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[STAVRINIDES, J.]

TAKIS
CHRISTOU

IN THE MATTER OF ARTICLE 146 OF THE
CONSTITUTION

v.

REPUBLIC
(PUBLIC
SERVICE
COMMISSION)

TAKIS CHRISTOU,

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondent.

(Case No. 71/70).

Administrative decisions—Due reasoning—Object of the rule requiring due reasoning of administrative decisions—Propositions following therefrom—Majority decision in disciplinary proceedings—Reasoning thereof defective—Not in terms satisfying the object of said rule—Hence it cannot save the finding it purports to support—Decision annulled.

Disciplinary proceedings, conviction and punishment—Conviction and sanction annulled for lack of due reasoning.

Public Officers—Disciplinary conviction and punishment—Annulled on a recourse under Article 146 of the Constitution—For lack of due reasoning.

The facts sufficiently appear in the judgment of the learned Judge, annulling for lack of due reasoning on a recourse under Article 146 of the Constitution the *sub judice* majority decision of the respondent Public Service Commission, whereby they convicted and punished the applicant for an alleged disciplinary offence.

Cases referred to :

Zavros v. The Republic (1969) 3 C.L.R. 310, at p. 315.

Recourse.

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Recourse against the decision of the respondent whereby applicant's annual increments were deferred for three years.

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Applicant appeared in person.

A. Frangos, Senior Counsel of the Republic,
for the respondent.

Cur. adv. vult.

The following judgment was delivered by :-

STAVRINIDES, J. : The applicant, who is Deputy Chief Inspector of Customs, seeks to set aside a decision of the Public Service Commission dated January 30, 1970, whereby his annual increments were deferred for three years. That decision was the outcome of disciplinary proceedings against him on three counts which may be summarized as follows : (1) That directly or indirectly he possessed an interest in a limited company, which was incompatible or conflicted with his official duties; (2) that because of his relations with that company he conducted himself, or acted, in a manner likely to bring his office into disrepute or to undermine public confidence in the public service; (3) that he acted in breach of Financial Instructions 34 and 35 and/or a circular of the Accountant-General dated July 10, 1961, No. 615, and of oral instructions in permitting or suffering cheques which were not intended for payment of sums due to the Government, or were for sums exceeding what was due to the Government, or the payee under which was not a person who had to make a payment to the Government, and without satisfying himself as to the solvency of the drawer of, or indorsee on, the cheques, to be cashed, whereby the Republic suffered, or might suffer, loss. After lengthy proceedings the Commission unanimously discharged him on counts 1 and 2, but by a majority of three to two found him guilty on count 3.

The findings are recorded in a document (*exhibit 8*), and the majority's views, so far as relevant, are stated thus :

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"D. Theocharis, D. Protestos and Y. Louca :

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As regards count 3 we find Mr. Takis Christou guilty of having permitted and suffered cheques of the Anonymos Commercial Company to be cashed, or to be accepted for a sum exceeding that due to the Government, or to be accepted for documents intended for other companies, in breach of Financial Instructions 34 and 35 and a circular of the Accountant-General dated July 10, 1961, No. 615.

We accept the evidence of the cashier Mr. D. Hadjicostas, which is corroborated by the evidence of Frithericos Papayanni, clearing agent and cashier of the Anonymos Commercial Company, Yannakis Stephanides, an employee of Hull Blyth, Antonis Vrahimi, Customs Guard carrying out duties of Assistant Cashier, and by the other evidence, that is to say we believe that Mr. Takis Christou, on account of his connections with the Anonymos Commercial Company and of his interest in the Anonymos Commercial Company and in order to facilitate the company, was giving oral instructions to the cashiers, and particularly to D. Hadjicostas, with whom he was connected, to contravene the existing regulations and circulars, with the result that the Republic lost a considerable amount of money."

During the pendency of the disciplinary proceedings against the applicant the "D. Hadjicostas" referred to in the above quotation, and another cashier, named C. Zaccheou, both of whom testified against the applicant in those proceedings, were themselves facing, in separate disciplinary proceedings, charges arising out of the same facts as those on which the case against the applicant was based; and one of the members who constituted the minority, namely Mr. G. Theocharides, the Commission's Chairman, after referring to this said :

"These (witnesses, i.e. Hadjicostas and Zaccheou) say that, on the occasions when they refused to accept cheques of the Anonymos Company, Mr. Christou would come with the manager of the

Anonymos Company, and Mr. Christou would give instructions for the cheques to be accepted. This evidence is not supported by F. Papayannis, the clearing agent of the Anonymos Company, and Yannis Stephanides, who in their evidence stated that they never saw Mr. Christou coming with Mr. Sophocleous to the cashiers and giving any order. Not a single witness specified the time or the date of the above actions of Mr. Christou, a fact which is important in the present case, as explained above, since any such action by Mr. Christou before July 12, 1969, cannot be evidence in the present case. Moreover examining the evidence of these two witnesses, I noted the irresponsible way in which they accepted the order of Mr. Christou; and the rest of the evidence of these two persons also is characteristic. The other evidence is that of Mr. Antonis Vrahimis. Examining his evidence with care, I come to the conclusion that it is not acceptable. He, too, does not specify the time or date regarding what he said, and particularly that Mr. Christou used the words 'It is a rock' etc. He, too, is contradicted by F. Papayannis and Yannis Stephanides to the effect that Mr. Christou never approached the cashiers with Andis Sophocleous.

For the above reasons I am of the opinion that the prosecuting authority failed to prove count 3 against Mr. Christou either."

Obviously the above-quoted passage from *exhibit 8* stating the majority's finding that the applicant was guilty on count 3 purports to give the reasoning by which they arrived at that conclusion. But does that reasoning measure up to the requirements of administrative law? I had occasion to deal with the topic of sufficiency of reasoning required in an administrative decision in *Zavros v. Republic* (1969) 3 C.L.R. 310, where at p. 315 I said :

"It is evident that the whole object of the rule requiring reasons to be given for administrative decisions is to enable in the first instance the persons concerned, and the Court on review, to ascertain

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in each case whether the decision is well founded in fact and in law (cp. Porismata Nomologhias, p. 183, first paragraph); and from this three propositions follow: (1) The reasons must be stated clearly and unambiguously; (2) they must be read in the sense in which reasonable persons affected thereby would understand them; (3) a decision cannot be supported by reasons stated in terms not fulfilling the object of the rule.”

Clearly the majority’s reasoning does not contain any particulars enabling the Court to review it and therefore cannot save the finding which it purports to support.

It follows that the subject decision must be annulled.

Subject decision annulled with £13.200 costs to applicant.

*Sub judice decision
annulled; order for costs
as above.*