

(1982)

1982 January 22

[MALACHTOS, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

SOTERIOS PITTOKOPITES,

Applicant.

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE EDUCATIONAL SERVICE COMMITTEE,

Respondent.

(Case No. 109/74).

Educational officers—Schemes of service—Qualifications—Schoolmaster on scale B.10—Scheme of service requiring, inter alia, “degree or title” of a University—Applicant holding University diploma—Respondent Commission rightly found that his qualifications not satisfying requirements of scheme of service—Diploma an inferior qualification to that of a degree. 5

Words and phrases—“University degree”—“University diploma”.

Constitutional Law—Equality—Discrimination—Article 28.1 of the Constitution—Principle of equality entails the equal or similar treatment of all those who are found to be in the same situation. 10

The applicant, a secondary education schoolmaster of Geography on scale B.6, applied for emplacement on scale B.10. The qualifications required by the scheme of service* of the scale B.10 post were a degree of a Greek University in Geography or (1) a school leaving certificate of a six-year Greek school or other corresponding school of secondary education in Cyprus of abroad and (2) Degree/title of another University in the relevant subject or an equivalent qualification. The scheme of service* of the scale B.3 post required, inter alia, a diploma in Geography of the University of London or an equivalent 15 20

* The schemes of service of scales B.10 and B.3 posts are quoted at pp. 33–35 *post*.

5 qualification. Applicant possessed a leaving certificate of a secondary education Greek School, diploma of the Paedagogic Academy and a diploma of Geography of the London University. The respondent Commission* after taking into consideration the views of the Evaluation Committee on qualifications, rejected his claim for emplacement on scale B.10 because he did not "fulfil the qualifications required by the scheme of service with regard to a University degree or title or equivalent qualification"; and hence this recourse.

10 Counsel for the applicant contended:

- (a) That the qualifications of the applicant taken together were equivalent to a degree or title of a University and that the respondent Committee by not taking them together it wrongly applied the law.
- 15 (b) That there was no difference between the alternative paragraph of the scheme of service of the scale B.10 post and the scheme of service of the scale B.3 post.
- (c) That the respondent Committee discriminated against applicant because five other educational officers were promoted or appointed to the scale B.10 post although they possessed qualifications inferior to those of the applicant.

25 *Held*, (1) that the allegation that the qualifications of the applicant were not evaluated together as a whole is not true because in the sub judice decision it is clearly stated that even if his qualifications were evaluated together they cannot be considered as an equivalent qualification to a degree or title of a University; that the respondent Committee having in mind the advice of the Evaluation Committee, in exercising its discretion, rightly found that the qualifications of the applicant taken together in no case fulfilled the requirements of the relevant scheme of service; accordingly contention (a) should fail.

30 (2) That there is a lot of difference between paragraph (b) of the alternative clause of the scheme of service of salary scale B.10 and of the scheme of service of salary scale B.3 because the first one requires a degree (ptihion) or title of a University

* See its decision at p. 33 *post*.

and the other one requires only a diploma of geography of the London University; that certainly a diploma is an inferior qualification to that of a degree; accordingly contention (b) should fail.

(3) That the principle of equality entails the equal or similar treatment of all those who are found to be in the same situation; that in this case it cannot be said that the applicant was, at the time the decision complained of was taken, in the same situation as the five educational officers in question; accordingly contention (c) should, also, fail. 5 10

Application dismissed.

Cases referred to:

Republic v. Arakian and Others (1972) 3 C.L.R. 294.

Recourse.

Recourse against the refusal of the respondent to emplace applicant on salary scale B.10. 15

L. Papaphilippou, for the applicant.

A. S. Angelides, for the respondent.

Cur. adv. vult.

MALACHTOS J. read the following judgment. The applicant in this recourse claims a declaration of the court that the act and/or decision of the respondents dated 6th February, 1974, by which they refused to emplace the applicant in a post of salary scale B.10, is null and void and of no legal effect whatsoever. 20 25

The relevant facts of the case, shortly put, are the following:

The applicant was first appointed as a school teacher in the elementary education on 1st September, 1958 and as from 1st January, 1970, he was appointed as a teacher of Geography in secondary education on salary scale B.3. At the time of his appointment he possessed the following qualifications:— 30

- (a) a leaving certificate of a secondary education Greek school;
- (b) Diploma of the Paedagogic Academy; and
- (c) a diploma of Geography of the London University. 35

On 1st January, 1972 he was promoted to salary scale B.6.

The qualifications for promotion to salary scale B.6 are the same as those of salary scale B.3.

On 20.2.1973, the applicant applied to the respondent Committee for promotion on salary scale B.10. His application
5 was rejected by the respondent Committee on 5.3.1973.

The respondent Committee at its meeting of 6.2.1974, reconsidered the application of the applicant in the light of the views of the Evaluation Committee and decided to reject it again. This decision of the respondent Committee was communicated
10 to the applicant by letter dated 6.2.1974. This letter reads as follows:

“I wish to refer to the letter of your advocates dated 12.10.1973, by which they come back on your rejected claim for emplacement to the post of Scale B.10 and to
15 inform you that the Committee of Educational Service took into consideration on this matter the views of the Evaluation Committee on qualifications and what was submitted by you and your advocates before it on 20.11.1973, as well as all the elements and documents produced and found that:—
20

- (a) your qualifications—even if evaluated together—cannot be considered as equivalent qualifications to a degree or title of a university; and
- (b) the diploma of geography of the University of London
25 is not considered as a degree or title of a university.

In view of the above, the Committee of Educational Service cannot accept your claim for your emplacement to a post on scale B.10 as you do not fulfil the qualifications required by the schemes of service with regard to a university degree or title or equivalent qualification”.
30

The schemes of service for the post of a secondary education school teacher on salary scale B.10 and B.3 are the following:

“Α. Θέσις Καθηγητοῦ ἐπὶ μισθολογικῆς κλίμακος Β. 10

Ἀπαιτούμενα προσόντα:

35 Διὰ τὰ Φυσικά:

(Φυσική, Φυσιογνωσία, Γεωγραφία, Χημεία καὶ Γεωπονία)

1. Πτυχίον ελληνικοῦ πανεπιστημίου εἰς τὸν οἰκεῖον κλάδον
ἢ
(α) Ἀπολυτήριον ἑξαταξίου ελληνικοῦ σχολείου ἢ ἄλλου
ἀντιστοίχου τοιοῦτου μέσης ἐκπαιδεύσεως τῆς Κύπρου
ἢ τοῦ ἑξωτερικοῦ 5
καὶ
(β) Πτυχίον/τίτλος ἑτέρου πανεπιστημίου εἰς τὸν οἰκεῖον
κλάδον ἢ ἰσοδύναμον προσόν.
2. Κατάρτισις εἰς τὰ Παιδαγωγικά.
- B. Θέσις Καθηγητοῦ ἐπὶ μισθολογικῆς κλίμακος B.3 10
Διὰ τὴν Γεωγραφίαν:
- (1)-(α) Ἀπολυτήριον ἑξαταξίου ελληνικοῦ σχολείου ἢ
ἄλλου ἀντιστοίχου τοιοῦτου μέσης ἐκπαιδεύσεως τῆς
Κύπρου ἢ τοῦ ἑξωτερικοῦ
καὶ 15
(β) Δίπλωμα Γεωγραφίας τοῦ Πανεπιστημίου τοῦ Λονδίνου
ἢ ἰσοδύναμον προσόν.
- (2) Κατάρτησις εἰς τὰ Παιδαγωγικά”.
- (“A. *Post of Secondary Education School Master on salary
scale B.10.* 20
Required qualifications:
For Physics:
(Physics, Natural science, Geography, Chemistry and
Agriculture)
1. Degree of a Greek University in the relevant subject 25
or
(a) School leaving certificate of a six year Greek school
or other corresponding school of secondary education
in Cyprus or abroad
and 30
(b) Degree/title of another university in the relative subject
or equivalent qualification.
2. Training in pedagogy.
- B. *Post of secondary Education School Master on salary
scale B.3.* 35
For Geography:
(a)-(a) School leaving certificate of a six year Greek school

or other corresponding school of secondary education
in Cyprus or abroad

and

5 (b) Diploma in Geography of the London University
or equivalent qualification.

2. Training in pedagogy”).

Counsel for applicant in arguing his case stated that the only
point that falls for consideration in this recourse is as to whether
the qualifications of the applicant fall within the ambit of the
10 alternative clause paragraph (b) of the scheme of service for
the post of a secondary education school teacher of geography
on salary scale B.10. In other words, whether the qualifications
of the applicant are equivalent to a university degree or title.
In support of his case counsel for applicant submitted that the
15 qualifications of the applicant taken together, that is, the leaving
certificate of a secondary education school, the diploma of the
Paedagogic Academy and the diploma of geography of the
London University are equivalent to a degree or title of a uni-
versity, and that the respondent committee by not taking those
20 qualifications together, they wrongly applied the law.

I must say that I find no merit in this submission of counsel.
First of all the allegation that the qualifications of the applicant
were not evaluated together, as a whole, is not true and this
comes out from the letter of the respondent committee to
25 the applicant dated 6th February, 1974, which contains the
decision complained of, where it is clearly stated that even if
his qualifications were evaluated together, cannot be considered
as equivalent qualification to a degree or title of a university.

30 In this connection, the respondent committee having in
mind the advice of the evaluation committee, in exercising its
discretion, rightly found that the qualifications of the applicant
taken together in no case fulfil the requirements of the relevant
scheme of service.

35 Another submission of counsel for applicant is that there
is no difference between the alternative paragraph of the scheme
of service of salary scale B.10 and of the scheme of service
of salary scale B.3.

This submission of counsel again, is not correct as there
is a lot of difference between paragraph (b) of the alternative

clause of the scheme of service of salary scale B.10 and of the scheme of service of salary scale B.3. The first one requires a degree (ptihion) or title of a university and the other one requires only a diploma of geography of the London University. Certainly a diploma is an inferior qualification to that of a degree. 5

Lastly, counsel for applicant submitted that the respondent committee in taking the decision complained of acted discriminatorily against the applicant as regards other persons and gave the names of five educational officers who were promoted or appointed to salary scale B.10 who, as he alleged, they possessed qualifications inferior to those of the applicant. In doing so the respondent committee violated Article 28.1 of the Constitution which provides that all persons are equal before the law, the administration and justice and are entitled to equal protection thereof and treatment thereby. 10 15

In answer to that submission, counsel for the respondent stated that, after investigating the matter, it was found out that the first two educational officers were appointed to the post of educational officer in public schools of technical education as they possess the higher national diploma required by the relevant scheme of service. The other two were emplaced as educational officers Class A in technical education on 1.1.1966 by virtue of section 11 of Law 10/63 of the Greek Communal Chamber which was then in force. The last one is a teacher of physical training in secondary education and his qualifications are of the level required by the relevant scheme of service. 20 25

In the case of *The Republic v. Nishan Arakian and Others* (1972) 3 C.L.R. 294, it has been decided that the principle of equality entails the equal or similar treatment of all those who are found to be in the same situation. In the present case it cannot be said that the applicant was, at the time the decision complained of was taken, in the same situation as the aforementioned educational officers and, therefore, the last submission of counsel for applicant cannot stand either. 30 35

For the above reasons this recourse fails and is dismissed with no order as to costs.

Application dismissed. No order as to costs.