

1981 January 30

[A. LOIZOU, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

IOANNIS STEPHANOU MILIATOS,

*Applicant,*

v.

THE REPUBLIC OF CYPRUS, THROUGH  
THE PUBLIC SERVICE COMMISSION,

*Respondent.*

(Case No. 408/79).

Public Officers—Appointments and promotions—First entry and promotion post—Secretary “A” in the Presidency—Schemes of service—Requiring an “excellent knowledge of Greek, very good knowledge of English and satisfactory administrative experience”—Interested party a graduate of a six year secondary school, had studied in Athens for a number of years and holding, inter alia, a diploma in law—Had not served earlier in the public service or elsewhere—Rightly found by respondent Commission to possess above qualifications on the material before the Court—Presumption of regularity allowed to operate in favour of Commission’s decision in the matter.

Administrative Law—Administrative acts or decisions—Presumption of regularity—Allowed to operate in favour of a decision of the Public Service Commission regarding possession by a candidate of the qualifications required by the scheme of service.

The applicant in this recourse challenged the validity of the appointment of E. Chlorakiotis (“the interested party”) to the post of Secretary “A” in the Presidency, a first entry and promotion post. The qualifications required by the relevant scheme of service included, among others, an excellent knowledge of Greek and very good knowledge of English and, also, possession of satisfactory administrative experience. Regarding possession by the interested party of “an excellent knowledge of Greek

and very good knowledge of English” the respondent Public Service Commission stated in its minutes that he “had graduated from a six-year secondary school in which both the Greek and English languages were taught”; that, furthermore, he “had studied in Athens for a number of years and obtained a Certificate in Journalism and Public Relations, a Diploma in Law, a Diploma in Public Administration and a Diploma in Public Law and Political Sciences. In view of the above, the Commission was satisfied that the candidate in question did possess ‘an excellent knowledge of Greek and a very good knowledge of English’ ”.

The applicant graduated the High School of Paphos and the Maraslios Paedagogic Academy, Athens. He was appointed as a teacher in the Ministry of Education in 1965 and became an Administrative Officer, 3rd Grade, permanent, General Administrative Staff, on the 15th November, 1973. In the meantime he obtained a B.A. degree of the Southwest Texas State University, an M.A. degree of the same University, a Post-graduate Diploma in Development Administration of the Institute of Social Studies, the Hague, and completed one semester of graduate work towards the degree of Ph. D. in Political Sciences, University of Washington. He passed the General Orders, Financial Instructions and Store Regulations and Statute Laws examinations.

Counsel for the applicant mainly contended that from the qualifications required under the scheme of service the interested party did not possess that regarding the “very good knowledge of English” as this is evident from his educational background and that he also lacked “satisfactory administrative experience” not having served earlier in the service or elsewhere.

*Held*, that had this Court to compare only the knowledge of English between the two candidates unquestionably it would have had no doubt in concluding that the applicant was the one who was better conversant with that language but the scheme of service demands “excellent knowledge of Greek” and only “very good knowledge of English”; that on the material before this Court and bearing in mind what is being said by the respondent Commission in its minutes to the effect that the interested party possessed “an excellent knowledge of Greek and a very good knowledge of English”, the contention of counsel for the

applicant to the contrary cannot be accepted; that, moreover, the respondent Commission examined the candidates at the interview on matters connected with the duties of the post as shown in the relevant scheme of service, in addition to matters of general knowledge and bearing this in mind together with the rest of the material before it, came to the conclusion that the interested party was on the whole the best; and that it can, therefore, be inferred that the possession of satisfactory administrative experience was also examined when they speak, as they speak, of qualifications, abilities and experience of the candidates, as well as their suitability for appointment to the above post as shown at the interview (see also *Antoniou v. Republic* (1975) 3 C.L.R. 510 at p. 516 where the presumption of regularity was allowed to operate in favour of the Commission's decision to the effect that the interested party had the knowledge of English required by the relevant scheme of service).

(2) That on the totality of the material before it, this Court has not been persuaded that in reaching the *sub judice* decision the respondent Commission was wrong in any way in the exercise of its discretion or that it acted in abuse of power or that it failed to weigh the relevant merits of the parties; accordingly the recourse must fail.

*Application dismissed.*

25 Cases referred to:

*Antoniou v. The Republic* (1975) 3 C.L.R. 510 at p. 516;

*Zinieris (No. 1) v. The Republic* (1975) 3 C.L.R. 13 at p. 19.

#### Recourse.

30 Recourse against the decision of the respondent to appoint the interested party to the post of Secretary "A" in the Presidency in preference and instead of the applicant.

*E. Efstathiou with A. Hadjipanayiotou*, for the applicant.

*G. Constantinou (Miss)*, for the respondent.

*Cur. adv. vult.*

35 A. LOIZOU J. read the following judgment. By the present recourse the applicant seeks a declaration of the Court that the decision of the respondent Commission by which it appointed on probation to the post of Secretary "A" in the Presidency, Erotocritos A. Chlorakiotis (hereinafter to be referred to as

the interested party) instead of himself, is null and void and of no effect whatsoever.

According to the relevant scheme of service (enclosure 2), this post is a first entry and promotion post and the qualifications required thereby include, among others, “an excellent knowledge of Greek and very good knowledge of English” and “ability to draft in both aforesaid languages with clarity and speed, memoranda, submissions, letters, etc. and also to possess satisfactory administrative experience”. The vacancy in the said post was advertised in the official Gazette and in response thereto 18 applications were submitted. The respondent Commission then invited eight candidates for interview which took place on the 24th May, 1979, and in the presence of the Under-Secretary to the President. Among those invited were the applicant and the interested party.

In the minute of the respondent Commission kept with regard to these interviews (enclosure 5) it is stated that “the Commission as well as the Under-Secretary to the President, put several questions to all the candidates on matters of general knowledge and on matters connected with the duties of the post as shown in the relevant scheme of service”.

At its meeting of the 28th May, 1979, the respondent Commission considered the filling of the vacancy in question and its minutes (enclosure 6) in so far as relevant read as follows:

“The Commission considered the merits, qualifications and experience of the above candidate, together with those of the candidates interviewed on 24.5.79, as well as their performance during the interview (Personality, alertness of mind, general intelligence and the correctness of answers to questions put to them, etc.).

The Personal Files and the Annual Confidential Reports of the candidates already in the service were also taken into consideration.

The Commission then discussed the abilities and suitability of all the candidates for appointment to the post of Secretary ‘A’.

The Under-Secretary to the President stated that, having regard to the special duties of the post which would have

to be performed in the President's Office, he would prefer Mr. Erotokritos Andreou Chlorakiotis for appointment to the above post.

5       According to the relevant scheme of service, candidates for appointment or promotion to the post of Secretary 'A', in the Presidency, must possess 'an excellent knowledge of Greek and a very good knowledge of English'. The Commission observed that Mr. E. A. Chlorakiotis had  
10       graduated from a Six-year Secondary School in which both the Greek and English languages were taught; furthermore, Mr. Chlorakiotis had studied in Athens for a number of years and obtained a Certificate in Journalism and  
15       Public Relations, a Diploma in Law, a Diploma in Public Administration and a Diploma in Public Law and Political Science. In view of the above, the Commission was satisfied that the candidate in question did possess 'an excellent knowledge of Greek and a very good knowledge of English'.

20       After considering all the above and after taking into consideration all the facts appertaining to each one of the candidates and after giving proper weight to the merits, qualifications, abilities and experience of these candidates, as well as to their suitability for appointment to the above  
25       post as shown at the interview, the Commission came to the conclusion that Mr. Erotokritos Andreou Chlorakiotis was on the whole the best. The Commission accordingly decided that Mr. Erotokritos Andreou Chlorakiotis be appointed, on probation, to the permanent post of Secretary 'A', in the Presidency, w.e.f. 15.6.79".

30       It is the case for the applicant that from the qualifications required under the scheme of service the interested party did not possess that regarding the "very good knowledge of English" as this is evident, as alleged, from his educational background and that he also lacked "satisfactory administrative experience",  
35       not having served earlier in the service or elsewhere.

The applicant graduated the High School of Paphos and then the Maraslios Paedagogic Academy, Athens. He was appointed as a teacher in the Ministry of Education in 1965 and became an Administrative Officer, 3rd Grade, permanent, General  
40       Administrative Staff, on the 15th November, 1973. In the

meantime he obtained a B.A. degree of the Southwest Texas State University, an M.A. degree of the same University, a Post-graduate Diploma in Development Administration of the Institute of Social Studies, the Hague, and completed one semester of graduate work towards the degree of Ph.D. in Political Sciences, University of Washington. He passed the General Orders examinations, Financial Instructions and Stores Regulations and Statute Laws. 5

The interested party is a graduate of the Greek Gymnasium Paphos, the School of Journalism and Public Relations, Athens, he has a Diploma in Law of Athens University, Diploma in Public Law and Political Sciences, of Athens University, Diploma in Public Administration from the Pantios Highest School of Athens and he was registered as an advocate in Cyprus in 1977. 10 15

If I had to compare only the knowledge of English between the two candidates unquestionably I would have had no doubt in concluding that the applicant is the one who is better conversant with that language but the scheme of service demands "excellent knowledge of Greek" and only "very good knowledge of English" and on the material before me and bearing in mind what is being said by the respondent Commission in its minutes hereinabove set out to the effect that the interested party possessed "an excellent knowledge of Greek and a very good knowledge of English", I find myself unable to accept the contention of learned counsel for the applicant to the contrary. Moreover, the respondent Commission examined the candidates at the interview on matters connected with the duties of the post as shown in the relevant scheme of service in addition to matters of general knowledge and bearing this in mind together with the rest of the material before it, came to the conclusion that the interested party was on the whole the best. It can, therefore, be inferred that the possession of satisfactory administrative experience was also examined when they speak, as they speak, of qualifications, abilities and experience of the candidates, as well as their suitability for appointment to the above post as shown at the interview. 20 25 30 35

On the totality of the material before me I must say that I have not been persuaded that in reaching the *sub judice* decision the respondent Commission was wrong in any way in the exercise 40

of its discretion or that it acted in abuse of power or that it failed to weigh the relevant merits of the parties.

As stated in the case of *Georghios Antoniou v. The Republic* (1975) 3 C.L.R. 510, at p. 516, by reference to the *Zinieris (No. 1) v. The Republic* case, reported in the same part, p. 13, at p. 19: “\_\_\_\_\_ we must assume that the Commission had duly in mind the required standard of knowledge of English and felt reasonably satisfied that the interested party concerned possessed such knowledge; because, as there is nothing before us to indicate that the Commission was not of this view, we must allow the presumption of regularity to operate in favour of the Commission’s decision in the matter”.

For all the above reasons this recourse is dismissed but in the circumstances I make no order as to costs.

15 *Application dismissed.*  
*No order as to costs.*