Requirements of—University diploma or degree as Topographer Engineer or Irrigation Engineer or an equivalent qualification—Interested party holding degree of “Master of Science in Irrigation”—Not necessary, in view of presumption of regularity, for respondent Commission to record expressly in its minutes that it had after due enquiry found the said degree to be equivalent to the qualification specifically mentioned in the scheme of service—Moreover reasonably open to the Commission to treat such degree as an equivalent qualification for the purposes of the scheme as it is a qualification in relation to Irrigation and, therefore, obviously related to the duties of the said post.* 5 10
- Administrative Law—Recourse for annulment—Procedure at hearing—Evidence by respondent, regarding sub judice decision, not emanating from an official source—Course followed not correct.* 15
- Procedure—Recourse for annulment—Evidence by respondent Administrative Organ regarding picture of administrative process concerned—Proper course to be followed.* 20
- Qualifications—Schemes of service—Whether a candidate possesses qualifications laid down by the schemes of service—See, also, under “Public Officers”.*
- Administrative Law—Presumption of regularity.*

It being common ground that the interested party did not possess any of the qualifications specifically mentioned in the 25

schemes of service what the Court had to decide was whether or not the decision of the Commission to accept him as qualified should be upheld.

1975
Oct. 22

—
NIKI MICHAEL
(No. 2)
v.
REPUBLIC
(PUBLIC SERVICE
COMMISSION)

5 Before deciding this issue the Court dealt with a procedural issue namely that at the trial counsel for the respondent called as a witness the interested party, who testified that he had produced, when being interviewed by the respondent Commission, a list showing the subjects which he had studied for the purpose of obtaining at a university in the U.S.A. the degree of “ Master of Science in Irrigation”.

10 *Held, (I) on the procedural issue:*

We are of the view that it was not a correct course to allow counsel for the respondent to call, in respect of the decision of the respondent, evidence not emanating from an official source; if in a recourse a respondent administrative organ seeks to supplement—(and is, in a proper case, allowed by the Court to do so)—the picture of the administrative process concerned, by evidence relating to any stage of such process, then any evidence to be adduced for the purpose should emanate from official sources duly connected with the said organ.

20 *Held, (II) on the merits:*

(1) It is correct that no decision accepting the interesting party as qualified for appointment was expressly recorded in the minutes of the Commission; but, on the other hand, in accordance with the presumption of regularity, and in the absence of any sufficient indication to the contrary, we have to assume that the Commission, having had before it, at the material time, the relevant scheme of service, did consider whether the degree of “ Master of Science in Irrigation”, possessed by the interested party, was an equivalent qualification in the sense of the scheme of service; and it is to be noted, in this connection, that it is recorded in the minutes of the Commission that there was present at its meeting the Head of the Department concerned, who, as an expert in the matter, must have given all relevant information to the Commission. There is nothing to show that any doubt was expressed by any member of the Commission as to the matter of the equivalence of the degree of the interested party; so, it was not really necessary for the Commission to record expressly in its minutes that it had, after due enquiry, found the degree of the interested party

1975
Oct. 22

NIKI MICHAEL
(No. 2)
v.
REPUBLIC
(PUBLIC SERVICE
COMMISSION)

to be equivalent to the qualifications specifically mentioned in the scheme of service.

(2) Furthermore, we are of the view that it was reasonably open to the Commission to treat the degree of the interested party as an equivalent qualification, for the purposes of the scheme, as it is a qualification in relation to Irrigation and, therefore, obviously related to the duties of the post concerned; we might refer, in this respect, to some relevant case-law, which was cited by the learned trial Judge, namely *Papapetrou and The Republic*, 2 R.S.C.C. 61, *Josephides and The Republic*, 2 R.S.C.C. 72, *Koukoullis and Another and The Republic*, 3 R.S.C.C. 134, *Neophytou v. The Republic*, 1964 C.L.R. 280, and *Georghiades and Others v. The Republic* (1967) 3 C.L.R. 653, 668. 5 10

Appeal dismissed.

Cases referred to:

Papapetrou and The Republic, 2 R.S.C.C. 61;

Josephides and The Republic, 2 R.S.C.C. 72;

Koukoullis and Another and The Republic, 3 R.S.C.C. 134;

Neophytou v. The Republic, 1964 C.L.R. 280;

Georghiades and Others v. The Republic (1967) 3 C.L.R. 653 at p. 668. 20

Appeal.

Appeal from the judgment of a Judge of the Supreme Court of Cyprus (A. Loizou, J.) given on the 28th April, 1975 (Case No. 289/74) whereby applicant's recourse against the decision of the respondent to second the interested party to the temporary (D) post of Topographer-Irrigation Engineer in preference and instead of the applicant, was dismissed. 25

A. *Xenophontos*, for the applicant.

A. M. *Angelides*, for the respondent. 30

Cur. adv. vult.

The judgment of the Court was delivered by:-

TRIANTAFYLIDIS, P.: In this case the appellant appeals from a decision*, at first instance, of a Judge of this Court

* Reported in this Part at p. 136, *ante*.

5 dismissing her recourse against the appointment of Loucas Savvides (to be referred to hereinafter as "the interested party") to the post of "Topographer/Irrigation Engineer", in the Department of Water Development. The appellánt was one of the candidates for appointment to such post.

1975
Oct. 22

—
NIKI MICHAEL
(No. 2)

v.
REPUBLIC
(PUBLIC SERVICE
COMMISSION)

10 We are not concerned in this appeal with the issue as to whether the respondent Public Service Commission chose the most suitable candidate, because this issue has not been raised in the proceedings before us. The appeal has been limited to that aspect of the case which relates to whether the interested party was properly found by the Commission to be qualified for appointment, under the relevant scheme of service.

15 It is common ground that he did not possess any one of the academic qualifications specifically mentioned in such scheme; and what has to be examined is whether the Commission did actually find—and, if so, properly—that he possessed an equivalent qualification, which would still entitle him to be appointed under the scheme of service.

20 We have to deal, first, at this stage, with a procedural matter, namely that at the trial counsel for the respondent called as a witness the interested party, who testified that he had produced, when being interviewed by the respondent Commission, a list showing the subjects which he had studied for the purpose of obtaining at a university in the U.S.A. the degree of "Master of Science in Irrigation"; and a copy of such list was put in evidence at the trial, though it had never become part of the records of the Commission.

30 We are of the view that it was not a correct course to allow counsel for the respondent to call, in respect of the decision of the respondent, evidence not emanating from an official source; if in a recourse a respondent administrative organ seeks to supplement—(and is, in a proper case, allowed by the Court to do so)—the picture of the administrative process concerned, by evidence relating to any stage of such process, then any evidence to be adduced for the purpose should emanate from official sources duly connected with the said organ.

40 Before, however, proceeding further, we might observe that our approach to such a procedural matter might not necessarily be so strict, when dealing—(which is not the position in this case)—with evidence adduced on behalf of an interested party

1975
Oct. 22

NIKI MICHAEL
(No. 2)
v.
REPUBLIC
(PUBLIC SERVICE
COMMISSION)

or of an applicant, in a recourse, in order to, respectively, support or impugn the validity of the administrative process in question.

In the light of the foregoing, we have, for the purposes of this appeal, disregarded completely all the oral evidence given by the interested party when he was called as a witness by counsel for the respondent, as well as the said list which he produced while giving evidence.

We have, next, to decide, on the basis of the remaining material before us, whether or not the decision of the Commission to accept the interested party as qualified for appointment should be upheld: It is correct that no such decision was expressly recorded in the minutes of the Commission; but, on the other hand, in accordance with the presumption of regularity, and in the absence of any sufficient indication to the contrary, we have to assume that the Commission, having had before it, at the material time, the relevant scheme of service, did consider whether the degree of "Master of Science in Irrigation", possessed by the interested party, was an equivalent qualification in the sense of the scheme of service; and it is to be noted, in this connection, that it is recorded in the minutes of the Commission that there was present at its meeting the Head of the Department concerned, who, as an expert in the matter, must have given all relevant information to the Commission. There is nothing to show that any doubt was expressed by any member of the Commission as to the matter of the equivalence of the degree of the interested party; so, it was not really necessary for the Commission to record expressly in its minutes that it had, after due enquiry, found the degree of the interested party to be equivalent to the qualifications specifically mentioned in the scheme of service.

Furthermore, we are of the view that it was reasonably open to the Commission to treat the degree of the interested party as an equivalent qualification, for the purposes of the scheme, as it is a qualification in relation to Irrigation and, therefore, obviously related to the duties of the post concerned; we might refer, in this respect, to some relevant case-law, which was cited by the learned trial Judge, namely *Papapetrou and The Republic*, 2 R.S.C.C. 61, *Josephides and The Republic*, 2 R.S.C.C. 72, *Koukoullis and Another and The Republic* 3 R.S.C.C. 134, *Neophytou v. The Republic*, 1964 C.L.R. 280, and *Georghiades and Others v. The Republic* (1967) 3 C.L.R. 653, 668.

For all these reasons this appeal has to be dismissed; but, in the circumstances, there shall be no order as to its costs.

Appeal dismissed. No order as to costs.

1975
Oct. 22

—
NIKI MICHAEL
(No. 2)
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REPUBLIC
(PUBLIC SERVICE
COMMISSION)