

IN THE MATTER OF ARTICLE 146 OF THE
CONSTITUTION
EVANGELOS HADJI GEORGHIOU,

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondent.

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(Case No. 455/73).

Public Officers—Promotions—Senior Supervisor of accounts—Ap-
plicant not recommended by Head of Department—Profession-
al friction between them—Nature of their relations within
knowledge of the Commission—Whether Commission had to
5 institute an inquiry in this connection—Acceptance by Com-
mission of recommendation of Head of Department after giving
proper weight to all other factors appertaining to each one of
the candidates—Does not mean that Head of Department
dictated to the Commission the course which it adopted and
10 that the latter has not exercised its own discretion in the mat-
ter—Seniority—Open to the Commission not to treat it as the
decisive factor, in the light of other at least equal weighty con-
siderations—Reasoning of sub judice decision—Mere fact that
Commission adopted the reasons given by Head of Depart-
15 ment does not mean that sub judice decision was not duly
reasoned—Reasonably open to the Commission to prefer the
interested party in view, also, of contents of confidential re-
ports.

Public Officers—Promotions—Head of Department—Open to him
20 to state before the Public Service Commission that applicant
was “of difficult character”—And he is not prevented from
doing so by the wording of the form prescribed for the making
of the annual confidential reports.

Public Officers—Promotions—Scheme of service—Requiring a
25 “good general education of a standard not below that of a
leaving certificate of a Secondary School”—Fact that interest-
ed party graduated from a four-year Secondary Education

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School not a matter of any material significance in the circumstances of this case.

Bias—Not the same as professional friction.

Head of Department—Professional friction between him and a candidate for promotion—Recommendations before Public Service Commission—Manner of description of applicant.

Administrative Law—Due reasoning—Public Officers—Promotions—Mere fact that Commission adopted the reasons given by Head of Department does not mean that the sub judice decision was not duly reasoned.

Words and Phrases—Professional friction—Bias.

The applicant in this recourse challenged the validity of the promotion of the interested party to the post of Senior Supervisor of Accounts, in the Treasury Department.

The Head of Department, who was present at the relevant meeting of the Public Service Commission, stated before the Commission* that though the applicant was the most senior officer of his grade, he was of a difficult character and only lately started showing more interest in his work. The Head of Department then stated that the interested party, who was the next in seniority, was the best and most suitable officer for promotion to the said post and recommended him for this purpose.

In taking the *sub judice* decision the Commission stated the following: "After considering the above (editor's note: the views of the Head of Department) and after taking into consideration all the facts appertaining to each one of all the officers serving in the post of Supervisor of Accounts, and after giving proper weight to the merits, qualifications, seniority, service and experience of these candidates, as shown in their Personal Files and in their Annual Confidential Reports, the Commission agreed to follow the recommendation of the Head of Department".

The Commission accordingly decided that the interested party was on the whole the best and it promoted him to the said post.

* See its minutes at pp. 40-42 *post.*

Counsel for the applicant contended:

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- (a) That the Head of Department, who was present at the relevant meeting of the respondent Commission, recommended for promotion the interested party instead of the applicant, because he was biased against the applicant.
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- (b) That the Head of Department dictated to the Commission the course which it adopted and that the Commission did not exercise its own discretion in the matter.
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- (c) That it was not open to the Head of Department to tell the Commission that applicant was "of a difficult character" because by doing so he was introducing a criterion not envisaged by the prescribed form for the making of the annual confidential reports.
- 20
- (d) That the seniority of the applicant was wrongly overlooked, especially as it was a case of filling a promotion post and experience was a material consideration.
- (e) That the *sub judice* decision was not duly reasoned.
- 25
- (f) That the interested party was "hardly eligible for promotion" under the relevant scheme of service because the Secondary Education School which he has attended was a four-year, and not a six-year Secondary Education School.

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What gave rise to contention (a) above was the existence of professional friction between the applicant and his Head of Department; and regarding this contention the vital issue was not whether and to what extent, due to the friction that did, undoubtedly, develop between them, the relations between the applicant and the Head of Department were strained, but whether the respondent knew about such friction to a sufficient extent, so as to weigh accordingly, with this factor in mind, the recommendation made to it by the Head of Department, and, also, to be in a position to decide whether any further inquiry in this respect was necessary. In resolving this issue the Court had evidence before it to the effect that certain documents wherein an allegation was being put forward that

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the Head of Department was ill-disposed towards the applicant were brought to the notice of the respondent Commission on the date when the *sub judice* decision was taken (pp. 44-45 *post*).

Held, (1) (After concluding that there was professional friction between applicant and his Head of Department and that professional friction is not the same as bias, although sometimes they may be the cause or consequence of each other *vide p. 43 post*) that it has been established, beyond reasonable doubt, that the Commission was not acting under any misconception regarding, or in ignorance of, the actual state of the personal relations between the applicant and his Head of Department; that it was up to the Commission to decide, once it knew about the nature of such relations, whether any further inquiry into this aspect was necessary and, apparently, it did not decide that such inquiry was needed; that this Court cannot substitute, in this respect, its own discretion in the place of that of the Commission; that it was reasonably open to the Commission not to institute an inquiry in this connection since it knew already, from the material before it, what was the relevant situation; and that, accordingly, contention (a) must fail.

(2) (a) That as it is to be derived from its minutes, the Commission reached its *sub judice* decision on the basis of all the facts appertaining to each one of the officers serving in the post of Supervisor of Accounts, and after giving proper weight to the merits, qualifications, seniority, service and experience of these officers, as they were shown in their personal files and in the annual confidential reports about them; that its minutes make it clear that it was only after it had considered the afore-said factors that the Commission agreed to accept the recommendation of the Head of Department in favour of promoting the interested party; that, therefore, this Court cannot agree with counsel for the applicant that the Head of Department dictated to the Commission the course which it adopted and that the Commission did not exercise its own discretion in the matter; and that, accordingly, contention (b) must fail.

(b) (After referring to the confidential reports of applicant and the interested party—*vide pp 46-49 post*) that in taking the *sub judice* decision the Commission relied, *inter alia*, on the annual confidential reports about the candidates concerned; and that the contents of these reports show that it was, indeed, reasonably open to the respondent Commission to prefer the interested party.

5 (3) That when a Head of Department describes a subordinate of his to the Commission, in circumstances such as those in which the Head of Department spoke about the applicant at the Commission's meeting of July 10, 1973, he is not to be prevented from presenting a full and proper picture to the Commission by the wording of the form prescribed for the making of the annual confidential reports; that, in any event, the observation of the Head of Department that the applicant was "of a difficult character" was obviously related to the criteria of "adaptability" and of "ability to co-operate with colleagues", if not, also, of "courtesy in dealing with the public", all of which are expressly mentioned in the said form; that, therefore, this Court cannot accept as correct the contention of counsel for the applicant that it was not open to the Head of Department to tell the Commission that the applicant was "of a difficult character" because by doing so he was introducing a criterion not envisaged by the prescribed form for the making of the annual confidential reports; and that, accordingly, contention (c) must fail.

20 (4) That seniority was expressly mentioned in the relevant minutes of the Commission as a factor that had been taken into account and it was open to the Commission not to treat it as the decisive one and to prefer the interested party in the light of other, at least equally weighty, considerations; and that, accordingly, contention (d) must fail.

25 (5) That the mere fact that, to a certain extent, the Commission adopted the reasons given by the Head of Department cannot be treated as a ground for saying that its decision was not duly reasoned; that, on the contrary, this Court is of the opinion that by setting out in extenso in its minutes the views of the Head of Department the Commission did strive to give an as adequate as possible account of the reasons which led it to the conclusion to promote the interested party; and that, accordingly, contention (e) must fail.

30 (6) That the relevant scheme of service requires a "good general education of a standard not below that of a leaving certificate of a secondary school"; that when this initial scholastic qualification is examined in the context of all other qualifications entailing professional knowledge and experience, which are prescribed in the scheme of service, and which the interested party did possess, the fact that he graduated from a four-year secondary education school cannot be, really, treated

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as a matter of any material significance especially as it has not been suggested that the interested party did not qualify at all for promotion, under the scheme of service, because he graduated from such a secondary education school; and that, accordingly, contention (f) must fail.

Recourse.

Recourse against the decision of the respondent Public Service Commission to promote the interested party to the post of Senior Supervisor of Accounts, in the Treasury Department, in preference and instead of the applicant.

A. Emilianides with L. Papaphilippou and Ph. Valiandis, for the applicant.

R. Gavrielides, Counsel of the Republic, for the respondent.

Cur. adv. vult.

The following judgment was delivered by:-

TRIANTAFYLLIDES, P.: By this recourse the applicant seeks the annulment of the promotion to the post of Senior Supervisor of Accounts, in the Treasury Department, of Mr. S. Demetriades (hereinafter to be referred to as the "interested party"); the interested party has been notified of these proceedings, but has not chosen to take part in them.

The post of Senior Supervisor of Accounts is a promotion post, as it appears from the relevant scheme of service which is appended to the Opposition; the promotion there-to of the interested party was made by a decision of the respondent Public Service Commission, which was taken on July 10, 1973. The Commission's minutes are, also, appended to the Opposition, and they read as follows:-

"1. Filling of vacancies in the Treasury Department.

Ref. item 3 of the minutes of 3.7.73.

Mr. St. Nathanael, Accountant-General, present.

(a) *Senior Supervisor of Accounts:*

One vacancy (permanent).

The post of Senior Supervisor of Accounts is a

Promotion Post from the immediately lower post of Supervisor of Accounts.

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5 The Accountant-General stated that the officer to be selected for promotion to the above post will have to take charge of a large Accounts Section in a Department or of a Section in the Treasury. The Accountant-General added that candidates should be able to take decisions on certain matters and also they should have abilities to supervise staff.

10 The Commission then considered the merits, qualifications, seniority, service and experience of all officers serving in the post of Supervisor of Accounts, as reflected in their Personal Files and in their Annual Confidential Reports.

15 With regard to Mr. E. HadjiGeorghiou, who is the most senior officer of his grade, the Accountant-General stated that the officer in question is now attached to the Ministry of Foreign Affairs; previously he had worked in the Internal Audit and in the Motor Car Registry of the Treasury Department. The Accountant-General added that Mr. HadjiGeorghiou is of a difficult character and only lately started showing more interest in his work.

25 As regards Mr. S. Demetriades, the Accountant-General stated that this officer, who is next in seniority, is very good in his work; he is an excellent officer all through; he has never given any cause for complaint and, moreover, he has managed to uphold the prestige of the office; on account of his very good qualities and abilities, Mr. Demetriades has represented the Treasury Department at various meetings very ably. The Accountant-General added that he believed that Mr. Demetriades was the best and most suitable officer for promotion to the above post and accordingly recommended him for this purpose. The Accountant-General added further that the remaining candidates were not so good as Mr. Demetriades.

40 After considering the above and after taking into consideration all the facts appertaining to each one of all the officers serving in the post of Supervisor of

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Accounts, and after giving proper weight to the merits, qualifications, seniority, service and experience of these candidates, as shown in their Personal Files and in their Annual Confidential Reports, the Commission agreed to follow the recommendation of the Head of Department. The Commission accordingly decided that Mr. Savvas Demetriades was on the whole the best and that he be promoted to the permanent post of Senior Supervisor of Accounts, w.e.f. 1.8.73”.

As it appears from a comparative table, which is appended to the Opposition, the applicant entered the public service in November 1945, as a Temporary Clerk, and he was, eventually, seconded to the post of Supervisor of Accounts—which is a post in the grade immediately below that of Senior Supervisor of Accounts—on December 1, 1965, and was permanently appointed to such post on January 1, 1967. On the other hand, the interested party entered the public service, as a Temporary Clerk, on February 1, 1947, and became a Supervisor of Accounts on April 1, 1967.

As it is stated in the relevant minutes of the respondent Commission the applicant was, at the material time, the most senior officer in his grade and the interested party was next in seniority.

The main issue which has been raised, in relation to this recourse, by counsel for the applicant, is that the respondent Commission relied on biased recommendations and reports, with the result that, in the absence of a proper inquiry on its part, it was labouring under a material misconception; and, in this respect, it has, also, been contended that there has occurred misrepresentation or concealment of facts regarding the merits and qualifications of the applicant and of the interested party. It has not been suggested that the Commission itself was biased against the applicant; what has been alleged is that the Accountant-General, Mr. St. Nathanael, under whom comes the Treasury Department and who was present at the relevant meeting of the Commission, recommended for promotion the interested party instead of the applicant, because he was biased against the applicant.

Many documents have been produced, during the hear-

ing of this case, in an effort to establish the above contention of counsel for the applicant. I do not think that I have to refer exhaustively to their contents; some of them, such as *exhibits 7—12, 19, 20, 22, 24, 25 and 29*, were addressed to Mr. Nathanael by the applicant during the period from April 5, 1969, to October 10, 1970, and others, such as *exhibits 17, 18, 21, 23, 27, 28 and 30*, were addressed by Mr. Nathanael to the applicant during the period from November 25, 1969, to September 29, 1970; some of them are letters which were written in reply to each other.

In addition to the above documents, to which I have referred, specifically, I have, of course, taken into account, too, all the other documents which have been produced before me by the parties during the hearing.

I have reached the conclusion, without any difficulty whatsoever, that there was, indeed, professional friction between the applicant and his Head of Department, Mr. Nathanael; but, it should be borne in mind that professional friction is not the same as bias, although sometimes they may be the cause, or consequence, of each other; and I have not been satisfied, on the basis of the material before me, that it has been established that the professional friction between Mr. Nathanael and the applicant was the cause of, or resulted in, bias on the part of the former against the latter.

The said professional friction existed even though the applicant has not been working all the time directly under Mr. Nathanael in the office of the Accountant-General; for certain periods of time, he was posted, while still being a member of the service under Mr. Nathanael, at other Ministries or Departments, such as the Ministry of Labour and Social Insurance, the Motor Car Registry and the Ministry of Foreign Affairs.

I consider it useful to quote in full a letter addressed by Mr. Nathanael to the applicant on September 29, 1970, (*exhibit 27*), because it illustrates the climate which existed between the Accountant-General and the applicant, as a subordinate of his; the said letter reads as follows:-

“Mr. E. HadjiGeorghiou,
Supervisor of Accounts,
Ministry of Foreign Affairs,

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I refer to our meeting held at my office on 29th September, 1970. We fully discussed the background and the reasons which made necessary the issue of the letters set out below. I can, without hesitation, repeat that I have no reason to doubt your zeal, devotion to duty and honesty and in the light of all the explanations given on either side I am prepared to consider my following letters as cancelled and withdrawn:-

T.P. 2453 of 8.1.70

T.P. 2453 of 16.2.70

T.P. 2453 of 28.3.70

T.P. 2453 of 3.7.70

T.P. 2453 of 18.7.70

I can also confirm what I told you orally that your chances and avenues of promotion will not be jeopardized by the matters contained in the correspondence referred to above.

2. I hope that you will continue to work with the same zeal and interest that you have so far shown and I am at your disposal for any assistance that you may wish to receive towards the efficient discharge of your duties.

(Sgd) St. Nathanael
Accountant-General".

The vital issue is not, really, whether, and to what extent, due to the friction that did, undoubtedly, develop between them, the relations between the applicant and Mr. Nathanael were strained, but whether the respondent Commission knew about such friction to a sufficient extent, so as to weigh accordingly, with this factor in mind, the recommendations made to it by Mr. Nathanael, and, also, to be in position to decide whether any further inquiry in this respect was necessary.

The personal file of the applicant (P. 2882) was before the Commission at the time when it reached its *sub judice* decision; in such file there was a letter which was written

to the Chairman of the Commission, on May 1, 1973, by advocate Mr. T. Papadopoulos and to such letter there were attached a copy of a letter which had been addressed by Mr. Papadopoulos on July 22, 1970, to the Minister of Finance—(under whom comes the Accountant-General) —as well as a copy of the aforementioned letter of Mr. Nathanael, dated September 29, 1970.

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Anybody reading these documents could have been left in no doubt that an allegation was being put forward that Mr. Nathanael was ill-disposed towards the applicant; and, as a matter of fact, on May 29, 1973, the following note was made on the said letter of Mr. Papadopoulos: “To be brought to the notice of the Commission on the day of selection”; and, then, there appears on such letter the following note: “Brought to the notice of the Commission at the meeting of July 10, 1973”. That was the meeting at which the Commission decided to promote the interested party.

I am, therefore, of the opinion that it has been established, beyond reasonable doubt, that the Commission was not acting under any misconception regarding, or in ignorance of, the actual state of the personal relations between the applicant and his Head of Department, Mr. Nathanael.

It was up to the Commission to decide, once it knew about the nature of such relations, whether any further inquiry into this aspect was necessary; and, apparently, it did not decide that such inquiry was needed. I cannot substitute, in this respect, my own discretion in the place of that of the Commission; and I am of the opinion that it was reasonably open to the Commission not to institute an inquiry in this connection since it knew already, from the material before it, what was the relevant situation.

As it is to be derived from its minutes, the Commission reached its *sub judice* decision on the basis of all the facts appertaining to each one of the officers serving in the post of Supervisor of Accounts, and after giving proper weight to the merits, qualifications, seniority, service and experience of these officers, as they were shown in their personal files and in the annual confidential reports about them. Its minutes make it clear that it was only after it

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had considered the aforesaid factors that the Commission agreed to accept the recommendation of Mr. Nathanael in favour of promoting the interested party; therefore, I cannot agree with counsel for the applicant that Mr. Nathanael dictated to the Commission the course which it adopted and that the Commission did not exercise its own discretion in the matter. 5

As it has already been mentioned the Commission relied, *inter alia*, on the annual confidential reports about the candidates concerned; it is, therefore, useful to refer in this judgment, at some length, to the contents of such reports; in my opinion their contents show that it was, indeed, reasonably open to the respondent Commission to prefer the interested party: 10

As regards the interested party the most recent report, at the material time, was dated January 15, 1973, and was signed only by Mr. Nathanael as the Reporting Officer; the interested party was rated as "excellent" in every respect, and it was, also, stated that: "He is an all round good officer; he has never caused any problems to the office; he takes responsibility and has managed to uphold the prestige of the office whenever he has been required to represent the Treasury". 15 20

The immediately previous reports were dated January 29, 1972, February 6, 1971, February 5, 1970, January 21, 1969, and July 26, 1968; they can all be described as favourable; those of 1972, 1971, 1970 and 1969 are signed only by Mr. Nathanael, either as Reporting Officer or as Countersigning Officer, or as both. That of 1968 is signed by Mr. Nathanael as Reporting Officer, and by the then Accountant-General, Mr. A. Ioannides as Countersigning Officer, who described the interested party as "an excellent officer". Two earlier reports, dated November 6, 1967, and March 9, 1967, are signed by Mr. E. Yiannakis as Reporting Officer and by the said Mr. Ioannides as Countersigning Officer; they are very favourable reports; in particular, in that of March 1967 Mr. Yiannakis stated about the interested party: "He has the sense of absolute co-operation and responsibility and is willing to undertake higher duties and responsibilities. He is fit in all respects for promotion"; and Mr. Ioannides stated: "He is an excellent officer in all respects". 25 30 35 40

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5 An earlier report, dated May 31, 1965, is signed by Mr. Yiannakis as Reporting Officer and by Mr. C. Stephani, the then Accountant-General, as Countersigning Officer, who stated the following about the interested party: "He is a very reliable officer and one of the best now in his grade. He has shown initiative and ability to carry on without supervision, and readiness to undertake responsibility. He is fit and ready for promotion and I strongly recommend him for the next vacancy in the post of Supervisor of Accounts". At the time the interested party was an Accounting Officer, 1st Grade.

15 The more report, at the material time, about the applicant was the one dated February 9, 1973; it is signed by Mr. P. Stavrou as Reporting Officer, who rated the applicant as being "very good" and it is countersigned by Mr. Nathanael who stated: "The officer has abandoned his rather negative attitude and shows more interest in his job".

20 The earlier reports, from 1965 onwards, are dated November 28, 1965, February 28, 1967, November 6, 1967, December 10, 1968, March 3, 1969, April 4, 1970, February 9, 1971, and February 29, 1972.

25 The report dated November 28, 1965, is signed by Mr. Nathanael as Reporting Officer, and by Mr. C. Stephani, the then Accountant-General, as Countersigning Officer; Mr. Stephani stated: "This officer has just been promoted to the post of Supervisor of Accounts. He will have to be tested on more responsible duties. He has been doing very well as officer in charge of the A/cs of the Social Insurance Fund and the Ministry of Labour".

30 Then there follows a report dated February 28, 1967, which is signed by Mr. C. Kotsonis as Reporting Officer and by Mr. A. Ioannides as Countersigning Officer, in his capacity as Accountant-General; Mr. Ioannides stated that he did not consider the applicant as an "officer of above average intelligence".

40 The next report is dated November 6, 1967; it is signed only by Mr. Ioannides, as both Reporting and Countersigning Officer, and the applicant is described as "a good, hardworking officer but of no exceptional qualities".

Then, there follow two reports dated October 12, 1968, and March 3, 1969, respectively, in which the Reporting Officer is Mr. Th. Theofilou and the Countersigning Officer is Mr. Nathanael. They are rather favourable, but not as favourable as those for the interested party during the same period. In the 1969 report the applicant's general intelligence was described as "above average" by Mr. Theofilou, but Mr. Nathanael, as Countersigning Officer, stated that he considered "the assessment of intelligence to be generous".

The next report is that which is dated April 28, 1970; it is signed by Mr. Theofilou, as Reporting Officer, and it is countersigned by Mr. Nathanael who stated the following about the applicant: "During his service at the Motor Car Registry he exhibited nervousness and anxiety in what he came to think as being a situation near to chaos. He failed to work with a cool head and did not co-operate with his immediately superior officer. It became inevitable that he be transferred therefrom".

The next report is that of February 9, 1971, where the applicant was assessed by Mr. P. Stavrou as Reporting Officer; Mr. Nathanael wrote the following as Countersigning Officer: "He has been transferred to the Ministry of Foreign Affairs as officer in charge of the Accounts Branch. He appears to have lost initiative and interest in his work because of his mentality by which he gets disappointed if his ideas are not adopted".

The next report is dated February 29, 1972; it is, again, signed by Mr. Stavrou as Reporting Officer and by Mr. Nathanael as Countersigning Officer, who wrote the following: "I have evidence, corroborated by senior officers at the Ministry of Foreign Affairs, that this officer does not show interest, initiative and sense of responsibility that an officer in his grade should possess. He rather takes an indifferent outlook towards his duties".

As already mentioned however, in a later report dated February 9, 1973, which was countersigned by Mr. Nathanael only a few months before the meeting of the respondent Commission on July 10, 1973, at which the *sub judice* decision was taken, Mr. Nathanael described the applicant as having abandoned his rather negative attitude

and as showing more interest in his job; and I would venture to say that this comment of Mr. Nathanael is not quite consistent with the allegation of the applicant that Mr. Nathanael was biased against him.

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5 At the said meeting of the Commission Mr. Nathanael said that the applicant "is of a difficult character and only lately started showing more interest in his work"; in my opinion this view was consistent with the contents of the above referred to annual Confidential reports concerning
10 the applicant.

In this respect I cannot accept as correct the submission of counsel for the applicant that it was not open to Mr. Nathanael to tell the Commission that the applicant was "of a difficult character" because by doing so he was introducing a criterion not envisaged by the prescribed form for the making of the annual confidential reports. In my opinion, when a Head of Department describes a subordinate of his to the Commission, in circumstances such as those in which Mr. Nathanael spoke about the applicant
15 at the Commission's meeting of July 10, 1973, he is not to be prevented from presenting a full and proper picture to the Commission by the wording of the form prescribed for the making of the annual confidential reports; and, in any event, the observation of Mr. Nathanael that the applicant
20 was "of a difficult character" was obviously related to the criteria of "adaptability" and of "ability to co-operate with colleagues", if not, also, of "courtesy in dealing with the public", all of which are expressly mentioned in the said form.

30 Another complaint of counsel for the applicant has been that the seniority of the applicant was wrongly overlooked, especially as it was a case of filling a promotion post and experience was a material consideration. I cannot agree that this complaint is well-founded; seniority
35 was expressly mentioned in the relevant minutes of the Commission as a factor that had been taken into account and it was open to the Commission not to treat it as the decisive one and to prefer the interested party in the light of other, at least equally weighty, considerations.

40 Moreover, I do not agree with the applicant's contention that the *sub judice* decision of the Commission is not

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duly reasoned. The mere fact that, to a certain extent, the Commission adopted the reasons given by Mr. Nathanael, as Head of the Department concerned, cannot be treated as a ground for saying that its decision was not duly reasoned; on the contrary, I am of the opinion that by setting out in extenso in its minutes the views of Mr. Nathanael the Commission did strive to give an as adequate as possible account of the reasons which led it to the conclusion to promote the interested party.

Nor is it correct to say, as counsel for the applicant has alleged, that the Commission did not have before it the proper material so as to be able to assess correctly the qualifications and experience of the candidates. It is correct—as has been conceded by counsel for the respondent—that in the relevant comparative table, which is appended to the Opposition, it is wrongly stated, in respect of both candidates, that they have passed an examination in Statute Laws; it was not, however, this comparative table that was before the Commission at the material time, but the personal files of the candidates, from which all their qualifications and previous service could be ascertained, as well as the annual confidential reports files in which there were to be found data-sheets where the qualifications and past service of the applicant and of the interested party were recorded.

It has been, also, submitted on behalf of the applicant that the interested party was “hardly eligible for promotion” under the relevant scheme of service; in this connection it has been contended that the secondary education school which he has attended was a four-year, and not a six-year, secondary education school and a certificate to that effect was produced. The relevant scheme of service requires a “good general education of a standard not below that of a leaving certificate of a secondary school”; and when this initial scholastic qualification is examined in the context of all other qualifications entailing professional knowledge and experience, which are prescribed in the scheme of service, and which the interested party did possess, I think the fact that he graduated from a four-year secondary education school cannot be, really, treated as a matter of any material significance; especially as it has not been suggested that the interested party did not qualify at all for promotion, under the scheme of service,

because he graduated from such a secondary education school.

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5 A last point with which I should deal is the applicant's complaint that a letter of the Minister of Labour and Social Insurance, dated March 24, 1967, which was addressed to the Accountant-General and in which the applicant was praised very highly for his work at the Ministry of Labour, had not been placed in his personal file and, so, presumably, it was not before the Commission when it reached its *sub judice* decision. I do not think that this is
10 a factor which could have materially influenced, towards a different outcome, the decision of the Commission as regards the most suitable candidate for the post in question; the said letter related to a period more than six years prior to the said decision of the Commission and the Commission had before it, in respect of the period in question, the relevant annual confidential reports on the basis of which it could make an assessment of the merits of the applicant; and, actually, there was before the Commission
20 a confidential report, dated November 28, 1965, in which it was stated that the applicant had been doing very well when posted at the Ministry of Labour and Social Insurance. So the fact that the aforementioned letter of the Minister of Labour and Social Insurance was not placed in
25 the personal file of the applicant did not deprive the Commission of material knowledge about any aspect of the matter before it.

30 For all the foregoing reasons this recourse fails and has to be dismissed; but, taking into account that, quite possibly, the applicant has made this recourse due to a sense of grievance because he felt, even though mistakenly, that his attitude to his work was not sufficiently appreciated by his Head of Department, the Accountant-General, I do not think that I should burden him with an order for the
35 payment of the costs of the respondent.

Application dismissed.