1983 March 22

[TRIANTAFYLLIDES, P., HADJIANASTASSIOU, A. LOIZOU, DEMETRIADES, LORIS, PIKIS, JJ.]

IOANNIS VRYONIDES,

Appellant.

v.

THE EDUCATIONAL SERVICE COMMISSION AND ANOTHER,

Respondents.

(Revisional Jurisdiction Appeal No. 259).

Educational Officers—Schemes of service—Construction and application by the competent for the purpose administrative organ—Judicial control—Principles applicable—Reasonably open to the respondent to find that the M.I.L. qualification was not equivalent to a University degree.

Administrative Law—Administrative acts or decisions—Court cannot go into the merits of an administrative decision regarding a matter of technical nature so long as such decision was reached in the course of exercise, within proper limits, of the relevant powers of the appropriate organ.

Costs—Recourse for annulment—Warning that in future costs will be awarded against unsuccessful applicant or appellant.

The respondent Commission having adopted an opinion of the Evaluation of Qualifications Committee of the Ministry of Education to the effect that the appellant was not qualified, under the relevant scheme of service, for emplacement on salary scale B10 as a schoolmaster teaching foreign languages, because the fact that he was a Member of the Institute of Linguists (M.I.L.) in England was not considered as being a qualification equivalent to a university degree or title, as required by the relevant scheme of service rejected his request for emplacement on salary scale B.10.

The trial Court dismissed his recourse, which was directed against the above decision; and hence this appeal.

Held, that this Court, as an administrative Court, will not interfere with the construction and application of a scheme of service by the competent for that purpose administrative organ if such construction and application was reasonably open to that organ in the circumstances of the particular case; that in the present case it was reasonably open to the respondent Commision to find that the M.I.L. qualification of the appellant was not a qualification of an equivalent nature to those envisaged by the relevant scheme of service.

Held, further, that the possibility of judicial intervention in a case such as the present one is further limited by the principle that this Court cannot go into the merits of an administrative decision regarding a matter of technical nature so long as such decision was reached in the course of the exercise, within proper limits, of the relevant powers of the appropriate organ.

Warning to the effect that in future costs will be awarded against an unsuccessful applicant or appellant because most of the relevant principles on Administrative Law have by now been expounded both adequately and clearly and, thus, litigants should be in a position to know when it is probable that a recourse or an appeal is likely to succeed.

Appeal dismissed.

Cases referred to:

Paraskevopoullou v. *Republic* (1971) 3 C.L.R. 426 at p. 432;

Lambrakis v. *Republic* (1973) 3 C.L.R. 29 at p. 33;

Georghiou v. *Municipality of Nicosia* (1973) 3 C.L.R. 53.

Appeal.

Appeal against the judgment of a Judge of the Supreme Court of Cyprus (Malachtos, J.) given on the 5th December, 1981 (Revisional Jurisdiction Case No. 28/75)* whereby his recourse against the refusal of the respondents to emplace him on salary scale B.10 was dismissed.

* Reported in (1981) 3 C.L.R. 540.

L. Papaphilippou, for the appellant.

A.S. Angelides, for the respondents.

Cur. adv. vult.

TRIANTAFYLLIDES P. read the following judgment of the Court. In the present instance the appellant complains against a decision of the respondent Educational Service Commission which was communicated to him by a letter dated 28th February 1975 and by means of which his request to be emplaced, on the strength of the relevant scheme of service, on salary scale B.10 was turned down.

In its said letter of the 28th Feburary 1975 the respondent Commission sets out at length and adopts an opinion of the Evaluation of Qualifications Committee of the Ministry of Education; and on the basis of such opinion the Commission found that the appellant was not qualified, under the relevant scheme of service, for emplacement on salary scale B10 as a schoolmaster teaching foreign languages, because the fact that the appellant was a Member of the Institute of Linguists (M.I.L.) in England was not considered as being a qualification equivalent to a university degree or title, as required by the relevant scheme of service.

The trial Judge who heard this case in the first instance found that there was no reason to interfere with the sub judice decision of the respondent Commission.

It has been repeatedly stressed that this Court, as an administrative Court, will not interfere with the construction and application of a scheme of service by the competent for that purpose administrative organ if such construction and application was reasonably open to that organ in the circumstances of the particular case (see, in this respect, inter alia, *Paraskevopoullou* v. *The Republic*, (1971) 3 C.L.R. 426, 432 and *Lambrakis* v. *The Republic*, (1973) 3 C.L.R. 29, 33); and we do find that in the present case it was reasonably open to the respondent Commission to find that the M.I.L. qualification of the appellant was not a qualification of an equivalent nature to those envisaged by the relevant scheme of service.

Moreover, the possibility of judicial intervention in a case such as the present one is further limited by the principle that

this Court cannot go into the merits of an administrative decision regarding a matter of technical nature so long as such decision was reached in the course of the exercise, within proper limits, of the relevant powers of the appropriate organ (see, in this respect, inter alia, *Georghiou* v. *The Municipality of Nicosia*, (1973) 3 C.L.R. 53).

For all the foregoing reasons this appeal has to be dismissed.

It is true that the trial Judge did not make any order as to costs against the appellant when he dismissed in the first instance his recourse. We have, however, as time passes, come to hold the view that most of the relevant principles on Administrative Law have by now been expounded both adequately and clearly and, thus, litigants should be in a position to know when it is probable that a recourse or an appeal is likely to succeed. So, we became inclined, in dismissing an appeal which did not appear to have a reasonable chance of succeeding, to make an order of costs against the appellant.

We will, for yet another time, not make an order of costs in dismissing this appeal; but we do expect that our above warning as to the course to be taken by us in future will be well heeded.

Appeal dismissed with no order as to costs.