

1984 September 29

[TRIANTAFYLIDIS, P.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

KYRIACOS TSANGARIDES AND OTHERS,

*Applicants,*

v.

THE REPUBLIC OF CYPRUS, THROUGH  
THE MINISTER OF INTERIOR AND OTHERS,

*Respondents.*

(Cases Nos. 245/81, 246/81).

*Natural justice—Rules of—Police Force—Promotions—Applicants not promoted because respondents took into account information regarding their behaviour during the abortive coup d'etat of the 15th July, 1974—Nothing before the Court indicating source of such information—And applicants not apprised of such information and not given the opportunity to refute it—Rules of natural justice violated—Sub judice promotions annulled.*

Following a recourse by the applicants the Supreme Court annulled the decision of the respondents to promote to the rank of Sergeant, in the Police Fire Service, eleven other persons instead of the applicants. The annulment was based on the ground that there ought not to have been taken into account, in the manner in which this was done, reports of the Central Information Service (KYP) regarding doubts that existed about the loyalty of the applicants.

Though in re-examining the matter the respondents ignored the reports of KYP about the loyalty of the applicants, they took into account information leading them to the conclusion that the personal reputation of the applicants had been diminished because of their behaviour during the abortive coup

d'etat of the 15th July 1974; and it was quite clear that this factor was an essential and decisive reason for deciding not to promote the applicants.

Upon a recourse against the latter decision there was nothing before the Court indicating the source of the aforesaid information and applicants were not apprised of such information and were not given the opportunity to refute it. 5

*Held*, that the applicants were excluded from consideration for purposes of promotion in a manner contrary to the rules of natural justice and, consequently, the sub judice promotions of the interested parties—instead of the applicants—have to be annulled. 10

*Sub judice decision annulled.*

Cases referred to:

*Tsangarides and Others v. Republic* (1981) 3 C.L.R. 117; 15

*Komodikis v. Republic* (1982) 3 C.L.R. 81 at pp. 82-87;

*Haviaras v. Republic* (1983) 3 C.L.R. 159 at pp. 165-169;

*Haviaras v. Republic* (1983) 3 C.L.R. 1345 at pp. 1347-1349.

#### Recourses.

Recourses against the decision of the respondents to promote the interested parties to the rank of Sergeant in the Police Fire Service in preference and instead of the applicants. 20

*S. Spyridakis*, for the applicant in case No. 245/81.

*A. Ladas*, for the applicants in case No. 246/81.

*A. Vassiliades*, for the respondents. 25

*Cur. adv. vult.*

TRIANTAFYLLIDES P. read the following judgment. By means of the present recourses, which were heard together in view of their nature, the applicants are challenging the decision of the respondents, which was published in the Police Weekly Orders (Part II, No. 237) on the 11th May 1981, to promote to the rank of Sergeant in the Police Fire Service, as from the 30

1st May 1979, instead of the applicants, eleven other persons, namely P. Karadjias, K. Panayides, G. Pisharas, S. Sophocli, A. Theodorou, N. Andreou, Chr. Schizas, N. Georghiou, K. Pamboris, G. Papageorghiou and L. Georghiou, who are  
5 the interested parties in these proceedings. The said decision was taken by the Chief of Police, with the approval of the Minister of Interior, under section 13 of the Police Law, Cap. 285, as amended by the Police (Amendment) Law, 1966 (Law 29/66).

The sub judice in the present cases decision is the result of  
10 the re-examination by the Chief of Police of the matter of the filling of eleven vacancies in the Fire Service after the annulment by the Supreme Court (see *Tsangarides and others v. The Republic*, (1981) 3 C.L.R. 117) of the promotions to the rank of Sergeant of the same persons who are now the interested  
15 parties in these proceedings. The applicants in the present recourses were, together with another person, the applicants in the *Tsangarides* case, in which Malachtos J. came to the conclusion that there ought not to have been taken into account, in the manner in which this was done, reports of the Central  
20 Information Service (KYP) regarding doubts that existed about the loyalty of the applicants.

As there appears from a letter of the Chief of Police to the Minister of Interior, dated 10th April 1981, the Chief of Police in re-examining the matter after the *Tsangarides* case, supra,  
25 ignored the reports of KYP about the loyalty of the applicants, but, nevertheless, he took into account information leading him to the conclusion that the personal reputation of the applicants had been diminished because of their behaviour during the abortive coup d'état of the 15th July 1974; and it is quite  
30 clear that this factor was an essential and decisive reason for deciding not to promote the applicants.

There is nothing before the Court indicating the source of the aforesaid information. Nor does it appear that up to the 10th April 1981, when the Chief of Police wrote to the Minister  
35 of Interior seeking his approval for the sub judice in the present proceedings promotions, the applicants were apprised of such information and were given an opportunity to refute it.

On the basis of relevant case-law of this Court (see, in this respect, inter alia, *Komodikis v. The Republic*, (1982) 3 C.L.R.

81, 82–87, *Haviaras v. The Republic*, (1983) 3 C.L.R. 159, 165–169 and *Haviaras v. The Republic*, (1983) 3 C.L.R. 1345, 1347–1349) I have come to the conclusion that the applicants were excluded from consideration for purposes of promotion in a manner contrary to the rules of natural justice and, consequently, the sub judge promotions of the interested parties—instead of the applicants—have to be annulled. 5

I do not propose to make any order as to the costs of these two cases.

*Sub judge decision annulled. No order as to costs.* 10