

[A. LOIZOU, J.]

1972  
Jan. 12

IN THE MATTER OF ARTICLE 146 OF THE  
CONSTITUTION

CHRISTOS P.  
MOUZOURIS

v.

CHRISTOS P. MOUZOURIS,

REPUBLIC  
(PUBLIC  
SERVICE  
COMMISSION)

*Applicant,*

*and*

THE REPUBLIC OF CYPRUS, THROUGH  
THE PUBLIC SERVICE COMMISSION,

*Respondent.*

(Case No. 250/71).

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*Administrative Law—Administrative decision—Transfer of a public officer (the applicant)—Duly reasoned decision—Due inquiry carried out—All relevant factors taken into consideration and duly weighed—Exigencies of the service and personal circumstances of the applicant as well.*

*Administrative decision—Reasoning of—Unless the circumstances of the case specifically call for it, it is not necessary that each factor taken into consideration and weighed by the administration should be mentioned in the reasoning of the decision—Sub judice decision held to have been duly reasoned as its reasoning appears not only in its text but can be deduced from the material in the file and it is supplemented by preparatory acts found therein—Moreover there is a complete and sufficient reasoning as all factors capable of influencing the mind of the administrative organ in the exercise of its discretion were placed before it—Nothing to suggest that such factors were not duly taken into consideration—Nor can it be said that there was no proper inquiry or that the correlated exigencies of the service and the personal circumstances of the applicant officer were not duly weighed by the respondent Commission in their appreciation of the material before them.*

*Public Service and Public Officers—Transfer of public officers*

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—Judicial review of such transfer—Principles applicable—  
Discretionary powers of the appropriate organ in effecting  
transfer—Not subject to the control of the Administrative  
Court, unless if there exists an improper use of such  
discretion or misconception of fact or law.

*Transfer of public officers—See supra.*

*Discretionary powers—Judicial control of discretionary powers  
by the Administrative Court—Principles applicable—  
Scope and extent—See supra.*

This is a recourse under Article 146 of the Constitution whereby the applicant (a public officer) seeks to challenge the respondent's decision to transfer him from the District Lands Office, Paphos to the District Lands Office, Famagusta.

It was argued on behalf of the applicant that the said decision was not duly reasoned; that it was taken without conducting a proper inquiry into the material facts of the case, especially the family circumstances of the applicant; that the transfer in question was not justified by the exigencies of the service.

Rejecting the arguments put forward on behalf of the applicant and dismissing the recourse, the Court:

Held (1). To my mind the *sub judice* decision is duly reasoned as its reasoning appears not only in its text, but can be deduced from the material in the file, and is supplemented by such preparatory acts found therein such as the submission for the transfer and the documents attached thereto.

(2) There is complete and sufficient reasoning as all factors capable of influencing the mind of the respondent Commission in the exercise of its discretion when taking the *sub judice* decision were placed before it; and there is nothing to suggest that they were not duly taken into consideration, nor can it be said that there was no proper inquiry or that co-related exigencies of the service and the personal circumstances of the applicant were not

duly weighed by the respondent Commission in its appreciation of the material before it. (*Carayiannis'* case (*infra*) distinguished).

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- (3) In my view, unless the circumstances of the case specifically call for it, as the circumstances in *Carayiannis'* case (*infra*) did, it is not necessary that each factor taken into consideration and weighed by the Administrative organ concerned should be mentioned in the reasoning of the decision (see *Economou*, Judicial Control of Discretion (1965) p. 233).
- (4) The applicant's contention that his transfer is not justified as having regard to his experience and qualifications, his services are mostly needed in Nicosia rather than in Famagusta, is sufficiently answered if I reiterate here the well established principles of administrative law laid down in a number of judgments of this Court, to the effect that the evaluation, one way or the other, by the administration of the factors stated in the relevant file on which it has based its decision, is not subject to control by this Court when acting in its capacity as administrative Court. More specifically, the exercise of the discretion of the Administration in relation to the reasons dictating a transfer, is not subject to the control of the Administrative Court, except if there exists an improper use of such discretion or misconception of fact or law (see the case of *Sentonaris (infra)*, *Vafeadis (infra)* and *Pierides (infra)*).

*Recourse dismissed.*

*No order as to costs.*

Cases referred to :

*Carayiannis v. The Republic* (1969) 3 C.L.R. 341,  
(distinguished);

*Sentonaris v. The Greek Communal Chamber*, 1964  
C.L.R. 300;

*Vafeadis v. The Republic*, 1964 C.L.R. 454;

*Pierides v. The Republic* (1969) 3 C.L.R. 274.

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**Récourse.**

CHRISTOS P.  
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Recourse against the decision of the respondent Public Service Commission to transfer applicant from the District Lands Office Paphos to the District Lands Office Famagusta.

*L. Clerides*, for the applicant.

*S. Georghiades*, Senior Counsel of the Republic,  
for the respondent.

*Cur. adv. vult.*

The following judgment was delivered by :

A. LOIZOU, J. : The applicant by the present recourse claims a declaration that the respondent's decision to transfer him from the District Lands Office Paphos to the District Lands Office Famagusta which was communicated to him on the 3rd April, 1971, is null and void and of no effect.

The grounds of law upon which the present application is based are the following :

- (a) The decision is not duly reasoned, contrary to Article 29 of the Constitution;
- (b) it was made without conducting a proper enquiry in order to ascertain all relevant material facts, that is to say the family circumstances of the applicant and, particularly, the schooling of his children;
- (c) the transfer of the applicant to Famagusta is not justified by the exigencies of the service in that, having regard to the applicant's experience and qualifications his services are mostly needed in Nicosia rather than in the Famagusta area or elsewhere.

The applicant is a Land Clerk 1st Grade. He was posted at the Paphos Lands Office, when, in October

1968, he was awarded a Government scholarship to the United Kingdom, where he remained until 15th March, 1971. In England he attended a course and passed the final examinations of the North East London Polytechnic. He obtained a diploma in Land Use and took the final examinations of the Royal Institute of Chartered Surveyors for a diploma in General Surveying. Upon his return the Director of Lands and Surveys Department, by a letter dated 15th March, 1971, (Schedule A attached to the application) assigned to the applicant temporary duties, until the 31st March, 1971, in the Valuation Branch of the District Lands Office Nicosia, for the purpose of following the organization of the work for the revaluation which started in that branch. He was also informed, in the same letter, that it was intended that he would be posted for duties as from 1st April, 1971, at Famagusta in charge of the Revaluation Branch of the Lands Office there.

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On the 29th March, 1971, the Director of the Department of Lands and Surveys wrote to the Chairman of the Public Service Commission a letter, blue 13, and attached thereto a submission for the transfer of the applicant from Paphos to Famagusta. In para. 2 of blue 13, it is mentioned that the public interest does not allow the posting of the applicant to his old duties in the Lands Office of Paphos; and, therefore, the submission was made for the posting of the applicant in the District Lands Office Famagusta "for the performance of responsible work analogous to his qualifications." The Public Service Commission was also informed about applicant's temporary posting at Nicosia between the 15th and 31st March, 1971, as well as that the applicant would reside permanently in Nicosia for the purpose of the education of his two children at the English School Nicosia. In the submission for transfer both, the reasons why he should be transferred, as well as the family circumstances of the applicant are given.

In the course of the hearing and upon enquiry by the Court how this positive statement regarding the applicant's stay in Nicosia for the benefit of his children's schooling came to be included in the covering letter and in paragraph 7 of the submission for the transfer, the Court was

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informed by applicant's counsel that the transfer was discussed between the applicant and the Director of his department and that he himself informed the Director that he would be staying in Nicosia.

The argument of learned counsel for the applicant was that the decision was not fully reasoned and — whilst conceding that the head of Department mentioned the personal circumstances of the applicant, and at that the needs of his children for schooling in Nicosia — that the respondent Commission failed to carry out a due inquiry and weigh properly these personal circumstances. He went further and said that as laid down in the case of *Carayiannis v. The Republic* (1969) 3 C.L.R. 341, the respondents should have taken these personal circumstances into consideration and given reasons in their decision for ignoring them.

To my mind, the *sub judice* decision is duly reasoned; as its reasoning appears not only in its text, but can be deduced from the material in the file, and is supplemented by such preparatory acts found therein as the submission for the transfer and the documents attached thereto. There is complete and sufficient reasoning as all factors capable of influencing the mind of the Administrative organ — the respondent Commission — in the exercise of its discretion when taking the *sub judice* decision were placed before it, and there is nothing to suggest that they were not duly taken into consideration, nor can it be said that there was no proper inquiry or that the co-related exigencies of the service and the personal circumstances of the applicant were not duly weighed by the respondent Commission in their appreciation of the material before them.

The facts and circumstances of *Carayiannis's* case (*supra*) should be distinguished from those of the present case. In my view, unless the circumstances of the case specifically call for it, as the circumstances in *Carayiannis's* case did, it is not necessary that each factor taken into consideration and weighed by the Administrative organ should be mentioned in the reasoning of the decision. (See *Economou, Judicial Control of Discretion* (1965) page 233).

Before concluding, however, I would like to deal with the last ground of law raised by the applicant, namely, that his transfer is not justified as having regard to his experience and qualifications, his services are mostly needed in Nicosia rather than in Famagusta. On the material before me, this legal ground is sufficiently answered if I reiterate here the well established principles of administrative law stated in a number of judgments of this Court, to the effect that the evaluation, one way or the other, by the administration of the factors stated in the relevant file on which it has based its decision, is not subject to control by this Court when acting in its capacity as administrative Court. More specifically, the exercise of the discretion of the administration in relation to the reasons dictating a transfer, is not subject to the control of the administrative Court, except if there exists an improper use of such discretion or misconception of fact or law. (See *Sentonaris v. The Greek Communal Chamber*, 1964 C.L.R. page 300, *Vafeadis v. The Republic*, 1964 C.L.R. page 454, and *Pierides v. The Republic* (1969) 3 C.L.R. 274). In the circumstances of this case and bearing in mind the above principles, I have found nothing to justify my interference with the *sub judice* decision.

For the reasons I have just given, I have come to the conclusion that this case should and is hereby dismissed with no order as to costs.

*Application dismissed.  
No order as to costs.*

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