

1982 August 21

[A. LOIZOU, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

CHRISTOFOROS MICHAEL AND ANOTHER,

Applicants,

v.

THE PUBLIC SERVICE COMMISSION,

Respondent.

(Case Nos. 239/81 and 240/81).

Public Officers—Appointments and promotions—Departmental Boards established under section 36 of the Public Service Law, 1967 (Law 33/67)—They cannot take away the competence of the Commission as provided by section 5 of the above Law.

Administrative Law—Administrative acts and decisions—Reasoning 5
—May be supplemented by material in the file.

Public Officers—Appointments and promotions—Qualifications—Schemes of Service—Fact that on a previous occasion certain candidates were found as possessing the required qualifications, under the relevant schemes of service, does not preclude the Public Service Commission from examining whether these candidates, along with all other candidates, had on the occasion under consideration the required qualifications. 10

Public Officers—Schemes of Service—Interpretation by Public Service Commission—Judicial control—Principles applicable—“University title or equivalent diploma in Social Work, Sociology, Social Psychology or other suitable subject” in the scheme of service for the post of Principal Welfare Officer in the Department of Welfare Services—Interpretation. 15

The applicants were candidates for the post of Principal Welfare Officer, in the Department of Welfare Services. The Departmental Board, established under section 36 of the Public 20

Service Law, 1967 (Law 33/67), after considering the matter recommended to the respondent Public Service Commission four candidates, including the two applicants, as suitable for selection for the above post. The Public Service Commission
 5 after obtaining the views of the Ministry of Education and the views of the Universities from which the applicants obtained their qualifications came to the conclusion that the "Diploma in Social Welfare" or "Diploma in Social Policy and Administration" from the University College of Swansea, possessed
 10 by both applicants, the "Post Graduate Diploma in Urban Social Development of the Institute of Social Studies of the Hague" possessed by applicant Michael and the "Diploma in Business Management of La Salle Extension University of Chicago", possessed by the second applicant, could not be considered as a "University title or equivalent diploma in Social
 15 Work, Sociology, Social Psychology or other suitable subject" required by the relevant scheme of service.

Thereupon the Commission decided that applicants were not qualified under the scheme of service and promoted the interested party to the post in question. Hence these recourses.
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Counsel for applicants mainly contended:

(a) That the sub judice decision was not duly reasoned.

(b) That once the applicants were placed on the list of candidates by the Departmental Board, in exercise of the Board's powers under the Regulations governing the establishment and functioning of the Board, the respondent Commission could not itself inquire further
 25 into the question whether the candidates so placed on the list possessed the required qualifications or not.

(c) That once applicants on another occasion were considered by the respondent Commission as possessing the required qualifications under the relevant scheme of service for the above post, the respondent Commission could not inquire into the question of their qualifications afresh.
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(d) That when the scheme of service speaks of a "University title" it does not mean a title in "Social Work, Sociology, Social Psychology or other suitable subject",

which categories should be read in conjunction with the term "equivalent diploma" that precedes them in the relevant part of the scheme of service, but any University title whatsoever and applicant Frangoulides should have been considered eligible because he possesses a Diploma in Business Management of La Salle Extension University of Chicago, by correspondence, which is of a three year cycle of studies, though not falling within the categories enumerated in the scheme of service.

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- (c) That the qualifications of the two candidates did not justify the conclusion of the respondent Commission that they were not eligible.

Held, (1) that, no doubt, an examination of the text of the decision as such and a perusal of the record shows that the subject decision is duly and cogently reasoned viewed both by itself and as supplemented by all the material in the file; that, moreover, it was taken after a painstaking and thorough inquiry which showed how mindful of its responsibilities and anxious to arrive at the right decision on the matter the respondent Commission has been; accordingly contention (a) should fail.

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(2) That whatever the provisions of the new Regulations concerning the Departmental Boards are, they could not take away the competence of the respondent Commission as provided by section 5* of Law 33/67 and they have to be interpreted in such a way as to be *intra vires* and not *ultra vires* of the empowering law; that they cannot but be considered as regulating the functions of the Departmental Boards and as setting out the procedure to be followed by them for the purpose of assisting the Public Service Commission to exercise its competence under the law, which in the case of promotions is regulated further by section 44 of the Law, whereby under para. (b) of subsection 1 thereof, one of the matters to be examined by the Commission

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* Section 5 provides as follows:

"Save where other express provision is made in this or any other law with respect to any matter set out in this section and subject to the provisions of this or any other law in force for the time being, it shall be the duty of the Commission to appoint, confirm, emplace on the permanent establishment, promote, transfer, second, retire and exercise disciplinary control over, including dismissal or removal from office of, public officers".

is whether a candidate for promotion to another office possesses the qualifications laid down in the scheme of service for that office; accordingly contention (b) should fail

5 (3) That the fact that on other occasions the applicants were found by the Commission to possess the qualifications required by the relevant scheme of service did not in Law preclude the Commission which had a duty to examine whether the applicants, along with all other candidates, had, on the occasion under consideration, the required qualifications under
10 the relevant scheme of service for the post in question, that, more so, in view of the fact that different persons were involved on this occasion, as compared with the candidates that it had before it on the other occasions; accordingly contention (c) should fail

15 (4) That the relevant provision of the scheme of service has to be read as a whole and not read as meaning University title of any kind and unrelated to Social Work, Sociology, Social Psychology or other suitable subject, which, it has been urged, only relate to the alternative to the "University title",
20 namely the "equivalent diploma", that it would be unreasonable to consider that there was no restriction to the "University title" relevant to the nature of the duties of the office and yet there were such restrictions in the case when the alternative of an "equivalent diploma" is possessed, accordingly contention
25 (d) should fail

(5) That this Court will not give to a scheme of service an interpretation other than that given to it by the Commission, provided that such interpretation was reasonably open to the Commission; that likewise, in determining whether a certain
30 applicant in fact possesses the relevant qualifications the Commission is given a discretion, and this Court can only examine whether the Commission, on the material before it, could reasonably have come to a particular conclusion, that in the present case it was reasonably open to the respondent Commission to interpret and apply the relevant scheme of service
35 as it has done, that the fact that in its reasoning it refers to the question of the time length necessary for obtaining the qualifications possessed by the applicants, does not change the position as the length required for a particular course is a factor
40 to be taken into consideration along with other factors when

considering whether a diploma is equivalent to the required University title; accordingly contention (e) should, also, fail.

Application dismissed.

Cases referred to:

Ktorides v. Republic (1973) 3 C.L.R. 171 at p. 174; 5

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

Petsas v. Republic, 3 R.S.C.C. 60 at p. 63.

Recourses.

Recourses against the decision of the respondent whereby the interested party was promoted to the post of Principal Welfare Officer in the Department of Welfare Services in preference and instead of the applicants. 10

D. Papachrysostomou, for the applicants.

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

Cur. adv. vult. 15

A. LOIZOU J. read the following judgment. By these two recourses which by direction of the Court made with the consent of the parties have been heard together, the applicants seek a declaration (a) that the decision of the respondent Commission communicated to them by identical letters dated the 8th May, 1981 (exhibit 1), is null and void and of no effect whatsoever, and (b) that the decision of the respondent Commission by which Argyris Roussos, hereinafter referred to as the interested party, was promoted as from 15.5.1981 to the post of Principal Welfare Officer in the Department of Welfare Services as from 15.5.1981 is null and void and of no effect whatsoever. 20 25

The vacancy of the said post was published in the official Gazette of the Republic on the 25th May, 1979, and in response thereto seven applications, including those of the two applicants, were submitted, which, in accordance with regulation 3 of the Regulations governing the Establishment of Departmental Boards in accordance with section 36 of the Public Service Law 1967, were forwarded by the Secretary of the respondent Commission together with the personal files and confidential reports of the applicants, who were already civil servants, the schemes of service and other relevant documents, to the Director-General of the Ministry of Labour and Social Insurance in his capacity as Chairman of the Departmental Board. 30 35

On the 18th October, 1979, the Acting Director-General of the said Ministry forwarded to the respondent Commission the report of the Departmental Board which recommended in alphabetical order four candidates, among which the two
 5 applicants, as suitable for selection for the aforesaid post. In its report (Appendix 3A) the Departmental Committee pointed out that three out of the seven candidates did not possess the required qualifications under the schemes of service but found that the remaining four did possess such quali-
 10 fications. The respondent Commission interviewed separately these four candidates on the 3rd December, 1979, in the presence of the Director of the Department of Welfare Services, who gave his impressions from these interviews and classified the candidates as follows (Appendix 5):

- 15 (1) *Michael Christoforos*—He was sufficiently analytical in his reply on the subjects which were raised during the interview and he made the best impression with regard to the analysis of the subject and the formulation of his replies, both in Greek and in English.
- 20 (2) *Roussos Argyris*—The observations with regard to the previous candidate are applicable, but he made a better impression.
- (3) *Kleanthous Socrates*—Although he was analytical in his reply, he was devoid of foresight to grasp the
 25 problems and their causes and to look for solutions for them.
- (4) *Frangoulides Charilaos*—He did not show that he understood the questions, he did not answer satisfactorily and he did not make a good impression.

30 The Director of the Department then said that he was in a difficult position to chose between Michael and Roussou. Both were equal as regards performance in their work. In certain fields the one is superior and in others the other. From the point of view of experience and seniority, Michael is very
 35 superior. From scientific point of view, Michael carried out more researches, although formally his qualifications are lower.

After the withdrawal of the Director, the respondent Commission took up the examination of the relevant schemes of

service which require as an indispensable qualification a University title or equivalent diploma in Social Work, Sociology, Social Psychology or other suitable subjects, and decided to ask the views of the Attorney-General on the correct meaning of the term "equivalent Diploma" (isodynamou diplomatos) in the schemes of service and whether the following diplomas could be considered as equivalent diplomas for the purposes of the said scheme: 5

- (a) Diploma in Social Policy and Administration, Swansea University College. 10
- (b) Post-graduate Diploma in Urban Social Development, Institute of Social Studies, The Hague, Netherlands.
- (c) Degree of Bachelor of Arts in Sociology, after studies of one and a half year, namely, from August 1968 to January 1970. 15

The Attorney-General of the Republic by his letter dated 13.2.1980 informed the respondent Commission that the term "equivalent diploma" means a diploma of the level of a University title but the matter is not a legal but a factual one for which the respondent Commission has exclusive competence to decide and is entitled to ask the view of experts as to the nature and the level of the diploma under consideration in order to arrive itself at a final evaluation. After the said advice, the respondent Commission asked the views of the Director-General, Ministry of Education, who, by his letter dated 29.3.1980, with regard to the diploma in Social Policy and Administration had the following to say: 20 25

7 "The Diploma in Social Policy and Administration is mentioned in some way (reference is made to the Diploma in Social Studies, Diploma in Social Policy) in the book 'Higher Education in the United Kingdom', pages 246-247, in the section of postgraduate titles and programmes in a special note (please see photocopy, Appendix 'A'). 30

However, specific reference of the Diploma in Social Policy and Administration is made at p. 75 of the Prospectus of the University of Swansea where it is described as a special programme on a post-graduate level which was first introduced at the University of Swansea in 1953 after 35

5 a request of the United Nations. The programme may be followed by University graduates *and by non-graduates* who must, among other things, be able to prove that they are capable of following studies at a University level (please see photocopy Appendix 'B')".

10 When the respondent Commission noticed that applicant Michael possessed the Diploma in Social Welfare for Students from Overseas of the University College of Swansea, asked the views of the Ministry of Education as regards this one as well. It also asked the views of the appropriate Authority as to whether the aforesaid qualifications could be considered as a University title or equivalent diploma in Sociology, Social Psychology or other suitable subjects in accordance with the schemes of service.

15 The respondent Commission at its meeting of the 16th February, 1981 (Appendix 7) considered the letters of the Director-General, Ministry of Labour and Social Insurance, dated 30.6.80 and 23.1.81 whereby he certified that the qualifications of the candidates were, in his view considered as University
20 title or other equivalent diploma, etc., and that that was implied from the fact that the candidates recommended from the Departmental Board, with which the appropriate Authority agreed, were considered as suitable to compete for the post of Principal Welfare Officer. In its minute (Appendix 7 -
25 exh. A), the respondent Committee sums up the position and sets out also the views of interested party Roussos who, by letter dated 13.11.1980, maintained that the Diploma in Social Policy and Administration which was given after a one year's study could not be considered as a University title or
30 its equivalent in accordance with the scheme of service. In support of that allegation, he forwarded also a letter of the University of London to a certain Mr. A. Savvides, dated 18.5.1979. The respondent Commission refers also to the letter of the Director-General of the Ministry of Education
35 of the 19.11.1980 with regard to the level of the diplomas "Diploma in Social Policy and Administration" and "Diploma in Social Welfare for Students from Overseas" of the University College of Swansea, and the replies of the Department of Education and Science of the United Kingdom as well as
40 of the University College of Swansea, attached to it.

In its letter the Department of Education and Science of the United Kingdom, dated 29.10.1980, mentions that the course "Social Policy and Administration" of Swansea is a postgraduate course of a duration of nine months for students of developing countries or those who work in developing countries. With regard to the "Diploma in Social Welfare for Students from Overseas" they said that they had no details of the course and suggested that for both diplomas the University College of Swansea and the "National Equivalence Information Centre of the British Council" in London, should be asked.

In the letter of the University College of Swansea dated 3.11.1980 (exhibit 7, Doc. No. 11), the following is stated:

"Thank you for your letter of 7th October enquiring about the level of the Diplomas awarded by us. I am very pleased to enclose copies of our current brochures, together with the latest newsletter of the Centre, our '21st Anniversary Bulletin' and the College prospectus. In fact the long-standing 'overseas courses' became the foundation of this Centre in 1977.

As far as your specific query is concerned, you will see on page 2 of the enclosed Bulletin that the Social Welfare Diploma was re-named the Diploma in Social Policy and Administration in 1961. This Diploma has always been postgraduate, in the sense that the majority of entrants have been graduates and the level has been set for them and by them. However, in that it is obtained after only one academic year of study, it is not normally regarded by British universities as equivalent to a first degree. For example, in considering our Diploma graduates for entry to our own M.Sc. programmes, the University is only prepared to consider them if, prior to the Diploma, they have completed two or more years of study at tertiary level (though not necessarily at a University).

As you may know a dozen or more Cypriot students have successfully completed the Diploma course over the years, even though they were non-graduates and had comparatively little experience of advanced study. Though the course is normally postgraduate it has always been our policy to admit a small number of students each year

(3-4 out of 20) who are experienced and well-supported by referees but have not had the opportunity to complete degrees.

5 It is important to stress that concessions are not made to such students. In order to pass they have to attain the level set for postgraduates and, if necessary, to work with enormous application to catch up on basic social science subjects in addition to the normal Diploma curriculum.

10 In sum, the Diploma is not equivalent to a first degree in terms of length but, in terms of the quality of academic work required to reach pass level, it is higher, in terms of salary increments, I understand that it is counted in many countries as equivalent to a first degree, not only because
15 of the level reached but also because of the fact that it is oriented towards improving working performances.

I hope that this explanation satisfactorily answers your queries and trust that, in the future, we may have the pleasure of receiving other students from Cyprus".

20 The respondent Committee then decided to obtain in addition the views of the National Equivalence Information Centre of the British Council as it was advised to do. It decided further to ask from the appropriate Authorities of the Netherlands, through the Ministry of Foreign Affairs, information as to
25 whether the "Postgraduate Diploma in Urban Social Development" of the Institute of Social Studies of Hague which was possessed by applicant Michael, was equivalent to a University degree or diploma.

30 At its meeting of the 29.4.81 (see Minutes App. 8), it considered a letter from the Director-General of the Ministry of Foreign Affairs dated 14.3.1981, by which he transmitted a telex dated 10.3.1981 (exhibit 7, Doc. No. 3) from the Ambassador of the Republic in Brussels, who is also accredited to the Netherlands, and which is as follows:

35 "Post Graduate Diploma in Urban Social Development" which is obtained after special studies by already holders of a degree (Bachelors).

In exceptional circumstances, however, and if the general

level of the candidate is found to be satisfactory (experience, output in work, etc.), it is possible for one to be accepted to follow relevant lessons and obtain 'Post Graduate Diploma in Urban Social Studies' without being already 'Bachelor'. In any event this diploma is independent and is not equivalent with a University degree since for the B.A. there are required three to four years of studies, whereas for this diploma for which you are interested are needed nine months of studies. 5

Let it be noted that this course has already been replaced by another which has the title 'Rural and Agricultural Project'. Duration six months". 10

It further considered a telex of the Central Information Services of the British Council to the British Council Cyprus dated 22.4.1981 (exhibit 7, Document No. 1), with regard to the "Diploma in Social Welfare for Students Overseas" or "Diploma in Social Policy and Administration" of the University of Swansea, which was in response to a letter of the Chairman of the respondent Commission dated 23rd February, 1981, addressed to the British Council in London (exhibit 7, Document No. 5). They read as follows:- 15 20

(Document No. 5):

"I shall be grateful if you would kindly supply this office with information on the academic significance accorded by the 'National Equivalence Information Centre' to the 'Diploma in Social Welfare for Students from Overseas' or 'Diploma in Social Policy and Administration' awarded by the University College of Swansea of the University of Wales. 25

The question at issue is whether the Diploma in Social Welfare or in Social Policy and Administration, of the University College of Swansea, University of Wales, is regarded in the United Kingdom as equivalent to a First Degree. 30

The Centre for Development Studies of the University College of Swansea has informed the Director-General of the Ministry of Education of Cyprus, by a letter dated 3rd November, 1980, signed by the Deputy Director, that the 35

said Diploma 'is not normally regarded by British Universities as equivalent to a First Degree' and that it 'is not equivalent to a First Degree in terms of length but, in terms of the quality of academic work required to reach pass level, it is higher''.

(Document No. 1):

"BRITCOUN C/O UKREP NICOSIA

FOR REPRESENTATIVE FROM PICKARD. CIS W350
DIPLOMA IN SOCIAL POLICY AND ADMINISTRATION IS A POSTGRADUATE DIPLOMA. CANDIDATES SHOULD NORMALLY POSSESS A DEGREE OR HAVE COMPLETED AT LEAST TWO YEARS OF POST-SECONDARY EDUCATION. WITH AT LEAST THREE YEARS RELEVANT WORKING EXPERIENCE. WOULD EMPHASISE THAT IT IS A POSTGRADUATE DIPLOMA RATHER THAN A POSTGRADUATE DEGREE. ALTHOUGH ACADEMIC LEVEL IS POSTGRADUATE.

A HOLDER OF THIS DIPLOMA WHO DOES NOT POSSESS A FIRST DEGREE COULD NOT BE REGARDED AS HAVING A FIRST DEGREE. AS SUBJECT MATTER OF DIPLOMA IS VERY SPECIALISED AND ENTIRELY DIFFERENT TO A FIRST DEGREE COURSE IN ANY SUBJECT. HOLDER OF DIPLOMA WOULD BE QUALIFIED FOR WORK IN A SPECIALISED FIELD. PLEASE APOLOGISE FOR DELAY DUE TO ABSENCE ON LEAVE.

PLEASE NOTE ALSO THAT COMPARISON OF BRITISH QUALIFICATIONS IS DEALT WITH BY CIS SUBJECT SERVICES. NOT NEIC".

In the said minute the respondent Commission also refers to a letter of applicant Michael dated 28.3.1981 whereby he maintained that the "Diploma in Social Welfare for Students from Overseas" or "Diploma in Social Policy and Administration" of the University of Swansea, and the "Postgraduate Diploma in Urban Social Development" of the Institute of Social Studies of the Netherlands, were equivalent of a University

title and therefore he satisfied the requirements of the scheme of service for the post of Principal Welfare Officer.

The respondent Commission then set out in the said minutes its conclusions on the qualifications of the two applicants and the other candidate Kleanthous:

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“The Commission after a detailed study of the scheme of service, came to the conclusion that the Diploma in Social Welfare which previously was entitled ‘Diploma in Social Policy and Administration’ could not be considered as a University title or equivalent diploma in ‘Social Work, Sociology, Social Psychology or other suitable subject’ within the meaning of para. 3(a) of the scheme of service”.

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Likewise the Commission concluded that the Postgraduate Diploma in Urban Social Development of the Institute of Social Studies of the Hague, cannot be considered as a University title or equivalent diploma as above.

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In view of the above, the candidates recommended by the Departmental Board, Messrs. Socrates Kleanthous, who is the holder of a Diploma in Social Policy and Administration of the University College of Swansea and Diploma of the British Tutorial Institute of a completed series of lessons (Course of Study in Social Welfare) by correspondence, Christoforos Michael, who possesses a Diploma in Social Welfare of the University College of Swansea and Postgraduate Diploma in Urban Social Development of the Institute of Social Studies of the Hague, and Charilaos Frangoulides, who possesses a Postgraduate Diploma in Social Policy and Administration of the University College of Swansea and Diploma in Business Management of La Salle Extension University of Chicago, by correspondence, are found that they do not satisfy the scheme of service and consequently they cannot assume the post of Principal Welfare Officer.

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Particularly for Mr. Charilaos Frangoulides it is noted that the Diploma in Business Management, although it is of a three years cycle of studies and consequently it could be considered as equivalent to a University title, yet it refers to a subject not suitable in the sense of para. 3(a) of the scheme of service.

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It was after this conclusion that the respondent Commission

proceeded to examine the merits, qualifications and abilities of the interested party Roussos and decided to promote him to the permanent post of Principal Welfare Officer as from the 15.5.1981.

5 The identical grounds of law relied upon by each applicant in support of his application, as set out therein, are the following:-

10 “(A) The applicant satisfied the scheme of service in force at the time of the decision and the decision taken that the applicant does not possess all the qualifications required by the scheme of service is contrary to law.

15 (B) The decision is contrary to law as being contrary to the Regulations issued under section 36 of the Public Service Law. The applicant under regulation 7 of the said Regulations was chosen together with three other applicants by the Departmental Board as suitable for promotion and the Public Service Commission had no right to question the qualifications of the applicant since at its meeting of the 17th February, 20 1977, it had decided that he possesses the qualifications required by the relevant scheme of service for the post of Principal Welfare Officer.

25 (C) The Public Service Commission acted contrary to the Regulations as after it decided that the applicant did not satisfy the required qualifications under the relevant scheme of service, it did not refer the matter back to the Departmental Board for submission by it of a new list of candidates.

30 (D) That the decision of the respondent Commission is not duly reasoned.

(E) The applicant is manifestly superior to the interested party with regard to service and qualifications”.

35 This ground dealing with the comparison of the candidates was abandoned as no such comparison was made between the applicants once the two applicants were excluded as not being eligible for non-possessing the required qualifications.

I may conveniently dispose first of ground (D) regarding the alleged lack of reasoning of the subject decision. No doubt an examination of the text of the decision as such and a perusal of the record as already outlined in this judgment, shows that the subject decision is duly and cogently reasoned viewed both by itself and as supplemented by all the material in the file. Moreover it was taken after a painstaking and thorough inquiry which showed how mindful of its responsibilities and anxious to arrive at the right decision on the matter the respondent Commission has been.

Relevant to the grounds of law argued is section 36 of the Public Service Law 1967 (Law No. 33 of 1967) which reads as follows:-

- “(1) The Council of Ministers may establish Departmental Boards to advise the Commission in respect of appointments or promotions to any office which is not a specialized office.
- (2) The composition, functions and procedure of any such Board shall be determined by the Council of Ministers”.

In the exercise of its powers under subsection 2 hereof, the Council of Ministers prepared regulations which came into force on the 1st June, 1979 (exhibit 2) and to those relevant to our case reference will be made in due course.

It has been the case for the applicants that once they were placed on the list of candidates under regulation 4, which provides that the Departmental Board examines all the applications received for the published vacant post or depending on the circumstances, the list of the candidates for promotion, and prepares a list of those candidates who possess the qualifications specified in the relevant scheme of service, the respondent Commission could not itself inquire further into the question whether the candidates so placed on the list possessed the required qualifications or not. In support thereof reference was made to the provisions of regulations 5 and 6 whereby the Departmental Board considers the merit of the candidates and then submits a report to the Public Service Commission containing in alphabetical order the names of those recommended for selection, for appointment or promotion, together

with the conclusions of the Departmental Board regarding the merit of all the candidates and that not less than two not more than four may be recommended for every vacant post so long as there exist suitable candidates for such recommendation.

5 Moreover, regulation 7 was invoked as setting down the powers and duties of the Public Service Commission as being that after taking into consideration the conclusions of the Departmental Board regarding the candidates, the Commission proceeds to select those to be appointed or to be promoted
10 out of those recommended by the Departmental Board, giving reasons for such final selection. I do not subscribe to this view. The functions of the Public Service Commission are set out in section 5 of the law. It reads:

15 "Save where other express provision is made in this or any other law with respect to any matter set out in this section and subject to the provisions of this or any other law in force for the time being, it shall be the duty of the Commission to appoint, confirm, emplace on the permanent establishment, promote, transfer, second, retire and exercise
20 disciplinary control over, including dismissal or removal from office of, public officers".

Therefore, whatever the provisions of the aforementioned regulations are, they could not take away the competence of the respondent Commission as provided by the law and they
25 have to be interpreted in such a way as to be *intra vires* and not *ultra vires* of the empowering law. In my view, they cannot but be considered as regulating the functions of the Departmental Boards and as setting out the procedure to be followed by them for the purpose of assisting the Public Service Commission to exercise its competence under the law, which in the case
30 of promotions is regulated further by section 44 of the Law, whereby under para. (b) of subsection 1 thereof, one of the matters to be examined by the Commission is whether a candidate for promotion to another office possesses the qualifications laid down in the scheme of service for that office.
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In fact on the 11th July, 1974 and on the 13th January, 1977, applicant Michael was considered by the respondent Commission as a candidate for the vacant post of Principal Welfare Officer. On the second occasion applicant Frangoulides was also consi-

dered, though neither of them was selected for promotion. It has been argued on their behalf that once they were so treated on those occasions as possessing the required qualifications under the relevant scheme of service for the said post, the respondent Commission could not inquire into the question of their qualifications afresh. In my view the respondent Commission was not in law precluded, and indeed it had a duty, to examine whether the applicants, along with all other candidates, had, on the occasion under consideration, the required qualifications under the relevant scheme of service for the post in question. More so, in view of the fact that different persons were involved on this occasion, as compared with the candidates that it had before it on the two previous occasions. Support for this proposition may be found in the case of *Ktorides v. The Republic* (1973) 3 C.L.R., p. 171, where at page 174, Triantafyllides, P., says:

“..... and the fact that he had been previously promoted, in 1964, to the post of Assistant Inspector, under a scheme of service requiring the same educational qualification as the scheme of service for the post involved in the present proceedings, did not preclude the respondent Commission—which was set up under the Public Service Law, 1967 (Law 33/67) and is a different body from that functioning in 1964—from ensuring on the present occasion due compliance with the relevant scheme of service, in a manner in which it was reasonably open to it, even if the conclusion it reached as to the level of the education of the applicant was not the same as before (and see, also, in this respect *Sofocleous (No. 2) v. The Republic* (1972) 3 C.L.R. 537)”.

Admittedly, the principle is somehow qualified by the reference that the respondent Commission in that case was a different body from that functioning in 1964 but that, in my view, does not exclude the application of the principle when it comes to a determination of the matter by the same body and in any event where the rights to be determined include persons which were not parties to another administrative act reached on a previous occasion between different parties. This ground, therefore, should fail.

The next ground relied upon on behalf of the applicants has

been that when the scheme of service speaks of a "University title" it does not mean a title in "Social Work, Sociology, Social Psychology or other suitable subject", which categories should be read in conjunction with the term "equivalent diploma" that precedes them in the relevant part of the scheme of service, but any University title whatsoever and applicant Frangoulides should have been considered eligible because he possesses a Diploma in Business Management of La Salle Extension University of Chicago, by correspondence, which is of a three year cycle of studies, though not falling within the categories enumerated in the scheme of service. I do not subscribe to that interpretation.

The aforesaid scheme of service provides in so far as relevant to this argument:

15 "3. *Required qualifications*

- (a) University title or equivalent diploma in Social Work, Sociology, Social Psychology or other suitable subject".

This provision has to be read as a whole and not read as meaning University title of any kind and unrelated to Social Work, Sociology, Social Psychology or other suitable subject which, it has been urged, only relate to the alternative to the "University title", namely the "equivalent diploma". It would be unreasonable to consider that there was no restriction to the "University title" relevant to the nature of the duties of the office and yet there were such restrictions in the case when the alternative of an "equivalent diploma" is possessed.

Finally, it has been argued that the qualifications of the two applicants did not justify the conclusion of the respondent Commission that they were not eligible. I do not agree with this submission either as on the material before it the respondent Commission could reasonably arrive at the conclusion it did.

It was established in the case of *Papapetrou v. The Republic*, 2 R.S.C.C., p. 61, and reiterated in *Petsas v. The Republic*, 3 R.S.C.C. p. 60, at p. 63, that:

35 "..... this Court will not give to a scheme of service an interpretation other than that given to it by the Commission, provided that such interpretation was reasonably

open to the Commission. Likewise, in determining whether a certain applicant in fact possesses the relevant qualifications the Commission is given a discretion, and this Court can only examine whether the Commission, on the material before it, could reasonably have come to a particular conclusion". 5

This principle has been consistently followed by this Court in a number of cases which are referred to in the case of *Andreou v. The Republic* (1979) 3 C.L.R., p. 379, at pp. 386-7.

In the present case I have come to the conclusion that it was reasonably open to the respondent Commission to interpret and apply the relevant scheme of service as it has done. The fact that in its reasoning it refers to the question of the time length necessary for obtaining the qualifications possessed by the applicants, does not change the position as the length required for a particular course is a factor to be taken into consideration along with other factors when considering whether a diploma is equivalent to the required University title. 10
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For all the above reasons these recourses are dismissed but in the circumstances I make no order as to costs. 20

Applications dismissed. No order as to costs.