

1979 January 27

[MALACHTOS, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

SOFOCLES MICHAELOUDES AND ANOTHER,

*Applicants,*

v.

THE REPUBLIC OF CYPRUS, THROUGH

1. THE EDUCATIONAL SERVICE COMMITTEE,

2. THE MINISTRY OF EDUCATION,

*Respondents.*

(Cases Nos. 530/73 and 539/73).

*Educational Officers (Teaching Personnel) (Appointments, Postings, Transfers, Promotions and Relevant Matters) Regulations, 1972—Regulations 26, 28, and 29 ultra vires section 35(2) of the Public Educational Service Law, 1969 (Law 10/69).*

*Educational Officers—Promotions—Post of Assistant Headmaster Secondary Education—Preparation of list of those eligible for promotion and making of promotions out of candidates included in the list—Under regulations 26, 28 and 29 of the Educational Officers (Teaching Personnel) (Appointments, Postings, Transfers, Promotions and Relevant Matters) Regulations, 1972—Which are ultra vires section 35(2) of the Public Educational Service Law, 1969 (Law 10/69)—Promotions annulled.* 5  
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*Administrative Law—Administrative acts or decisions—Composite administrative act—Taken on the basis of a continuing process resulting in a final administrative action—Invalidity of part of a composite administrative action leads to the invalidity of the said action as a whole.* 15

Both applicants were candidates for promotion to the post of Assistant Headmaster secondary education schools.

The respondent Educational Service Committee, at its meeting\* of the 30th August, 1973, acting under regulations 26\*\*, 28\*\* and 29\*\* of the Educational Officers (Teaching Personnel) 20

\* See the relevant minutes at pp. 60–61 *post*.

\*\* Regulations 26, 28 and 29 are quoted at pp. 64–70 *post*.

(Appointments, Postings, Transfers, Promotions and Relevant Matters) Regulations, 1972 prepared the lists of those eligible for promotion to the *post* of Assistant Headmaster Secondary Education under class A or B. Though both applicants were eligible for promotion to the said *post*, according to the relevant scheme of service\*, they were not included either in class A or B; and as from the preparation of the lists all candidates eligible for promotion, including the applicants, were excluded and the selection for promotion was to be made out of the candidates included in the said lists. At its meeting\*\* of the following day the Committee decided to appoint the interested parties to the above *post* after taking into consideration, *inter alia*, the position of the candidates in the prepared lists of those eligible for promotion.

Hence the present recourses.

Counsel for applicants contended, *inter alia*, that regulations 26, 28 and 29 (*supra*), by virtue of which the said lists A and B were prepared and the promotions complained of were eventually made, are ultra vires the Public Educational Service Law, 1969 (Law 10/69), section 35(2) of which provides that the claims of Educational Officers to promotion shall be considered on the basis of merit, qualifications and seniority.

*Held*, (1) that as (a) under regulations 26(1)(b) and 26(2)(a) and (b) of the said Regulations the evaluation of the educational officers eligible for promotion is made on wrong criteria and/or irrelevant factors (see p. 70 *post*); that as regulation 28(4) gives to the executive authority a say on promotions of educational officers whereas such power is not existent in Law 10/69 (see p. 71 *post*); and that as under regulations 29(1) and 29(3) educational officers are promoted by analogy of 80% from class A and 20% from class B and according to their specialization, criteria which are wrong and arbitrary and not in accordance with the schemes of service and the provisions of Law 10/69, (see *Konnaris and Another v. Republic* (1974) 3 C.L.R. 377 at p. 389) regulations 26, 28, and 29 are ultra vires section 35(2) of the Public Educational Service Law, 1969 (Law 10/69).

(2) That as in the case in hand the respondent Committee

\* Quoted at p. 60 *post*.

\*\* See the relevant minutes at p. 61 *post*.

prepared the list of those eligible for promotion and made the promotions complained of in accordance with regulations 26, 28 and 29 which are ultra vires section 35(2) of Law 10/69, its decision to promote the interested parties should be declared null and void.

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*Sub judice decision annulled.*

*Per curiam:* That the *sub judice* decision was reached in two stages ((a) preparation of list and (b) promotions out of the candidates included in the lists); that one of the characteristics of an administrative act is that it should be a unilateral authoritative pronouncement; that this requirement does not exclude composite administrative actions taken on the basis of a continuing process resulting in a final administrative action; that, however, the invalidity of part of a composite administrative action, leads to the invalidity of the said action as a whole, because the component parts of the action, in their nature, are not separate and independent of each other (see *HadjiGeorghiou v. Republic* (1974) 3 C.L.R. 436 at p. 445); and that even if it is assumed that the said decision was wrong at any one of the two stages, then again it should be declared null and void since the two stages in which it was taken are not separate and independent of each other.

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Cases referred to:

*Konnaris and Another v. The Republic* (1974) 3 C.L.R. 377 at p. 389;

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*HadjiGeorghiou v. The Republic* (1974) 3 C.L.R. 445.

### Recourses.

Recourses against the refusal and/or omission of the respondents to place applicants on the lists of those eligible for promotion under class 'A' or 'B' and against the decision of the respondents to promote the interested parties to the post of Assistant Headmaster, secondary education, in preference and instead of the applicants.

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*A. Markides*, for the applicants.

*A. S. Angelides*, for the respondents.

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*Cur. adv. vult.*

MALACHTOS J. read the following judgment. In these two recourses, which were heard together as they attack the same administrative act, the two applicants claim:

- 5 A. A declaration of the Court that the refusal and/or omission of the Committee of Educational Service to include them in the lists of those eligible for promotion in class A and/or B to the post of Assistant Headmaster, which lists were published on 1st September, 1973, and/or the inclusion in those lists of the interested parties instead of the applicants, is *null* and *void* and of no legal effect whatsoever.
- 10 B. A declaration of the Court that the refusal and/or omission of the respondent Committee to promote the applicants to the post of Assistant Headmaster and/or the promotion of the interested parties, which was published in the Official Gazette of the Republic of the 28th September, 1973, at page 820, instead of
- 15 the applicants, is *null* and *void* and of no effect whatsoever.
- 20 C. A declaration of the Court that the decision and/or act of the respondent Committee by which the lists of those eligible for promotion under Class A or B, were prepared and/or published for the post of Assistant Headmaster, which lists were published and/or announced on 1st September, 1973, is *null* and *void* and of no legal effect whatsoever, and
- 25 D. A declaration of the Court that the decision and/or act of the respondent Committee to promote secondary school teachers to the post of Assistant Headmaster published in the Official Gazette of the Republic of the 28th September, 1973, at page 820, is *null* and *void* and of no legal effect whatsoever.
- 30 In Recourse No. 530/73 the interested parties are:
- 35 1. Christodoulos Kleopa, 2. Andreas Malekou and 3. Andreas Manoli whereas in Recourse No. 539/73 where Evdokia Evangelidou is the applicant, the interested parties are: 1. Andreas Panayi, 2. Aris Georghiou, 3. Andreas Malekou, 4. Alexandra Papanastassiou and 5. Elladios Chandriotis.

According to the relevant schemes of service the post of Assistant Headmaster, secondary education, is a promotion post and the required qualifications are:

1. At least three years service on scale B12 in the post of Schoolmaster or tutor or service of any duration to the post of Technologist on scale B13.
2. At least successful service on the basis of the last two confidential reports. 5
3. Good knowledge of one of the prevailing European languages.
4. Post graduate studies abroad or additional diploma, preferably in pedagogics or subjects concerning administration of schools, is considered as an additional qualification. 10

The applicant in Recourse 530/73 was first appointed as a philologist in 1959 and on 31/8/69 was placed on scale B12. In the last two confidential reports the applicant received 20 1/2 and 21 1/2 marks, respectively, out of a total of 25. 15

The applicant in Recourse No. 539/73 was first appointed as a philologist in 1959 and in 1968 was placed on scale B12. In the last two confidential reports this applicant received 20 1/2 and 22 marks respectively, out of a total of 25.

It is not in dispute that both the applicants and the interested parties were eligible for promotion according to the schemes of service. 20

The relevant minutes of the respondent Committee of the 30th August, 1973, *exhibit* 9, when the lists of promotees were prepared, are as follows: 25

“The Committee of Educational Service having taken into consideration,

- (a) the required qualifications under the Public Educational Service Law 1969 (Law 10/1969), the Educational Officers Regulations 1972 and the required qualifications by the schemes of service, 30
- (b) the merits, qualifications and seniority of the candidates as they reflect from all the elements of service and the personal files and confidential reports, as well as the recommendations of the 35

5 persons in authority, on the basis of the regulations (regulation 28) prescribed procedure as to the preparation of the lists of promotees, and on the basis of all the elements of service and other relevant elements, and the personal opinion of the Committee, decides as follows:-

10 Prepares the lists of promotees to the attached supplement for the *post* of Headmasters A, Headmasters and Assistant Headmasters of Schools of Secondary Education”.

In the said lists the names of the applicants are not included either in class A or B.

15 At the meeting of the respondent Committee of the 31/8/73, it was decided to promote the interested parties to the *post* of Assistant Headmaster as from 1/9/73.

The relevant minutes of the respondent Committee, *exhibit* 10, read as follows:-

“Further to its decision of the 30/8/73 the Committee took into consideration,

- 20 (a) the position of the candidates in the prepared lists of promotees,
- (b) the existing vacancies,
- (c) the educational needs as they were exposed by the Head of Departments concerned, and
- 25 (d) the provisions of the Educational Officers Regulations 1972 in connection with promotions from the lists, decides as follows:
  - 1. ....
  - 2. ....
  - 3. To the following secondary school teachers it offers promotion to the *post* of Assistant Headmaster as from 1/9/1973 and are posted as follows:”
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The names of the interested parties appear, among others, and their postings follow.

The applications are based as stated therein, on the following legal grounds:-

All and/or each one of the above administrative decisions, acts or omissions are null and void and of no legal effect whatsoever for the following reasons:-

1. They are illegal as the above mentioned lists of the persons eligible for promotion under class A or B on the basis of which the promotions were made and were published on 28th September, 1973, and announced by the Committee of Educational Service on 1st September, 1973, whereas under regulation 28(5) of the Educational Officers (Teaching Personnel) (Appointments, Postings, Transfers, Promotions and Relevant Matters) Regulations of 1972 ought to have been published in February, 1973. 10 15
2. They are illegal and/or were taken in excess and/or abuse of power particularly:-
  - (a) since according to section 35(2) of Law 10/1969 the claims of educational officers to promotion shall be considered on the basis of merit, qualifications and seniority and since in the case of the applicants all the requirements of section 35(1) of the Law, were satisfied, the said Committee did not consider and/or did not take into account the merits, qualifications and seniority of the applicants: 20 25
  - (b) contrary to regulation 28(2) of the Regulations although the Committee did not take any decision to the effect that the applicants were not eligible for promotion, failed to evaluate them as eligible for promotion under class A or B although they did not have any discretion in this matter. 30
3. They are illegal and/or were taken in excess and/or abuse of power as effected by virtue of the above Regulations, which are void as ultra vires the Law, particularly, since they are: 35
  - (a) practically inapplicable and/or the Committee ought not to apply them as not in force in the year 1973 and this because:

- 5 (a) Regulation 26 of the Regulations imposes and/or presupposes the existence of confidential reports for each one who has got the relevant qualifications for whom the schemes of service for the purpose of grading him for certain qualifications in a particular way, whereas by the prepared reports before the coming into force of the regulations were taken into account other qualifications which were not in accordance with regulation 26 and so the said regulation could not be applied by the Committee;
- 10 (b) Regulation 29 is absurd and/or is contrary to section 35(2) of Law 10/1969 and Article 28 of the Constitution.
- 15 4. The promotions attacked by the present recourse are illegal and/or were made in excess and/or abuse of power as they were not made in accordance with section 35(2) of Law 10/1969 but were made on the basis of arbitrary and/or unlawful policy of the Committee under which when promotions are taking place to the *post* of Assistant Headmaster they are made so as to promote a specified number of teachers of Philology, Mathematics, Physics, Theology and others.
- 20 5. The said decisions were taken in abuse of power and/or are contrary to the General Principles of Administrative Law since:-
- 25 (a) they are not reasoned and/or duly reasoned and/or wrongly reasoned and/or
- (b) facts were taken into account which ought not to have been taken and/or
- 30 (c) no facts were taken into account which ought to have been taken, and/or
- (d) the said Committee misconceived the facts of the case, and
- 35 (e) the said Committee did not carry out a proper enquiry before the issue of the decisions complained of.

One of the arguments of counsel for applicant put forward



in support of his case is that regulations 26, 28 and 29 of the Educational Officers (Teaching Personnel) (Appointments, Postings, Transfers, Promotions and Relevant Matters) Regulations 1972, by virtue of which the lists of promotees to the *post* of Assistant Headmaster under Class A and B were prepared and the promotions complained of were eventually made, are *ultra vires* the Public Educational Service Law of 1969 (Law 10/69) section 35(2) which provides that the claims of Educational Officers to promotion shall be considered on the basis of merit, qualifications and seniority.

Regulations 26, 28 and 29 read as follows:

“26.–(1) Οἱ πληροῦντες τὰ ἐν τοῖς Σχεδίοις Ὑπηρεσίας καθοριζόμενα προσόντα –

(α) προάγονται κατ' ἀρχαιότητα προκειμένου περὶ συνδεδυασμένων θέσεων. 15

(β) προκειμένου περὶ μὴ συνδεδυασμένων θέσεων, κρίνονται ὡς προάξιμοι 'Α' ἢ προάξιμοι 'Β' λαμβανομένης ὑπ' ὄψιν ὡς κατωτέρω ὀρίζεται τῆς ἀξιολογήσεως εἰς τὰς ἐμπιστευτικὰς ἐκθέσεις διὰ τὰ ἀκόλουθα οὐσιαστικὰ προσόντα: 20

(i) Ἡθος καὶ χαρακτήρ, κοινωνικὴ παράστασις καὶ συμπεριφορὰ ἐντὸς καὶ ἐκτὸς τῆς ὑπηρεσίας.

(ii) Ἐπιστημονικὴ κατάρτισις καὶ πνευματικὰ προσόντα.

(iii) Παιδαγωγικὴ κατάρτισις καὶ διδακτικὴ ἱκανότης. 25

(iv) Διοικητικὴ δεξιότης, δραστηριότης καὶ ἡγετικὰ προσόντα.

(v) Ὑπηρεσιακὴ εὐσυνειδησία.

(2)–(α) Προάξιμοι 'Α' εἰς θέσιν Βοηθοῦ Διευθυντοῦ κρίνονται οἱ ἔχοντες εἰς τὰς δύο τελευταίας ἐντὸς τῆς τελευταίας πενταετίας ἐμπιστευτικὰς ἐκθέσεις ἐκ τῶν ἀναφερομένων ἐν τῇ παραγράφῳ (1) πέντε προσόντων τὸ ὑπὸ (i) εἰς βαθμὸν ἑξαίρετον, τὰ ὑπὸ (iv) καὶ (v) εἰς βαθμὸν τοῦλάχιστον λίαν καλὸν καὶ τὰ ὑπὸ (ii) καὶ (iii) εἰς βαθμὸν τοῦλάχιστον καλόν. 30 35

(β) Προάξιμοι 'B' εις θέσιν Βοηθοῦ Διευθυντοῦ κρίνονται οἱ ἔχοντες εις τὰς δύο τελευταίας ἐντὸς τῆς τελευταίας πενταετίας ἐμπιστευτικὰς ἐκθέσεις ἐκ τῶν ἀναφερομένων ἐν τῇ παραγράφῳ (1) πέντε προσόντων τὸ ὑπὸ (i) εις βαθμὸν ἐξαιρετον, τὸ ὑπὸ (iv) εις βαθμὸν τοῦλάχιστον λίαν καλόν, τὰ δὲ ὑπόλοιπα τρία εις βαθμὸν τοῦλάχιστον καλόν.

(3)-(α) Προάξιμοι 'A' εις θέσιν Διευθυντοῦ Σχολείων κρίνονται οἱ ἔχοντες εις τὰς δύο τελευταίας ἐντὸς τῆς τελευταίας πενταετίας ἐμπιστευτικὰς ἐκθέσεις ἐκ τῶν ἀναφερομένων ἐν τῇ παραγράφῳ (1) πέντε προσόντων τὰ τρία, ἐν οἷς ἀπαραιτήτως τὰ ὑπὸ (i) καὶ (iv) τούτων, εις βαθμὸν ἐξαιρετον, τὰ δὲ ἄλλα δύο εις βαθμὸν τοῦλάχιστον λίαν καλόν.

(β) Προάξιμοι 'B' εις θέσιν Διευθυντοῦ Σχολείων κρίνονται οἱ ἔχοντες εις τὰς δύο τελευταίας ἐντὸς τῆς τελευταίας πενταετίας ἐμπιστευτικὰς ἐκθέσεις ἐκ τῶν ἀναφερομένων ἐν τῇ παραγράφῳ (1) πέντε προσόντων τὰ τρία ἐν οἷς ἀπαραιτήτως τὰ τὰ ὑπὸ (i) καὶ (iv) τούτων, εις βαθμὸν ἐξαιρετον, τὰ δὲ ἄλλα δύο εις βαθμὸν τοῦλάχιστον καλόν.

(4) Διὰ προαγωγὴν εις ἀνωτέρας τῶν ὡς ἄνω ἀναφερομένων θέσεων, οἱ ἐκπαιδευτικοὶ λειτουργοὶ δὲν ἀξιολογοῦνται ὡς προάξιμοι 'A' καὶ προάξιμοι 'B'.

28.-(1) Προκειμένου περὶ συνδεδασμένων θέσεων δὲν ὑπάρχει οἰοσδήποτε περιορισμὸς εις τὸν ἀριθμὸν τῶν διὰ προαγωγὴν κρινομένων οὔτε καὶ εἶναι ἀνάγκη νὰ συντάσσωνται κατάλογοι προαξίμων.

(2) Διὰ προαγωγὴν εις μὴ συνδεδασμένας θέσεις ἢ Ἐπιτροπὴ λαμβάνουσα ὑπ' ὄψιν τὰ προσόντα τῶν ἐκπαιδευτικῶν λειτουργῶν οἱ ὅποιοι δικαιοῦνται νὰ εἶναι ὑποψήφιοι διὰ προαγωγὴν καὶ τὰ τιθέμενα εις τὴν διάθεσιν τῆς ὑπηρεσιακῆς καὶ ἄλλα σχετικὰ στοιχεῖα αὐτῶν, ὡς καὶ τὴν προσωπικὴν ἀντίληψιν τῶν μελῶν αὐτῆς – ὅπου ὑπάρχει τοιαύτη – δεόντως αἰτιολογουμένην, κρίνει ἕκαστον τούτων καὶ χαρακτηρίζει αὐτὸν ὡς προάξιμον ἢ μὴ προκειμένου δὲ περὶ τῶν ὑποψηφίων διὰ προαγωγὴν εις τὰς ἐν τῷ Κανονισμῷ 29 ἀναφερομένας θέσεις ἀξιολογεῖ αὐτὸν ὡς προάξιμον 'A' ἢ προάξιμον 'B' συμφώνως πρὸς τὰς διατάξεις τοῦ Κανονισμοῦ 26.

(3) Ἐντὸς τοῦ μηνὸς Ἰανουαρίου ἢ Ἐπιτροπὴ συντάσσει διὰ τὰς μὴ συνδεδασμένας θέσεις Προαγωγῆς πίνακας προ-

αξίμων κατά τὰ ἀνωτέρω, εἰς ἕκαστον δὲ τοιοῦτον πίνακα ἀναγράφεται ἀριθμὸς ὑποψηφίων μέχρι τοῦ τετραπλασίου τοῦ ἀριθμοῦ τῶν πρὸς πλήρωσιν κενῶν θέσεων ἐκ τῶν ὑποψηφίων τῶν δυναμένων νὰ προάγονται, τηρουμένων καὶ τῶν διατάξεων τοῦ Κανονισμοῦ 29, εἰς τὰς τοιαύτας κενὰς θέσεις. 5

(4) Οἱ κατὰ τὰ ἀνωτέρω συντασσόμενοι πίνακες τίθενται ἐνώπιον τῆς ἀρμοδίας ἀρχῆς, ἥτις δύναται νὰ ὑποβάλλῃ ἐπ' αὐτῶν τὰς εἰσηγήσεις της πρὸς τὴν Ἐπιτροπὴν.

(5) Οἱ τελικοὶ πίνακες προαξίμων ἀναρτῶνται εἰς τὰ Γραφεῖα τῆς Ἐπιτροπῆς ἐντὸς τοῦ Φεβρουαρίου καὶ ἰσχύουσι μέχρι τοῦ τέλους τοῦ ἡμερολογιακοῦ ἔτους. 10

29.—(1) Τηρουμένων τῶν διατάξεων τοῦ παρόντος Μέρους, εἰς τὰς ἀκολουθοῦσας θέσεις Προαγωγῆς ἢ προαγωγή διενεργεῖται ἐκ τῶν οἰκείων πινάκων προαξίμων βάσει τῆς κάτωθι ὀριζομένης ἀναλογίας: 15

	Ἐναλογία ἐκ τοῦ πίνακος προαξίμων		
	Ἄ	Β	
Βοηθὸς Διευθυντῆς Σχολείων Στοιχειώδους Ἐκπαιδεύσεως	80%	20%	20
Διευθυντῆς Σχολείων Στοιχειώδους Ἐκπαιδεύσεως	90%	10%	
Βοηθὸς Διευθυντῆς Σχολείων Μέσης Ἐκπαιδεύσεως	80%	20%	
Διευθυντῆς Σχολείων Μέσης Ἐκπαιδεύσεως	90%	10%	25

(2) Εἰς τὰς λοιπὰς μὴ συνδεδεασμένας θέσεις Προαγωγῆς τοῦ διδακτικοῦ προσωπικοῦ ἢ προαγωγή διενεργεῖται ἐκ τῶν οἰκείων πινάκων προαξίμων Ἄ'.

(3) Διὰ τὴν θέσιν Βοηθοῦ Διευθυντοῦ Σχολείων Μέσης Ἐκπαιδεύσεως αἱ προαγωγαὶ κατανέμονται κατὰ εἰδικότητα βάσει τῆς κατὰ εἰδικότητα συνθέσεως τοῦ διδακτικοῦ προσωπικοῦ τῶν εἰδικότητων ἐξ ὧν δύναται νὰ ἐπιλέγονται οἱ προαγόμενοι εἰς τὴν εἰρημένην θέσιν (ὡς οἱ φιλόλογοι, μαθηματικοί, καθηγηταὶ ἄλλων θεωρητικῶν μαθημάτων, τεχνολόγοι καὶ ἐκπαιδευταί): 35

Νοεῖται ὅτι ἡ διάταξις αὕτη θὰ ἔχῃ ἐφαρμογὴν εἰς προαγω-

γὰς διενεργουμένης πρὸς πλήρωσιν κενῶν θέσεων μετὰ τὴν ἡμερομηνίαν ἐνάρξεως τῆς ἰσχύος τῶν παρόντων Κανονισμῶν.

5 (4) Κατὰ τὰς ἐκ τῶν πινάκων προαξίμων διενεργουμένης προαγωγᾶς οἱ ἐγγεγραμμένοι εἰς τὸν πίνακα τῶν προαξίμων 'Α' προάγονται ὅπωςδῆποτε πρὸ τῶν νεωτέρων τῶν τοῦ πίνακος τῶν προαξίμων 'Β'.

10 (5) Ἐὰν ὁ ἀριθμὸς τῶν περιλαμβανομένων εἰς τοὺς πίνακας τῶν προαξίμων 'Α' ἤθελεν ἀποδειχθῆ ἀνεπαρκῆς νὰ καλύψη τὰς ἀνάγκας πρὸς πλήρωσιν τῶν οἰκείων κενῶν θέσεων μέχρι τῆς λήξεως τῆς ἐν παραγράφῳ (5) τοῦ Κανονισμοῦ 28 καθοριζομένης χρονικῆς περιόδου, συντάσσεται ὑπὸ τῆς Ἐπιτροπῆς νέος συμπληρωματικὸς πίναξ."

(“26(1) Those possessing the qualifications specified by the schemes of service—

15 (a) are promoted according to seniority in the case of posts on the combined establishment;

20 (b) in the case of posts which are not on the combined establishment they are considered as promotees 'A' or promotees 'B' having regard to the rating in the confidential reports for the following substantive qualifications as hereunder specified:

(i) Ethos and character, social standing and behaviour within and outside the service.

25 (ii) Scientific training and intellectual qualifications.

(iii) Paedagogic training and teaching ability.

(iv) Administrative ability, activity and leadership.

(v) Service conscientiousness.

30 2(a) As promotees 'A' to the *post* of Assistant Headmaster are considered those who, in the last two confidential reports of the last five years have, in respect of the 5 items referred to in paragraph (1), been rated as excellent in item (i) as at least very good in items (iv) and (v) and as  
35 at least good in items (ii) and (iii).

(b) As promotees 'B' to the post of Assistant Headmaster are considered those who in the last two confidential reports of the last five years have, in respect of the 5 items referred to in paragraph (1), been rated as excellent in item (i) as at least very good in item (iv) and as at least good in the remaining three items. 5

(3)(a) As promotees 'A' to the post of Headmaster are considered those who in the last two confidential reports of the last five years have, in respect of the 5 items referred to in paragraph (1), been rated in 3 items, which should indispensably include items (i) and (iv), as excellent and in the remaining 2 items as at least very good. 10

(b) As promotees 'B' to the post of Headmaster are considered those who in the last two confidential reports of the last five years have, in respect of the 5 items referred to in paragraph (1), been rated in 3 items, which should indispensably include items (i) and (iv), as excellent and in the remaining 2 items as at least good. 15

(4) For promotion to posts higher than the above posts, educational officers are not evaluated as promotees 'A' or promotees 'B'. 20

28(1) With regard to posts on the combined establishment there is no limit on the number of those considered for promotion and there is no need for the preparation of lists of promotees. 25

(2) For promotion to posts which are not on the combined establishment the Committee after taking into consideration the qualifications of educational officers who are eligible to be considered as candidates for promotion and the service and other relevant material placed before it as well as the personal impression of its members—where such exists—duly reasoned, considers each one of them and describes him as promotee or not, but with regard to candidates for promotion to the posts referred to in regulation 29 evaluates each candidate as promotee 'A' or promotee 'B' in accordance with the provisions of regulation 26. 30 35

(3) During the month of January the Committee pre-

5 pares, in respect of promotion posts which are not on the combined establishment, lists of promotees as above and each such list includes a number of candidates by four times bigger than the number of vacant posts, from amongst the candidates who are eligible for promotion to such vacant posts subject also to the provisions of regulation 29.

(4) The lists prepared as above are submitted to the appropriate authority which may submit suggestions on them to the Committee.

10 (5) The final lists of promotees are exhibited in the office of the Committee during February and they remain in force until the end of the calendar year.

15 29(1) Subject to the provisions of this Part, promotion to the following promotion posts is effected from the relevant lists of promotees in accordance with the under-mentioned analogy:

		Analogy from the list of promotees	
		'A'	'B'
20	Assistant Headmaster Schools of Elementary Education	80%	20%
	Headmaster Schools of Elementary Education	90%	10%
25	Assistant Headmaster Schools of Secondary Education	80%	20%
	Headmaster Schools of Secondary Education	90%	10%

30 (2) In the other promotion posts of the teaching staff, which are not on the combined establishment, the promotion is effected from the relevant list of promotees 'A'.

35 (3) For the post of Assistant Headmaster, Schools of Secondary Education, promotions are allocated according to specialization, on the basis of the according to specialization composition of the teaching staff of the specializations out of which those to be promoted to the said post may be chosen (such as philologists, mathematicians,

masters of other theoretical subjects, technologists and instructors):

Provided that this provision will apply to promotions effected for the filling of vacant posts after the date of the coming into force of the present Regulations. 5

(4) In effecting promotions from the lists of promotees, officers registered in the list of promotees 'A' are in any case promoted in priority to their juniors on the list of promotees 'B'.

(5) If the number included in the lists of promotees 'A' 10 proves insufficient to cover the needs for filling the relevant vacant posts until the expiration of the time limit prescribed by paragraph 5 of regulation 28 a new supplementary list is prepared by the Committee.”).

I must say from the outset that from a mere glance at the 15 said regulations it becomes obvious that they are *ultra vires* section 35(2) of the Law for the following main reasons:

Under regulation 26(1)(b) and 26(2)(a) and (b) the evaluation of the educational officers eligible for promotion is made on wrong criteria and/or irrelevant factors. A striking example 20 is that an educational officer who has the qualifications under the schemes of service to be promoted to the post of Assistant Headmaster, with which we are concerned in the present re-course, and has been graded in qualification (i) of regulation 26(1)(b) as “very good” instead of “excellent” is excluded from 25 being considered as a candidate as he cannot be included under the provisions of regulation 26(2)(a) and (b) either in class A or B of the list of promotees although he may be graded in the other four qualifications as “excellent”. Also, there is nothing in regulation 26 indicating that in preparing class A or B of 30 the list of promotees the seniority or the additional qualifications such as postgraduate studies abroad or additional diploma, of the educational officers are taken into account. Furthermore, educational officers who are included in class B of the list of promotees may be promoted instead of many educational 35 officers included in class A who have obviously striking superiority over them as regards the criteria of merit and qualifications; and this irrespective of the fact that there is nothing in the law justifying the classification of the promotees into A and B. It

follows from the above that the list of promotees prepared under regulation 28(2) since the evaluation of educational officers is made under regulation 26, is based on wrong criteria as relevant factors are not taken into account.

5 Regulation 28(4) provides that the prepared lists are placed before the appropriate authority, which may submit to the Committee its suggestions on them. According to section 2 of Law 10/69 "Appropriate Authority" means the Minister of Education acting usually through the Director-General of the  
10 Ministry. This means that regulation 28(4) gives to the executive authority a say on promotions of educational officers whereas such power is not existent in Law 10/69.

As regards regulation 29(1) and 29(3), where the educational officers are promoted by analogy of 80% from class A and  
15 20% from class B and according to their specialization, I must say that these are wrong and arbitrary criteria which are not in accordance with the schemes of service and the provisions of the law.

As it has been stated by this Court in the case of *Konnaris and Another v. The Republic* (1974) 3 C.L.R. 377 at page 389  
20 "Specialization is a material factor only in cases of postings or transfers of educational officers but never in cases of promotions".

In the present case the respondent Committee in compliance  
25 with regulations 26, 28 and 29 reached the decision complained of in two stages.

At the first stage on 30/8/73 the lists of promotees and the classification of the candidates into A and B were prepared. As from that date all other candidates eligible for promotion,  
30 including the two applicants, were excluded and the selection for promotion was to be made out of the candidates included in the relevant lists.

At the second stage on 31/8/73 the interested parties were promoted.

35 One of the characteristics of an administrative act is that it should be a unilateral authoritative pronouncement. This requirement, however, does not exclude composite administrative



actions taken on the basis of a continuing process resulting in a final administrative action. However, the invalidity of part of a composite administrative action, leads to the invalidity of the said action as a whole, because the component parts of the action, in their nature, are not separate and independent of each other. 5

The above principles were followed by this Court in the case of *Savvas HadjiGeorghiou v. The Republic of Cyprus through the Educational Service Committee* (1974) 3 C.L.R. 436 at page 445. 10

In the case in hand the respondent Committee prepared the lists of promotees and made the promotions complained of in accordance with regulations 26, 28 and 29 which, as stated earlier in this judgment, are *ultra vires* the Public Educational Service Law of 1969 section 35(2) and, therefore, the decision of the respondent Committee to promote the interested parties should be declared *null* and *void*. Even if we assume that the said decision was wrong at any one of the two stages, then again, on the principle of *HadjiGeorghiou* case, *supra*, should be declared *null* and *void* since the two stages in which the said decision was taken are not separate and independent of each other. 15 20

In view of my above decision I consider it unnecessary to pronounce on the other points raised in these recourses.

In the result, both recourses succeed and the decision of the respondent Committee to promote the interested parties is declared *null* and *void*. 25

The respondent to pay £25.- against the costs of each applicant.

*Sub judice decision annulled.* 30  
*Order for costs as above.*