

1988 October 17

[A. LOIZOU, P., MALACHTOS, SAVVIDES, PIKIS, KOURRIS, JJ.]

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Appellant-Respondent,

v.

CHARALAMBOS CHRISTODOULIDES AND OTHERS,

Respondents-Applicants.

(Revisional Jurisdiction Appeal No. 773).

Public Office—Appointments/Promotions—The Public Service Law, 1967 (Law 33/67), section 31(3), as amended by section 2 of Law 31/80—Object of amendment—Section as amended overrides section 33(b).

Public Officers—Appointments/Promotions—Scheme of service—"University degree or title or equivalent degree in a suitable subject, e.g. Public Administration, Law, Economic or Political Sciences, Business Administration etc"—Subjects enumerated do not form a genus—Ejusdem generis rule of interpretation inapplicable—English language—Reasonably open to the Commission to consider it as a suitable subject.

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A Judge of this Court annulled* the promotion: (A) Of six interested parties as Administrative Officers on the ground that they had not passed written examinations, as required by the scheme of service, and (B) Of two other interested parties as Administrative Officers on the ground that it was not reasonably open to the respondents in the recourse to treat "a diploma in English language" as a diploma in a "suitable" subject within the meaning of the same scheme of service.

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The six interested parties referred to under (A) above were prior to their sub judge promotion serving to the permanent post of Administrative Officer on a month-to-month basis. The respondent in the recourse adopted the advice of the Deputy Attorney-General and decided that in the light of section 31(3) of the Public Service Law, 1967 (Law 33/67), as amended by section 2 of Law 31/80, the six parties were qualified, notwithstanding that they had not passed special written examinations.

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* (1987) 3 C.L.R. 2095

Sub-section 31(3) read, prior to its amendment, as follows:

"(3) An advertisement of a vacancy in a post shall give full particulars of the relevant scheme of service and shall specify the date by which applications shall be submitted."

5 The same provision reads after its amendment as follows:

"(3) An advertisement of a vacancy in a post shall give full particulars of the relevant scheme of service and shall specify the date by which applications shall be submitted.

10 Provided that whenever the advertised post is a permanent one, the submission of application on the part of officers who, having been selected and appointed by the Commission, are serving in the post either on secondment or from month to month or who are serving in a temporary post under the same title and governed by the same schemes of service is not necessary".

15 The relevant qualifications as regards the promotion of the interested parties under (B) above read as follows:

"University Degree or title or equivalent qualification in a suitable subject e.g. Public Administration, Law (including Barrister-at-Law) Economic or Political Sciences, Business Administration etc."

20 The recourse as against the other interested parties failed on the ground that the applicants failed to establish striking superiority.

The appeal is directed against the annulling part of the Judgment. The cross-appeal against the dismissal of the recourse as far as some of the other interested parties were concerned.

25 Held, allowing the appeal and dismissing the cross-appeal:

30 (A) Per Savvides, J.; A. Loizou; P., Malachtos, Pikis and Kourris, JJ., concurring: (1) This Court cannot agree with the interpretation given to section 31(3) of the Public Service Law, as amended, by the trial Judge. Prior to the amendment there was no differentiation between candidates who were not in the public service and those holding the post and performing the duties attached thereto on a temporary or unestablished basis.

The object of the amendment was safeguarding of the position of those who were already appointed and holding a post temporarily or from month

to month or on secondment.

(2) The Cross-appeal should be dismissed as the respondents (applicants in the recourse) failed to establish striking superiority.

(B) Per Savvides, J., A. Loizou, P., Malachos and Kourris, JJ. concurring, Pikis, J. dissenting: The trial Judge, as regards the matter of the Diploma in English language was concerned, treated the subjects, expressly referred to in the scheme of service as forming a "genus" and applied the "ejusdem generis" rule of interpretation,

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However, the aforequoted part of the scheme of service provides for a university degree or diploma in a "suitable subject" and then proceeds on to enumerate various examples. The examples enumerated are not indicative of a genus but they are merely an enumeration of various examples which are not exhaustive, concerning the suitability of a subject.

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In the circumstances it was reasonably open to the Commission to treat English language as a suitable subject.

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Appeal allowed.

Cross-appeal dismissed.

Cases referred to:

Frangoulides and Another v. The Public Service Commission (1985) 3 C.L.R. 1683;

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Republic v. Xinari (1985) 3 C.L.R. 1922;

Der Parthog v. Cyprus Broadcasting Corporation (1984) 3 C.L.R. 635;

Christoudias v. Republic (1985) 3 C.L.R. 512.

Appeal.

Appeal against the judgment of a Judge of the Supreme Court of Cyprus (Demetriades, J.) given on the 21st December, 1987 (Revisional Jurisdiction Cases Nos. 145/83, 156/83, 190/83 and 279/83)* whereby the decision of the respondents - appellants to promote the interested parties to the post of Administrative Officer was partly annulled.

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* Reported in (1987) 3 C.L.R. 2095.

N. Charalambous, Senior Counsel of the Republic, for the appellants.

C. Loizou, for respondent.

A.S. Angelides, for interested parties P. Pikrides, Y. Mallourides, L. Athanassiou, Chr. K. Loizou and R. Koutsiou.

Cur. adv. vult.

A. LOIZOU, P.: The judgment of the Court (A. Loizou, Malachos, Savvides, Kourris) will be delivered by Mr. Justice Savvides, Mr. Justice Pikiis will deliver a separate judgment.

SAVVIDES J.: This is an appeal by the Republic of Cyprus respondent in recourses Nos. 145/83, 156/83, 279/83, 190/83, against that part of the judgment of a Judge of this Court sitting in the first instance, whereby he annulled the promotion of eight out of 35 interested parties the promotion of whom was being challenged by the respondents in this appeal and other applicants by separate recourses which were heard together.

One of the applicants in recourse No. 145/83 namely applicant No. 3 died prior to the conclusion of the hearing and the recourse on his behalf was withdrawn and dismissed.

By their recourses the applicants were challenging the promotion of 35 candidates (the interested parties) to the post of Administrative Officer which was decided by the respondent Commission and was published in the official Gazette No. 1845 of 4th March, 1983, under Notifications 416 and 417.

The facts which preceded the taking of the sub judice decision are as follows:

By letter dated the 14th January, 1982, the Ministry of Finance requested the appellant Commission to proceed with the filling of 14 vacancies in the post of Administrative Officer as well as 22

consequential vacancies in the same post. The vacancies were published in the official Gazette of the Republic dated the 5th February, 1982, and the matter was referred to the Departmental Committee which was set up for the purpose and which, by its report submitted by letter dated the 24th May, 1982, recommended 100 candidates for the posts in question. 5

The appellant Public Service Commission at its next meeting dated the 11th June, 1982, noticed that those candidates serving in the permanent post of Administrative Officer on a month to month had not passed the special written examination required by paragraph 3(4) of the scheme of service and decided to seek advice as to whether they could be considered as qualified candidates for the posts in view of the fact that they possessed, at the time of their appointment to these posts, the qualifications required by the schemes of service which were in force at the time of their appointment, where no provision was made for success in the special examination. The Deputy Attorney-General, by a letter dated the 3rd July, 1982, advised the appellant that the said candidates could be considered as qualified although they had not passed the special examinations, in view of the provisions of section 31(3) of the Public Service Law as amended by Law 31/80. 10
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At its meeting dated the 8th July, 1982, the appellant adopting the advice of the Attorney-General's Office, decided to consider the above candidates as qualified and to invite them to an interview. At some later stage the Commission decided, after examining the result of the written examinations, to call for an interview also certain other candidates who were not recommended by the Departmental Committee, amongst whom applicants Vassilia Kyrmitsi and Costas Papasavvas, as well as interested parties Vassilios Vassiliou and Tasoula HadjiProdromou-Kokkinotrimithiotou, the latter after certain explanations were given by her and the Director-General of the Ministry of Agriculture, where she was serving, regarding her psychological state at the time of her interview with the Departmental Committee. 25
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After the completion of the personal interviews, the appellant 35

heard, at its meeting of the 16th October, the evaluation of the Director of the Department as to the performance of the candidates during the interviews, and proceeded, on the 2nd November, 1982, to its own evaluation of the candidates and the selection for appointment of 36 candidates.

At its meeting, which took place on the 2nd December, 1982, the appellant decided to offer appointment to 35 of those candidates, leaving the matter of the appointment of interested party Rossidou open until further information was received from the Chief of Police regarding her character.

In view of the fact that two of the candidates did not accept the offer of appointment, the appellant met again and decided to offer appointment to Charalambos Kapsos and promotion to Kypros Manoullous.

The appointment/promotion of these 35 interested parties (as from the 1st February, 1983) was published in the official Gazette of the Republic dated the 4th March, 1983, as a result of which recourse No. 145/83 was filed together with other recourses challenging such promotions.

The appellant in taking the sub-judice decision and considering that written examinations were not required for certain candidates who were holding the post on temporary basis relied on the advice of the Deputy Attorney-General which was based on the interpretation of sub-section (3) of section 31 of the Public Service Law, 1967 (Law 33 of 1967) as amended by section 2 of Law 31/80.

Section 31, as amended, provides as follows:
 (1) Κενή θέσις Πρώτου Διορισμού ή κενή θέσις Πρώτου Διορισμού και Προαγωγής δημοσιεύεται εις την επίσημον εφημερίδα της Δημοκρατίας.
 Νοείται ότι ουδεμία τοιαύτη δημοσίευσις γίνεται εις πε-

ρίπτωσιν πληρώσεως τοιαύτης κενής μονίμου θέσεως δημιουργηθείσης έναντι ή συνεπεία καταργήσεως ή αντικαταστάσεως ετέρας αντιστοίχου προσωρινής θέσεως οπότε η Επιτροπή πληροί την θέσιν ταύτην διά του διορισμού ή προαγωγής, ως θα ήτο η περίπτωση, του υπαλλήλου του υπηρετούντος ήδη εις την ούτω καταργηθείσαν προσωρινήν θέσιν και οσάκις ο αριθμός των ούτω δημιουργηθεισών θέσεων είναι μικρότερος του αριθμού των αντιστοίχων προσωρινών θέσεων τινές των οποίων καταργούνται η Επιτροπή πληροί τας θέσεις ταύτας κατ' επιλογήν μεταξύ των υπαλλήλων των υπηρετούντων εις τας προσωρινάς θέσεις και ουδέποτε ετέρου υπαλλήλου υπηρετούντος επί αποσπάσει ή από μηνός εις μήνα εις υφισταμένην μόνιμον ιδίαν θέσιν.

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(3) Δημοσίευσις κενής θέσεως παρέχει πλήρη στοιχεία του σχεδίου υπηρεσίας και καθορίζει την προθεσμίαν υποβολής αιτήσεως.

Νοείται ότι οσάκις η δημοσιευομένη θέσις είναι μόνιμος δεν είναι αναγκαία η υποβολή αιτήσεως εκ μέρους υπαλλήλων οίτινες, επιλεγέντες και διορισθέντες υπό της Επιτροπής, υπηρετούν εις την θέσιν είτε επί αποσπάσει είτε από μηνός εις μήνα ή οίτινες υπηρετούν εις προσωρινήν θέσιν υπό τον αυτόν τίτλον και διεπομένην υπό των αυτών σχεδίων υπηρεσίας." 20

and the translation in English reads:

("31.-(1) A vacancy in a First Entry post or a First Entry and Promotion post shall be advertised in the official gazette of the Republic.

Provided that no such advertisement takes place in the case of the filling of such vacant permanent post created in the place of or as a result of the abolition or substitution of another cor- 30

responding temporary post in which case the Commission fills such post by the appointment or promotion, as the case may be, of the officer already serving in the temporary post so abolished and if the number of the posts so created is smaller than the number of the corresponding temporary posts some of which are abolished the Commission fills these posts by selection between the officers serving in the temporary posts and any other officer serving on secondment or on a month to month basis in an existing same permanent post.

(3) An advertisement of a vacancy in a post shall give full particulars of the relevant scheme of service and shall specify the date by which applications shall be submitted.

Provided that whenever the advertised post is a permanent one, the submission of applications on the part of officers who, having been selected and appointed by the Commission, are serving in the post either on secondment or from month to month or who are serving in a temporary post under the same title and governed by the same schemes of service is not necessary.)

The learned trial judge in dealing with the first issue before him which concerned the interpretation of sub-section 3 of s.31 of Law 33/67 as amended by Law 31/80 and the question whether the six candidates who were already serving on temporary basis in the same permanent posts or serving in corresponding abolished posts had to satisfy the condition in the scheme of service requiring written examinations of the candidates found as follows:

"The proviso to subsection (3) concerns vacancies in permanent posts which became vacant for any other reason (and not as a result of the abolition of other corresponding permanent posts and the creation of new permanent posts in substitution). In such a case the vacancies have to be advertised but

those already serving in the posts do not have to submit applications but are automatically considered as candidates for appointment or promotion.

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The advice of the Deputy Attorney-General was to the effect that the provision in the proviso to section 31(3) that officers already serving in the post, either on secondment etc., are exempted from submitting applications and are thus automatically considered as candidates, does not reconcile with the requirements that they should also possess the qualifications for appointment to the post. This, in the Deputy Attorney-General's view, affords a deviation to section 33 which provides that no person is appointed in a post in the public service unless he possesses the qualifications enumerated in the scheme of service for the specific post, and any other interpretation of the proviso would have been unjust to those officers whose qualifications would have to be considered for a second time.

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I think there has been a misunderstanding in this respect on the part of counsel for the respondent. The interested parties who are affected by this ground are: 1) Yiannakis Mallourides, 2) Lenia Orphanidou, 3) Michael Parellis, 4) Panikkos Pikrides, 5) Koutsiou Amphitriti Rosana and 6) Telemachos Georghiades. These interested parties, as it appears from the lists of officers which were sent to the Departmental Committee (Appendix 4B), are 'officers holding the temporary posts of Administrative Officer'. So, therefore, even according to counsel's own interpretation, they had to satisfy the requirements of the scheme of service, including paragraph 3(4).

Reverting back to the interpretation of the proviso, I hold the view that the words 'serving in the post either on secondment or from month to month' refer to the permanent post, in contradistinction with the last part of the proviso which refers

to corresponding temporary posts. Although I am inclined to agree with counsel for the respondent that the words 'governed by the same schemes of service' refer only to the last part of the proviso, I do not intend to make a finding at this stage in view of the fact, as I said earlier, that the case of the six interested parties concerned falls within this last part and taking, also, into consideration that this proviso has, in the meantime, been repealed by Law 10/83. Obviously the words 'governed by the same scheme of service' apply at least to those officers holding a corresponding temporary post and covers the case of the six interested parties concerned.

Be that as it may, I do not agree with the view that the provisions of this proviso are either in conflict or can override the provision of section 33(c) that no person can be appointed in a post unless he possesses the qualifications required by the schemes of service for the post in question."

As a result of his above conclusion he annulled the appointment or promotion of the aforesaid six candidates.

The learned trial Judge then proceeded to examine the question whether in the case of two candidates, interested parties Loucas Athanassiou and Chrystalleni Kousta, the Diploma in English Literature of the University of Salónica which they possessed satisfied paragraph 3(1) of the scheme of service for the post.

Paragraph 3(1) of the said scheme reads as follows:

"Πανεπιστημιακόν Δίπλωμα ή τίτλος ή ισότιμον πρόσον εις κατάλληλον θέμα π.χ. την Δημοσίαν Διοίκησιν, τα Νομικά περιλαμβανομένου του (Barrister-at-Law), τας Οικονομικάς ή Πολιτικάς Επιστήμας, την Διοίκησιν Επιχειρήσεων κ.λπ."

("University Degree or title or equivalent qualification in a suitable subject e.g. Public Administration, Law (including Barrister-at-Law) Economic or Political Sciences, Business

Administration etc.")

The answer of the learned trial Judge to the above question was as follows:

"If the words 'suitable subject' appeared on their own, I would have agreed that it was reasonably open to the respondent to consider the Diploma in English Literature as satisfying the requirements of paragraph 3(1) of the scheme of service. Having regard, however, to the nature of the subjects enumerated therein, I find that it was not reasonably open to the respondent to decide as it did in this respect. The 'suitable subjects' have to be related to those enumerated in the scheme of service. The appointment of these two interested parties must, also, as a result, be annulled." 5 10

The learned trial Judge, finally dealt with the position of the remaining candidates and after a meticulous comparison of their merits with those of the applicants came to the conclusion that the applicants in all recourses before him failed to establish striking superiority over the interested parties so as to justify the annulment of the sub judice decision. 15

As a result of the above decision the respondent Commission filed the present appeal challenging that part of the judgment whereby the promotion of eight of the interested parties namely, Mallourides, Orphanidou, M. Parellis, P. Pikrides, R. Koutsiou, Tel. Georghiades, L. Athanassiou and Chr. Kouta was annulled. The grounds of law raised by counsel for appellant were that: 20 25

(a) The trial Judge wrongly concluded that interested parties L. Athanassiou and Chrystalleni Kouta did not possess the required, under the scheme of service, diploma;

(b) the trial Judge wrongly annulled the promotion of the other six interested parties on the ground that they did not pass the written examination required by the scheme of service. 30

The respondents in this appeal by notice of cross-appeal challenged that part of the decision of the trial Judge dismissing the recourse against eight of the remaining interested parties namely:

1. Tasoula Kokkinotrimithiotou Hadji Prodromou
- 5 2. Maria Pavlidou Lymboura
3. Eleni Papaleontiou Zanettou
4. Costakis St. Chrysostomou
5. Sofia Logidou Christodoulidou
6. Georghios Papageorghiou
- 10 7. Chrystostomos Hadji Vassiliou
8. Vasilios M. Vasiliou.

on the ground that he wrongly dismissed the recourse of the applicants-respondents in this appeal on the ground that no striking superiority has been established.

15 We shall deal first with the appeal and then with the cross-appeal.

The first ground of appeal concerns the question whether interested parties Loucas Athanassiou and Chrystalleni Kouta did satisfy the scheme of service concerning the possession of a diploma in a "suitable subject".

20 The learned trial Judge as already mentioned found that if under paragraph 3(1) of the scheme of service the words "suitable subject" appeared on their own, he would have agreed that it was reasonably open to the appellant to consider the Diploma in English Literature as satisfying paragraph 3(1) of the scheme but having regard to the subjects enumerated therein he found that the Diploma in English Literature did not fall within the categories enumerated in paragraph 3(1). It is apparent that the fact that certain subjects were enumerated in paragraph 3(1) led the learned trial Judge to treat such examples as a genus, and therefore decid-

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30 ed the case on the principle of ejusdem generis rule.

We find ourselves unable to agree with the construction placed by the learned trial Judge on paragraph 3(1). Such paragraph provides for a university degree or diploma in a "suitable subject" and then proceeds on to enumerate various examples. The examples enumerated are not indicative of a genus but they are merely an enumeration of various examples which are not exhaustive, concerning the suitability of a subject. 5

It has been held time and again by this Court that the interpretation and application of a scheme of service is within the discretion of the appointing organ and this Court cannot interfere if such discretion was reasonably exercised. 10

Bearing in mind the contents of paragraph 3(1) of the scheme of service, as explained above, we find that it was reasonably open to the appellant to construe the scheme of service and find that the diploma of the two interested persons was a diploma in a suitable subject. The appellant, in construing the scheme of service, construed it as a whole bearing in mind also the duties of the post as set out in paragraph 2. The appeal, therefore, in this respect succeeds and the sub judge decision on the appellant to that effect is affirmed. 15
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We come next to consider the position of the other six interested parties whose promotion was annulled by the trial Court.

All six interested parties prior to their appointment/promotion to the sub judge post of administrative officer were holding the temporary post of Administrative Officer, Third Grade, the title of which was changed to Administrative Officer since 1.1.1981, which entailed the performance of the same duties as those in the scheme of service for the sub judge posts which in fact the six interested parties performed efficiently. They had been appointed to such post by the appellant since the following dates: 25
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|--------------------------|--------|
| 1. Yiannakis Mallourides | 2.5.78 |
| 2. Lenia Orphanidou | 2.5.78 |
| 3. Michael Parellis | 1.3.79 |

4. Panikos Pikrides 1.3.79
 5. Rozana Amphitriti Koutsiou 1.3.79
 6. Telemachos Georghiades 1.3.79

5 The promotion of the aforesaid interested parties was annulled by the trial Court on the ground that they did not satisfy the prerequisite under paragraph 4 of the scheme of service which provides "success in special written examination for the post".

10 The case of the above persons rests wholly on the interpretation of sub-section (3) of section 31 of Law 33/67 as amended by s.2 of Law 31/80.

Before embarking on the interpretation of section 31 we have to examine the provisions of s.31 prior to its amendment and then proceed to the examination of the amendment brought about by s.2 of Law 31/80. The original section provided as follows:

15 "31(1) Κενή θέσις Πρώτου Διορισμού ή κενή θέσις Πρώτου Διορισμού και Προαγωγής δημοσιεύεται εις την επίσημον εφημερίδα της Δημοκρατίας.

(2)

20 (3) Δημοσίευσις κενής θέσεως παρέχει πλήρη στοιχεία του σχεδίου υπηρεσίας και καθορίζει την προθεσμίαν υποβολής αιτήσεων."

(S.31(1) A vacancy in a First Entry post or a First Entry and Promotion post shall be advertised in the official Gazette of the Republic.

25 (2)

(3) An advertisement of a vacancy in a post shall give full particulars of the relevant scheme of service and shall specify the date by which applications shall be submitted.").

As the law stood then the appointment of a candidate in the public service had to be made in accordance with the provisions of the law and provided that the prerequisites set out in section 33 of Law 33/67, one of which is "possession of the qualifications set out in the scheme of service for the post for which the appointment is to be made" (s.33(A)), are satisfied. The law did not make any differentiation between candidates who were not in the public service and those holding the post and performing the duties attached thereto on a temporary or unestablished basis.

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S. 31 of Law 33/67 was however amended by s.2 of Law 31 of 1980, reference to which has already been made, for the purpose of safeguarding the position of those who were already appointed and holding a post temporarily or from month to month or on secondment.

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That the object of the amendment was to safeguard the position of those already serving in a post under the same title, on a temporary basis, is clarified further by the new amendment brought about by Law 10 of 1983 which repealed the provisos to s.31 of Law 33/67 introduced by Law 31 of 1980 and substituted them by a new proviso to the effect that in the case of filling of vacant permanent posts no publication is required in the case where a public officer is already serving either on a month to month basis or on secondment in a permanent post bearing the same title or in a temporary post under the same title and that the Public Service Commission may proceed to the filling of such post by the appointment, promotion or secondment of the public officer already serving in such post. In the case where the number of the vacant permanent posts is less than the number of those serving then a selection is made by the Commission from those already serving in such posts.

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For the purposes however of the present appeal we have to deal with the Law as at the time of the appointment of the interested parties and in particular s.31 of Law 33/67 as amended by s.2 of Law 31/80.

In the light of the amendment brought about by s.2 of Law 31/80 we find ourselves unable to accept the construction placed on such provision by the learned trial Judge and we find that the Public Service Commission rightly treated the six candidates as

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eligible candidates for promotion. In the result the appeal in this respect also succeeds and the appointment/promotion of the aforesaid six interested parties as effected by the Public Service Commission is affirmed.

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We come next to consider the cross-appeal. On the material before us we agree with the judgment of the learned trial Judge that the respondents failed to establish striking superiority over the eight interested parties referred to in the cross-appeal and that it was reasonably open to the appellant in the circumstances of the case to decide as it did.

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In the result the appeal succeeds and the sub-judice decision of the appellant is affirmed. The cross-appeal fails and is hereby dismissed. In the circumstances we make no order for costs.

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PIKIS JA. I agree that the appeal of the Republic against the order of the trial Court annulling the promotion of a number of interested parties for failure to satisfy the requisites of Law 33/67 as amended by Law 31/80, should be allowed for the reasons indicated in the judgment of Savvides J. Also I am of opinion that the cross-appeal should be dismissed for failure of the appellants

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to establish anything approaching striking superiority over the interested parties whose appointment they challenged. The area of my disagreement with the majority judgment concerns that part of the decision allowing the appeal of the Republic against the declaration made by the trial Court that interested parties Athanasiou and Kouta were ineligible for appointment. In my judgment neither was eligible for lack of the qualifications required by the scheme of service. Below I explain the reasons of my disagreement.

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Notwithstanding their provenance schemes of service rank as

legislative instruments establishing the prerequisites for the manning of particular sections of the civil service. Nonetheless, their interpretation is subject to special rules inextricably linked to their theme and the objects they are designed to promote. Unlike other legislative provisions their interpretation is not a matter of pure law. The body charged with their application, namely, the Public Service Commission, is also vested with power to interpret them. Consequently, administrative discretion residing with the P.S.C. an administrative body, extends to the interpretation of schemes of service. The adoption of this exceptional rule of interpretation affecting the particular class of legislative instruments, notably schemes of service, reflects the special purpose they are intended to serve and the unique position of the P.S.C. to correlate them to the needs of the public service.

It has been proclaimed time and again that the P.S.C. may put upon schemes of service any interpretation that is reasonably open to them (*Frangoulides and Another v. P.S.C.* (1985) 3 C.L.R. 1683; *Republic v. Xinari* (1985) 3 C.L.R. 1922). Broad as their discretion is, it is not absolute. It is fettered by the wording of the particular provision of the schemes of service and the context of the scheme as a whole. Wide as the discretion of the Administration may be in the construction of a scheme of service, it can, under no circumstances transcend the limitations, objectively identifiable imported by the wording of the scheme (See, inter alia, *Der Parthog v. C.B.C.* (1984) 3 C.L.R. 635; *Christoudias v. Republic* (1985) 3 C.L.R. 512).

The particular provision for the scheme of service with the construction of which we are concerned in this case, refers to academic qualifications necessary for appointment. The scheme required "a University Degree or Title or equivalent qualification in an appropriate subject, e.g. in the Public Administration, in Law (including the degree of Barrister-at-Law), in Economic or Political Sciences, in Business Administration, etc.". The learned trial Judge decided that the exemplification of "appropriate subject" disclosed a wider category of academic qualifications as genus (Rule of ejusdem generis). A degree of English Literature (awar-

5 ded by the University of Salonica) was outside that genus and for that reason the two interested parties were ineligible for appointment. It is obvious from the wording of the scheme that the examples given were intended to elucidate the expression "appropriate subject" and remove doubts that might conceivably be entertained as to its compass. The appropriateness of the subject had to be determined by reference to the duties of an administrative officer defined in the same scheme of service. Those duties were par excellence of an administrative character. It is part of the duties of an administrative officer to hold inquiries, submit reports and memoranda to superiors with a view to solving administrative problems and formulating policy and, more significantly still, to apply the law in diverse circumstances of human activity. The academic qualifications cited as examples of "appropriate subject" reinforce the view that the qualifications must be of a kind referable to administrative duties.

20 A degree of English Literature is not, on the face of it, a qualification of the above character; nor did the material before the Commission establish that a degree of English Literature awarded by the University of Salonica was of a different character than Literature degrees ordinarily are. Consequently, it was not reasonably open to the respondents to find that the degree in English Literature held by the interested parties was within the range of the qualifications specified by the scheme of service.

25 I would, therefore, for my part, dismiss this aspect of the appeal of the Republic.

Appeal allowed. Cross-appeal dismissed. No order as to costs.