

1985 March 26

[TRIANTAFYLIDIS, P., DEMETRIADES, SAVVIDES, LORIS,
PIKIS, JJ.]

CHARILAOS FRANGOULLIDES AND ANOTHER,

Appellants,

v.

THE PUBLIC SERVICE COMMISSION,

Respondent.

*(Revisional Jurisdiction Appeals
Nos. 286, 287).*

*Public Officers—Promotions—Qualifications—Scheme of Service
providing qualification for promotion to a particular post—
Interpretation of—If interpretation of the scheme was rea-
sonably open to the appointing authority, the Supreme
Court, as an administrative Court, will not interfere.*

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The respondent Commission appointed to the post of Principal Welfare Officer in the Department of Welfare Office two other persons instead of the appellants. In making the aforementioned promotions the respondent Commission conducted a lengthy inquiry into the question of whether or not the academic qualifications possessed by the appellants could be treated as equivalent to the academic qualifications required by the scheme of service for the promotion to the post under consideration and reached the conclusion that the appellants' academic qualifications could not be treated as amounting to the qualifications required by the relevant scheme of service (see *Michael and Another v. The Public Service Commission* (1982) 3 C.L.R. 726). Each one of the appellants filed a recourse against the respective decision of the respondent Commission. Both recourses were dismissed and accordingly they filed the present appeals, which were heard together.

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Held, (1) It was reasonably open to the respondent Com-

mission to interpret and apply the relevant scheme of service in the manner in which it has done in the present case.

5 (2) It is a very well established principle of our case-law that the Supreme Court, as an administrative Court, will not interfere in a case in which the interpretation and application of the scheme of service by an appointing authority was reasonably open to it in the particular circumstances.

10 (3) The fact that on an earlier occasion the P.S.C., which was at the time differently composed, treated both appellants as qualified under the same scheme, did not prevent the Commission from reaching a different conclusion on the present occasion after a much more thorough inquiry into the matter.

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Appeals dismissed.
No order as to costs.

Observations made by the Court:

20 (1) It is open to the Council of Ministers to amend a scheme of service in case it is considered that the interpretation of a scheme of service by the Commission is such as to exclude from promotion candidates who are considered by the appropriate Ministry as qualified for the post in question.

25 (2) The better course would have been for the Commission to have informed the appellants of the inquiry as to their qualifications so as to afford them an opportunity to make their own representations; but in the light of all the circumstances of this case the failure of the Commission to inform the appellants did not prevent it from carrying out a due inquiry nor has it resulted in any material misconception affecting the interpretation of the scheme in question.

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Cases referred to:

35 *Papapetrou v. The Republic*, 2 R.S.C.C. 61;

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

- Petsas v. The Republic*, 3 R.S.C.C. 60;
- Neophytou v. The Republic*, 1964 C.L.R. 280;
- Georghiades v. The Republic*, (1966) 3 C.L.R. 827;
- Georghiades v. The Republic*, (1967) 3 C.L.R. 653;
- Tryfon v. The Republic*, (1968) 3 C.L.R. 28; 5
- The Republic v. Aivaliotis*, (1971) 3 C.L.R. 89;
- Paraskevopoulou v. The Republic*, (1971) 3 C.L.R. 426;
- Pierides v. The Cyprus Broadcasting Corporation*, (1972)
3 C.L.R. 149;
- Lambrakis v. The Republic*, (1973) 3 C.L.R. 29; 10
- Ktorides v. The Republic*, (1973) 3 C.L.R. 171;
- Kyriakou v. The Republic*, (1975) 3 C.L.R. 37;
- Skarparis v. The Republic*, (1978) 3 C.L.R. 106;
- Andreou v. The Republic*, (1979) 3 C.L.R. 379;
- Stylianou v. The Public Service Commission*, (1980) 3 15
C.L.R. 11;
- Soteriou v. The Republic*, (1980) 3 C.L.R. 237;
- Kolokotronis v. The Republic*, (1980) 3 C.L.R. 418;
- Larkos v. The Republic*, (1982) 3 C.L.R. 513;
- Soteriou v. The Republic*, (1983) 3 C.L.R. 921; 20
- Markides v. The Republic*, (1983) 3 C.L.R. 622;
- Mytides v. The Republic*, (1983) 3 C.L.R. 1096;
- Kampouris v. The Educational Service Committee*, (1983)
3 C.L.R. 1165;
- Xinari v. The Republic*, (1984) 3 C.L.R. 598; 25
- Der Parthogh v. The Cyprus Boadcasting Corporation*
(1984) 3 C.L.R. 635.

Appeals.

5 Appeals against the judgment of a Judge of the Supreme Court of Cyprus (A. Loizou, J.) given on the 21st August, 1982 (Revisional Jurisdiction Case Nos. 239/81 and 240/81)* whereby appellants' recourses against the decision of the respondent to promote the interested party to the post of Principal Welfare Officer in the Department of Welfare Services in preference and instead of the applicants were dismissed.

10 Appellant in R. A. 286 appeared in person.

A. S. Angelides, for appellant in R. A. 287.

A. Papasavvas, Senior Counsel of the Republic, for the respondent.

Cur. adv. vult.

15 TRIANTAFYLLIDES P. read the following judgment of the Court. The two appellants have appealed against the first instance judgment of a Judge of this Court by means of which there were dismissed their recourses under Article
20 146 of the Constitution (Nos. 240/81 and 239/81) against the decision of the respondent Public Service Commission to promote another person instead of them to the post of Principal Welfare Officer in the Department of Welfare Services.

25 In making the aforementioned promotion the Commission found that both the appellants were candidates who did not possess the necessary academic qualification required by the relevant scheme of service for promotion to the post of Principal Welfare Officer, namely a University degree or equivalent diploma in social work, sociology, social
30 psychology or other suitable subject.

The respondent Commission conducted a lengthy inquiry into the question of whether or not the academic qualifications possessed by the appellants could be treated as equivalent to the academic qualification required by the
35 scheme of service, and as such inquiry is described in de-

* Reported as *Michael and Another v. Public Service Commission* (1982) 3 C.L.R. 726.

tail in the carefully prepared judgment of the learned trial Judge (see *Michael and another v. The Public Service Commission*, (1982) 3 C.L.R. 726) we need not repeat what is stated in it in this respect. In the end the Commission reached the conclusion that the post graduate “diploma in social policy and administration” of the University College of Swansea and the “diploma in business management” of the La Salle Extension University of Chicago, which were the academic qualifications of the appellant in R. A. 286, and the “diploma in social welfare” of the University College of Swansea and the post graduate “diploma in urban social development” of the Institute of Social Studies in the Hague, which were the academic qualifications of the appellant in R. A. 287, could not be treated as amounting to the required by the relevant scheme of service academic qualification.

Having examined carefully the reasons given by the respondent Commission in reaching its said conclusion we are satisfied, as was the trial Judge, that it was reasonably open to the Commission to interpret and apply the relevant scheme of service in the manner in which it has done in the present case, with the result that the two appellants were treated as not being qualified under it for promotion; and it is a very well established principle of our case-law that the Supreme Court, as an administrative Court, will not interfere in a case in which the interpretation and application of a scheme of service by an appointing authority was reasonably open to it in the particular circumstances.

We find it useful to refer somewhat extensively to our case-law in this respect in order to show how firmly established is the aforesaid principle and how constantly it has been adhered to by the Supreme Court: *Papapetrou v. The Republic*, 2 R.S.C.C. 61, 69, *Josephides v. The Republic*, 2 R.S.C.C. 72, 75, 77, *Petsas v. The Republic*, 3 R.S.C.C. 60, 63, *Neophytou v. The Republic*, 1964 C.L.R. 280, 299, *Georghiades v. The Republic*, (1966) 3 C.L.R. 827, 848, *Georghiades v. The Republic*, (1967) 3 C.L.R. 653, 668, *Tryfon v. The Republic*, (1968) 3 C.L.R. 28, 40, *The Republic v. Aivaliotis*, (1971) 3 C.L.R. 89, 93, *Paraskevopoullou v. The Republic*, (1971) 3 C.L.R. 426, 432, *Pierides v. The Cyprus Broadcasting Corporation*, (1972) 3 C.L.R. 149, 156, *Lambrakis v. The Republic*,

(1973) 3 C.L.R. 29, 33, *Ktorides v. The Republic*, (1973) 3 C.L.R. 171, 173, *Kyriacou v. The Republic*, (1975) 3 C.L.R. 37, 44, *Skarparis v. The Republic*, (1978) 3 C.L.R. 106, 113, *Andreou v. The Republic*, (1979) 3 C.L.R. 379, 5 386, *Stylianou v. The Public Service Commission*, (1980) 3 C.L.R. 11, 17, *Soteriou v. The Republic*, (1980) 3 C.L.R. 237, 242, *Kolokotronis v. The Republic*, (1980) 3 C.L.R. 418, 427, *Larkos v. The Republic*, (1982) 3 C.L.R. 513, 519, *Soteriadou v. The Republic*, (1983) 3 C.L.R. 921, 940, 10 (which was reversed on appeal but on other points), *Makrides v. The Republic*, (1983) 3 C.L.R. 622, 630, *Mytides v. The Republic*, (1983) 3 C.L.R. 1096, 1107, *Kampouris v. The Educational Service Committee*, (1983) 3 C.L.R. 1165, 1169, *Xinari v. The Republic*, (1984) 3 C.L.R. 15 598, 600 and *Der Parthogh v. The Cyprus Broadcasting Corporation*, (1984) 3 C.L.R. 635, 638.

It is correct that on an earlier occasion when the two appellants were again candidates for promotion to the post of Principal Welfare Officer the respondent Commission, 20 which was at the time differently composed, treated both of them as being qualified under the same scheme of service but, in our view, this did not prevent the Commission from reaching a different conclusion on the present occasion after a much more thorough inquiry into the 25 matter. Irrespective of what had been done on the said earlier occasion the Commission could not lawfully, and in a proper exercise of its relevant powers, consider as eligible for promotion to the post of Principal Welfare Officer either of the appellants once it was not satisfied 30 that they were qualified for promotion under the relevant scheme of service.

In the light of all the foregoing we are of the view that the recourses of both the appellants were rightly dismissed by the trial Judge and that, therefore, these appeals have 35 to be dismissed, too.

Before concluding this judgment we would like to make the following two observations:

First, that we have noted that the Director-General of the Ministry of Labour and Social Insurance, under which 40 comes the Department of Welfare Services, appeared, in

the course of the relevant inquiry of the Commission, to take a different view from that which was taken eventually by the Commission regarding the sufficiency of the academic qualifications of the appellants and we, therefore, wish to point out that in a case in which it is considered that the interpretation of a scheme of service by the Commission is such as to exclude from promotion candidates who are considered by the appropriate Ministry or Department to be sufficiently qualified for the needs of the service it is open to the Council of Ministers to amend accordingly such scheme of service.

Secondly, we have noted that the candidate who was in the end promoted to the post of Principal Welfare Officer had moved the Commission to examine the question of the sufficiency of the academic qualifications of other candidates, such as the appellants, and we do think that the better course would have been for the Commission to have informed accordingly the affected candidates so as to afford them an opportunity to make their own representations in this connection, even though we do not consider, in the light of all the circumstances of this particular case, that the failure of the Commission to inform the appellants that there had been raised the issue of the sufficiency of their academic qualifications has prevented the Commission from carrying out a due inquiry, or has resulted in any material misconception affecting the interpretation of the scheme of service by the Commission, so as to render it necessary for this Court to annul on this ground the sub judice decision of the Commission.

In the result, as already indicated, these two appeals have to be dismissed, but with no order as to their costs.

*Appeals dismissed with
no order as to costs.*