

1986 January 23

[SAVVIDES, J.]

IN THE MATTER OF ARTICLE 146
OF THE CONSTITUTION

PHILIPPOS PHILIPPIDES,

Applicant.

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondent.

(Case No. 51/84).

Public Officers—Appointment—Scheme of Service—Its interpretation and application and the evaluation of the qualifications are matters within the discretion of the Public Service Commission—The Court does not interfere if it was reasonably open to the Commission to decide as it did. 5

Administrative Law—Due inquiry—Its nature varies according to the circumstances.

The applicant was amongst those recommended by the Departmental Committee as possessing the necessary under the relevant scheme of service qualifications for appointment to the post of Press and Information Officer in the Press and Information Office. 10

The Public Service Commission, however, doubted whether the applicant's academic qualifications were equivalent to a University Degree awarded in the United Kingdom and decided to make a further inquiry into the matter. 15

As a result the Commission addressed a letter to the British Council asking about the matter. The reply was that the applicant's qualifications were not equivalent to such a degree. As a result at its meeting of 31.5.83 the 20

Commission decided that the applicant did not possess the required qualifications.

5 By letter of his counsel to the Commission dated 17.6.83 applicant set out his qualifications, furnished the Commission with further documentary material and insisted that his qualifications were equivalent to such a University Degree as aforesaid. In consequence of the said letter the Commission decided to make further inquiries through the British Council. At its meeting of the 4.7.83 the Commission, taking into consideration the new reply* by the British Council decided that the applicant did not possess the required qualifications.

Hence the present recourse challenging the appointment of the interested parties to the said post.

15 Counsel for the applicant argued: (a) That the applicant possessed the "required qualification" under paragraph (1) of the scheme of service and (b) that in the alternative he satisfied the requirements of Note (2)** of the scheme of service whereby a relaxation of the requirements of paragraph (1) thereof is contemplated. (c) That the Commission did not conduct a due inquiry and that the British Council was not the proper organ to advise the Commission.

25 *Held*, dismissing the recourse (1) The interpretation and application of the scheme of service as well as the evaluation of the qualifications of candidates are matters within the discretionary power of the P.S.C. and this Court will not interfere if it was reasonably open to the P.S.C. to decide as it did. In this case it was reasonably open to the respondent to arrive at the conclusion it did.

30 (2) As regards the second part of the argument of counsel it is more than clearly stated in Note (2)(a) of the Scheme of Service that a University degree or title is required. Note (2) provides for a relaxation so as to cover candidates already serving in the office in question.
35 who did not possess a University Degree or title in the

* The relevant letter appears at pp. 164-165 post.

** Quoted at pp. 166-168 post.

appropriate subject or one of the subjects mentioned in paragraph (1), but in any subject generally.

(3) In the exercise of its discretion an administrative organ should conduct a proper inquiry into the particular matter, the nature of which varies according to the circumstances of each particular case. The P.S.C., unless otherwise provided by law (which is not the case in the present instance), is free to decide what procedure to follow in order to ascertain and evaluate the qualifications of candidates. There is nothing wrong in the way that the P.S.C. conducted its inquiry in the present case.

Recourse dismissed. £50.- costs in favour of respondent.

Cases referred to:

Komodromou v. The Republic (1985) 3 C.L.R. 2250. 15

Recourse.

Recourse against the decision of the respondent to promote the interested parties to the post of Press and Information Officer in the Press and Information Office in preference and instead of the applicant. 20

E. Lemonaris, for the applicant.

A. Vladimirov, for the respondent.

Cur. adv. vult.

SAVVIDES J. read the following judgment. The applicant challenges by this recourse the decision of the respondent, published in the official Gazette of the Republic on 16.12.1983, by which the sixteen interested parties were appointed to the post of Press and Information Officer, in the Press and Information Office, as from 15.11.1983, in preference and instead of the applicant. 25 30

This case has been heard together with cases Nos. 44/85, 45/85 and 46/85. In the course of considering judgment in the above cases it has transpired, however, that different questions of law arise in the present case and in view of this, I have decided to deliver a separate judgment. 35

This recourse is directed against the same administrative act as Case No. 571/83, *Ourania Charalambidou Komodromou v. The Republic*,* in which judgment has already been delivered on 30.12.1985, and the interested parties
5 are also the same. Although the facts and issues raised are similar in both cases, they have not been consolidated or heard together, and I shall deal with the case briefly.

The applicant was serving, at the material time, in the Press and Information Office on contract.

10 A number of vacancies in the post of Press and Information Officer were advertised in the official Gazette of the Republic on the 21st May, 1982 and the applicant was amongst the 208 candidates who submitted applications. The Departmental Committee which was set up for the
15 purpose of assisting the Public Service Commission (the P.S.C.) submitted its report on 4.3.1983 attaching a list of the candidates found by it to possess the qualifications required by the scheme of service for appointment and recommended 77 candidates as suitable for appointment
20 amongst whom the applicant.

The P.S.C. at its meeting of the 23rd April, 1983, having considered the report of the Departmental Committee, was not satisfied, on the material before it, that the applicant possessed the qualifications required by the scheme of
25 service and decided to make a further inquiry into the matter.

As a result, a letter was addressed, on the 11th May, 1983, to the British Council, enquiring whether

(a) The certificate of membership awarded by the Institute of Linguists, and
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(b) The Diploma of the London School of Journalism which were awarded to the applicant, were considered as equivalent to University Degrees awarded in the United Kingdom.

35 The British Council, by its letter dated the 24th May, 1983 replied that the said Diplomas/certificates, could not

* Reported in (1985) 3 C.L.R. 2250.

be considered as equivalent to British University Degrees, and as a result, the respondent decided, at its meeting of 31.5.1983 that the applicant does not possess the required qualifications.

On the 17th June, 1983, the applicant addressed, through his counsel, a letter to the chairman of the P.S.C. setting out his qualifications and stating that they were considered by the Public Service Commission of the U.K., amongst others, as equivalent to a University title. He also attached certain documents of the Institute of Linguists and asked to be included in the list of candidates possessing the qualifications for appointment. Amongst the documents attached was also a telegram from the Institute of Linguists, addressed to applicant's counsel, which reads as follows:

"Reply to telegram re number 8777 Philippides Membership is accepted as degree equivalent by Department Education and Civil Service if all parts of Final Diploma examination passed."

Applicant's counsel further sent to the P.S.C. copies of certificates of his final examinations.

The P.S.C., at its meeting of 23.6.1983 considered the position of the applicant in the light of the letters of his counsel and decided again to make further inquiries through the British Council.

The British Council gave the information required by letter to the P.S.C. dated the 24th June, 1983, which reads as follows:

"Reference our recent telephone conversation about the qualification of the Institute of Linguists please note

1) The Department of Education and Science of the U.K. issue a list of Degrees and Equivalent Qualifications which are accepted by the Burnham Committee on Teacher's Salaries.

2) This latest list, a copy of which I enclose for your records, does not include the Institute of Linguists.

3) Their previous list which was more than 10 years old as far as I remember included this professional body.

5 4) This acceptance of equivalence, however, was only for Teachers' Salaries and is not to be understood that it is binding for other government offices or for the private sector.

5) The Institute of Linguists examinations are specialized examinations for teaching purposes only."

10 The P.S.C. at its meeting dated 4.7.1983, decided, taking into consideration the letter of the British Council and the material before it, that there was no reason to change its original decision by which the applicant was not considered as possessing the qualifications required by
15 the scheme of service.

The P.S.C. proceeded thereafter with the filling of the vacant posts, considering as candidates only those found by it as possessing the qualifications required and decided, at its meeting of 2.9.1983 to appoint to the post of Press
20 and Information Officer amongst others the 16 interested parties, whose names appear in the judgment in Case No. 571/83.

The sub judice appointments were published in the official Gazette of the Republic on the 16th December,
25 1983, hence the present recourse.

The preliminary point was raised by counsel for the respondent that the applicant does not possess a legitimate interest to pursue this recourse in view of the fact that he does not possess the qualifications required by the scheme of service.
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Counsel for applicant argued that the applicant possesses the title of Member of the Institute of Linguists and he therefore satisfies paragraph (1) of the "required qualifications" under the scheme of service. In the alternative,
35 counsel argued, the applicant must be taken to satisfy the requirements of note (2) of the scheme of service whereby a relaxation of the requirements of paragraph (1) above is

contemplated in the case of candidates serving in the Press and Information Office on the 22nd April, 1981.

In dealing with the first part of the argument of counsel I adopt what I have said in my judgment in the case of *Komodromou v. The Republic* (case No. 571/83 (supra)) when the matter of possession by that applicant of the qualifications required by the same scheme of service was also in issue.

The interpretation and application of the scheme of service as well as the evaluation of the qualifications of candidates are matters within the discretionary power of the P.S.C. and this Court will not interfere if it was reasonably open to the P.S.C. to decide as it did.

The facts of the present case are already stated above and there is no need to repeat them. The qualifications of the applicant and the other material submitted by him were placed before the P.S.C. which, after conducting an inquiry into the matter and taking into consideration the information furnished by the British Council decided that the qualifications of the applicant were not equivalent to a University degree or title. In my view, it was reasonably open to the respondent to arrive at such conclusion and this Court cannot interfere with its discretion in this respect.

I come now to consider the second part of the argument of counsel, that the applicant satisfied the requirements of note (2) of the scheme of service. The scheme of service for the post of Press and Information Officer reads, in this respect as follows:

«3. Απαιτούμενα προσόντα:

(1) Πανεπιστημιακόν Δίπλωμα ή τίτλος ή ισότιμον προσόν εις κατάλληλον θέμα, π.χ. Δημοσιογραφία, Δημοσία: Σχέσεις, Διεθνείς Σχέσεις, Μέσα Μαζικής Επικοινωνίας, Νομικά (περιλαμβανομένου του Barrister-at Law) Οικονομικά, Πολιτικά, Κοινωνικά ή Κλασσικά Επιστήμαι, Γλώσσαι κ.λ.π. και προηγουμένη πείρα εις

θέματα δημοσιογραφίας ή τύπου ή πληροφοριών ή δημοσίων σχέσεων.

(2)

(3)

5 Notes:

(1)

(2) Διο την πρώτην πλήρωσιν των θέσεων μετά την έγκρισιν του παρόντος Σχεδίου Υπηρεσίας δύνανται να ληφθούν υπ' όψιν και υποψήφιοι οι οποίοι υπηρετούν
10 εις το Γραφείον Τύπου και Πληροφοριών κατά την 22.4.1981 και οι οποίοι, άνκαι δεν έχουν τα εις το (1) απαιτούμενα προσόντα έχουν τα λοιπά προσόντα ως και:

(α) Πανεπιστημιακόν δίπλωμα ή τίτλον εις οιοδήποτε θέμα' και
15

(β) πολύ καλήν γνώσιν της Εένης γλώσσης η οποία θα απαιτηθή συμφώνως προς την σημείωσιν (1) ανωτέρω.»

(and the translation in English):

20 "3. Required qualifications:

(1) A University Degree or title or an equivalent qualification in an appropriate subject, e.g. Journalism, Public Relations, International Relations, Means of Broadcasting, Law (including Barrister-at-Law), Economics, Political, Social or Classical Sciences, Languages etc. and previous experience in the subjects of journalism or press or information or public relations,
25

(2)

(3)

30 Notes:

(1)

(2) For the first filling of the post after the approval of the present Scheme of Service there may also be

taken into consideration candidates who were serving at the Press and Information Office on 22.4.1981 and who, although not possessing the qualifications required under (1) possess the remaining qualifications as well as:

- (a) A University degree or title in any subject and
- (b) A very good knowledge of the foreign language which will be required in accordance with note (1) above."

I have considered carefully the argument of counsel for applicant but I cannot agree with the interpretation attached by him to the scheme of service in his respect. It is more than clearly stated in note (2) (a) that a University degree or title is required and I cannot interpret it in any other way. The reference in that note to the qualifications under paragraph (1) must be interpreted to mean that a relaxation was made with regard to the qualifications so as to cover candidates already serving in that office, who did not possess a University degree or title in an appropriate subject, or one of the subjects mentioned in paragraph (1), but in *any* subject generally. If there was an intention to provide for other qualifications less than a University degree or title, it should have been clearly stated so.

I, therefore, find on the basis of the above, that it was reasonably open to the P.S.C. to find that the applicant did not possess the qualifications required by the scheme of service.

Counsel for applicant lastly argued that the decision of the respondent concerning the qualifications of the applicant was taken without a due inquiry into the matter and under a wrong procedure in that the British Council is not the proper organ to advise the respondent and that the respondent should have sought the advice of other proper administrative organs of the Republic.

I find no merit in this argument. The P.S.C. is an administrative organ vested with a discretionary power to interpret and apply the schemes of service and in consequence to evaluate the qualifications of candidates and decide

who is qualified under such schemes. In exercising such discretion however, an administrative organ should conduct a proper inquiry into the particular matter, the nature of which varies according to the circumstances of each particular case. The P.S.C., unless otherwise provided by law (which is not the case in the present instance), is free to decide what procedure to follow in order to ascertain and evaluate the qualifications of candidates. I find nothing wrong in the way that the P.S.C. conducted its inquiry in order to evaluate the qualifications of the applicant in the present case, which in my view was reasonable under the circumstances, bearing in mind that the titles and certificates inquired into were awarded to the applicant in the U.K. I, therefore, find no merit in this argument which should be dismissed.

Having found that the finding of the P.S.C. that the applicant did not possess the qualifications required under the scheme of service was reasonable, I hold that the preliminary objection that the applicant does not possess a legitimate interest to pursue this recourse, is a sound one and should be sustained.

In the result, this recourse fails and is hereby dismissed with £50.- costs in favour of the respondent.

Recourse dismissed with £50.- costs in favour of respondent.