

1987 February 5

[A LOIZOU J]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

GEORGHIOS S SARRIS

Applicant

v

THE REPUBLIC OF CYPRUS AND/OR
THE EDUCATIONAL SERVICE COMMISSION,

Respondent

(Case No 424/83)

Educational Officers—The Educational Officers (Teaching Staff) (Appointments Emplacements, Transfers, Promotions and Related Matters) Regulations—Regs 5 and 10(2)—The list compiled under reg 5—Reg 10(2) clearly sets out rules of priority—Respondents not entitled to disregard such rules

5 Notwithstanding the fact that the name of the applicant was placed prior to the names of the interested parties on the list of candidates, which had been prepared in accordance with reg 5 of the aforesaid regulations the respondents appointed on contract to the post of school master of Chemistry, the interested parties As a result the applicant filed the present recourse

10 Held *annulling the sub judice decision* that reg 10(2) of the said Regulations sets out clearly the rules of priority and as our case law shows the respondent Commission was not entitled to disregard its provisions

*Sub judice decision annulled
No order as to costs*

15 *Cases referred to*

Psara-Kronidou v The Republic (1985) 3 C L R 1900

Kynakidou v The Educational Service Commission (1986) 3 C L R 913

Kouis and Others v The Republic (1986) 3 C L R 1874,

Sarns v The Educational Service Commission (1987) 3 C L R 186

20 **Recourse.**

Recourse against the decision of the respondent to appoint and/or for appointment on contract, to the post of School Master

of Chemistry in the Secondary Education the interested parties in preference and instead of the applicant

A S Angelides with L Sarris, for the applicant

R Petridou (Mrs), for the respondent

Cur adv vult 5

A LOIZOU J read the following judgment By the present recourse the applicant seeks (a) Declaration of the Court that the act and/or decision of the respondent Commission by which they appointed and/or appointed on contract Athanasia Nicolaidou, Andrea Stavrakı and Elisavet Temprioti, to the post of School-Master of Chemistry is null and void and with no legal effect (b) Declaration of the Court that the refusal and/or omission of the respondents to appoint the applicants to the post of School-Master of Chemistry in spite of his prnity on thę list of candidates for appointment, is null and void and with no legal effect 10 15

The facts of the case are briefly these The applicant graduated in 1973 from the Metsovio Polytechnic of Athens with a degree in Chemical Engineering His name was placed on the List of Candidates for appointment as a School-Master of Chemistry, under senal No 21 The said list of candidates was prepared by virtue of the provisions of Regulation 5 of the Educational Officers (Teaching Staff) (Appointments, Emplacements, Transfers, Promotions and Related Matters) Regulations 1972 as amended Under the provisions of Regulation 10(2) thereof «appointments on contract are made in order of prnity from the relevant lists of persons to be appointed» 20 25

The three interested parties were likewise placed on the aforesaid list under senal Nos 28 29 and 33

The respondent Commission by its decision of the 12th September, 1983, appointed on contract the said three interested parties for a year commencing the 1st September, 1983 to the 31st August, 1984, in preference and instead of the applicant who had obvious prnity over them in accordance with the aforementioned Regulation 30

In the case of *Psara - Kronidou v The Republic*, (1985) 3 C L R 1900 it was held that the respondent Commission could not disregard the provisions of the aforementioned Regulation 10(2), 35

which for all intents and purposes at the time of taking the sub
 judice decision was in force. This principle was followed in the
 cases of *Loukia Kyriakidou v. The Educational Service*
 Commission, Recourse No. 785/85 judgment delivered on the
 5 4th June, 1986*; *Kouis and Others v. The Republic*. Recourse No
 34/85, judgment delivered on the 25th September 1986.** and
 also in *Georghios S. Sarris. v. The Educational Service Com-*
mission, Recourse No. 940/85. judgment delivered on the 27th
 10 January, 1987 - both judgments as yet unreported*** - where
 extensive reference is made to the relevant Case Law of this Court

In all fairness, counsel for the respondent Commission has not
 advanced any argument to the contrary, in view of the well settled
 by now, Case Law of this Court on this point. above referred to

I find no reason whatsoever to disagree with the approach of my
 15 learned Brethren in the recourses just referred to The said
 Regulation sets out very clearly the rules of priority which had to
 be observed in appointing on contract educational officers by the
 respondent Commission, so long as the said Regulation was in the
 Statute book.

20 For all the above reasons, this recourse succeeds and the sub
 judice decision is declared null and void and with no legal effect
 whatsoever.

In the circumstances, however, there will be no order as to costs

25 *Sub judice decision annulled*
No order as to costs

* Reported in (1986) 3 C L R 913

** Reported in (1986) 3 C L R 1874

*** Reported in (1987) 3 C L R 186