

1974

Dec. 4

[TRIANTAFYLLIDES, P.]

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EVANTHIA  
SOLEA  
v.  
REPUBLIC  
(MINISTRY OF  
EDUCATION  
AND/OR  
HEAD OF  
DEPARTMENT  
OF HIGHER AND  
SECONDARY  
EDUCATION)

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

EVANTHIA SOLEA,

*Applicant;*

*and*

THE REPUBLIC OF CYPRUS, THROUGH  
THE MINISTRY OF EDUCATION AND/OR  
THE HEAD OF THE DEPARTMENT OF HIGHER AND  
SECONDARY EDUCATION,

*Respondents.*

(Cases Nos. 22/70, 233/70).

*Educational Officers—Secondary education schoolmaster—Inspection of work of—Lawfully made—Internal Regulations made in 1962 and circular of Ministry of Education, dated April 24, 1967—Sections 36 (1) and 76 (1) of the Public Educational Service Law, 1969 (Law 10/69)—Number of occasions on which inspections have to be made.*

*Bias—Schoolmaster complaining against grading of her work—Allegation of bias by Inspector because she had filed a recourse against a previous grading—Mere fact that the applicant had filed such recourse insufficient, in the absence of any other concrete evidence, to lead to a finding that the Inspector was biased, when he prepared his second report.*

The applicant complains against the grading of her work as a schoolmistress in respect of the schoolyears 1968–1969 and 1969–1970. The inspection and grading of her work was carried out in accordance with relevant regulations, which were duly made, by the then competent authority, on May 17, 1962 and, also in compliance with a relevant circular of the Ministry of Education, dated April 24, 1967.

Counsel for the applicant contended:

- (a) That at the material time the said regulations were not applicable as there is no provision at all in the Public Educational Service Law, 1969 (Law 10/69), about inspecting the work of schoolmasters.

- (b) That the grading of her work was not carried out in accordance with the relevant regulations and circular because the work of the applicant has not been inspected on a sufficient number of occasions and the views of the headmaster, under whom she was working, were not taken into account; and also that the evaluation of her work has been based on material misconceptions.
- (c) That the Inspector must have been biased against the applicant when he prepared his report for the school-year 1969-1970 because, in the meantime, the applicant had filed a recourse against his report in relation to the school-year 1968-1969.

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*Held, (I). With regard to contention (a):*

(1) Section 36 (1) of Law 10/69 provides that confidential reports for all educationalists shall be prepared and submitted periodically to the Committee in the prescribed manner; and section 76 (1) of the same Law, which enables the making of Regulations for the better carrying into effect of the provisions of the Law and for regulating, *inter alia*, any matter concerning educationalists, provides that, until such Regulations are made, any regulations or public instruments and the administrative instructions contained in circulars or otherwise and the existing practice relating to the educational service and educationalists shall continue to be applicable in so far as they are not inconsistent with the provisions of the Law.

(2) It is obvious, that by virtue of s. 76 (1) the 1962 Regulations remain validly applicable, in view of the fact that no new Regulations in respect of the same matter were made after the enactment of Law 10/69.

*Held, (II). With regard to contention (b) above:*

(1) The work of the applicant having been inspected three times in each school year, this was not in any way inconsistent with the 1962 regulations and circular, in both of which it is stressed that the evaluation of the work of a schoolmaster is not to be based on only one inspection, but that it should be made after following the work of the schoolmaster concerned during the school-year; and, the notion, in this respect, of the "school-year" does not entail the unreasonable corollary that the work of a schoolmaster must be inspected every day, or

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every week or every month, but that there should be so many—(anyhow more than one)—inspections, in a school-year, as would be deemed sufficient by an Inspector for assessing the work of the schoolmaster in question.

(2) On the basis of the material before me I have reached the conclusion that the inspector took duly into consideration the reports of the headmaster concerned about the applicant; moreover, the applicant has failed to prove to my satisfaction that the grading of her work was influenced by any material misconception or by a misapplication of the criteria prescribed for the purpose.

*Held, (III). With regard to contention (c):*

The mere fact that the applicant had filed such recourse is insufficient, in the absence of any other concrete evidence, to lead me to a finding that the Inspector was biased against the applicant when he prepared his second report.

*Application dismissed.*

### **Recourses.**

Recourses against the decision of the respondents regarding the grading of applicant's work as a schoolmistress.

*L. Papaphilippou* with *P. Michaelides*, for the applicant.

*G. Tornaritis*, for the respondents.

*Cur. adv. vult.*

The following judgment was delivered by:—

TRIANAFYLLIDES, P.: By these recourses, which were heard together in view of their nature, the applicant complains against the grading of her work as a schoolmistress (with 18 marks out of 25) in respect of the school-years 1968–1969 and 1969–1970, respectively (see *exhibits* 1 and 3); as a result of the grading for 1968–1969 she was informed on December 16, 1969 (see *exhibit* 2) that she could not be promoted to scale B12, from scale B10, as she had not received at least 19 marks.

The applicant teaches mathematics, and at all material times she was posted at a secondary school in Limassol.

Her work was graded by means of two reports prepared by an Inspector, Mr. St. Philippides, on December 9, 1969 (*exhibit* 1) and on October 2, 1970 (*exhibit* 3).

The inspection and grading of the work of the applicant was carried out in accordance with relevant Internal Regulations, which were duly made, by the at the time competent authority, on May 17, 1962 (see *exhibit 5*), and, also, in compliance with a relevant circular of the Ministry of Education, dated April 24, 1967 (see *exhibit 4*).

Counsel for the applicant has contended that, at the material time, the said Regulations were not applicable as there is no provision at all in the Public Educational Service Law, 1969 (Law 10/69), about inspecting the work of schoolmasters. I find myself unable to accept this contention as correct, for the following reasons:-

Section 36 (1) of Law 10/69 provides that confidential reports for all educationalists shall be prepared and submitted periodically to the Committee in the prescribed manner; and section 76 (1) of the same Law, which enables the making of Regulations for the better carrying into effect of the provisions of the Law and for regulating, *inter alia*, any matter concerning educationalists, provides that, until such Regulations are made, any Regulations or public instruments and the administrative instructions contained in circulars or otherwise and the existing practice relating to the educational service and educationalists shall continue to be applicable in so far as they are not inconsistent with the provisions of the Law.

It is obvious, in my opinion, that by virtue of section 76 (1), above, the aforementioned Regulations of 1962 (*exhibit 5*) remained validly applicable, in view of the fact that no new Regulations in respect of the same matter were made after the enactment of Law 10/69.

Counsel for the applicant has submitted, further, that, in any event, the grading of the work of the applicant was not carried out in accordance with the relevant Regulations and circular (*exhibits 5 and 4*, respectively), because the work of the applicant has not been inspected on a sufficient number of occasions and the views of the headmaster, under whom she was working, were not taken into account; and, also, that the evaluation of the work of the applicant has been based on material misconceptions.

As it appears from the relevant personal file of the applicant (see *exhibit 7*), her work, in relation to the two school-years

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concerned, was inspected by Inspector Philippides in 1969 on January 21, May 19, May 28, and December 5, and in 1970 on April 6, and May 7, that is three times in each school-year. In my view this was not in any way inconsistent with the aforesaid Regulations and circular, in both of which it is stressed that the evaluation of the work of a schoolmaster is not to be based on only one inspection, but that it should be made after following the work of the schoolmaster concerned during the school-year; and, of course, the notion, in this respect, of the "school-year", does not entail the unreasonable corollary that the work of a schoolmaster must be inspected every day, or every week or every month, but that there should be so many—(anyhow more than one)—inspections, in a school-year, as would be deemed sufficient by an Inspector for assessing the work of the schoolmaster in question.

*Pursuant to directions given by the Court an affidavit was filed by the applicant stating the facts on which she relied in support of her complaints; and an affidavit in reply was sworn by Inspector Philippides.*

On the basis of the totality of the material before me I have reached the conclusion that the complaints of the applicant have not been substantiated; in particular, it appears from the affidavit of Mr. Philippides that, in fact, he took duly into consideration the reports of the headmaster concerned about the applicant; moreover, the applicant has failed to prove to my satisfaction that the grading of her work was influenced by any material misconception or by a misapplication of the criteria prescribed for the purpose.

Counsel for the applicant alleged, too, that Inspector Philippides must have been biased against the applicant when he prepared his report for the school-year 1969–1970 because, in the meantime, the applicant had filed recourse 22/70 against his report in relation to the school-year 1968–1969. I am of the opinion that the mere fact that the applicant had filed such recourse is insufficient, in the absence of any other concrete evidence, to lead me to a finding that Inspector Philippides was biased against the applicant when he prepared his second report.

In the light of the foregoing considerations I have decided that both the recourses of the applicant cannot succeed and,

having failed, they are dismissed accordingly; but, without any order as to costs against the applicant.

*Application dismissed; no order as to costs.*

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