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[TRIANTAFYLIDIS, P., L. LOIZOU, HADJIANASTASSIOU,
A. LOIZOU, MALACHTOS, JJ.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

SPYROS PLOUSSIOU,

Applicant,

v.

THE CENTRAL BANK OF CYPRUS,

Respondent.

(Case No. 108/70).

Central Bank of Cyprus—Appointments of officers of—Made by the Governor pursuant to unanimously given advice of the Committee established under section 15 (3) of the Central Bank of Cyprus Law, 1963 (Law 48/63)—Governor himself a member and Chairman of such Committee—Course adopted fully in accordance with both the letter and spirit of section 15 of the Law, and in particular of subsection 3 thereof. 5

Central Bank of Cyprus—Officers of—Confidential appraisal reports under regulation 12 (1) of the Central Bank of Cyprus Employees' (Conditions of Service) Regulations, 1964—Not made as provided thereunder but by Governor himself—Because officers concerned were serving directly under the Governor and not under any other immediate superior—Governor not motivated by any feelings of hostility, animosity, favouritism, or bias which would have rendered his participation in the relevant administrative process a factor vitiating its validity—Not at all improper for Governor to act as he did. 10
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Administrative Law—Administrative decision—Due reasoning—An essential requirement for an administrative decision—This is not a case where the reasoning of the sub judice decision is such as to leave the Court, or any person interested in the matter, in any real and substantial doubt as regards its nature—Because due 20

reasoning therefor is to be sufficiently derived from the totality of the relevant material before the Court.

5 The applicant in this recourse complained against the appointments of the two interested parties to the post of Manager in the service of the Central Bank of Cyprus. The validity of the appointments in question has been attacked on three main grounds.

10 (a) That they were made contrary to the provisions of s. 15* of the Central Bank of Cyprus Law, 1963 (Law 48/63);

15 (b) that in making them there were taken into account “appraisal reports” about the performance of the applicant and of interested party Theodorides which were made contrary to regulation 12** of the Central Bank of Cyprus Employees’ (Conditions of Service) Regulations, 1964; and

(c) that the Governor’s *sub judice* decision was not duly reasoned.

20 The *sub judice* decision was taken in accordance with the advice of the Committee, established under s. 15 (3) of Law 48/63 (*supra*), and which held three meetings for the purpose. After the last meeting of the Committee, of which the Governor was a member and the Chairman, and at which it was unanimously agreed to appoint the two interested parties, the
25 Governor proceeded to make himself the *sub judice* appointments.

30 The “appraisal reports” complained of were made by the Governor himself, and not by a Manager or a Section Head as provided in the said regulation 12 (1), because at the material times the applicant and the said interested party were not serving under a Manager or Section Head of the Bank, but were serving directly under the Governor.

Held, dismissing the recourse, (1) the relevant administrative action was fully in accordance with both the letter and spirit

35 * quoted in full at p. 22 *post*.

** quoted at p. 23 *post*.

of section 15 of Law 48/63, and, in particular, of subsection (3) thereof. There is nothing to show that the Committee has, in any way, usurped the powers of the Governor to the extent to which such powers are, under section 15, to be treated as being separate from the function of the Committee, or that the Governor has ceded his powers to the Committee contrary to section 15, or that he has mistakenly considered himself as bound, in any way, by the decision of the Committee. 5

(2) Since no reports could possibly have been made in exact conformity with regulation 12 (1), it was not at all improper for the Governor to proceed to put on record himself, contemporaneously and at a time when no appointments or promotions were envisaged, his views regarding two officers of the Bank who were working directly under him. (*Frangoulides (No. 2) v. The Republic* (1966) 3 C.L.R. 676 at p. 683 distinguished). 10 15

(3) Even though the two of the "appraisal reports" which the Governor had made in relation to the applicant were not on the whole favourable reports, there is nothing at all which shows that, either at the time when the Governor made them, or at any later time, and, particularly, when he participated in the process leading up to the appointments of the interested parties, he was motivated by any personal feelings of hostility, animosity, favouritism or bias, which would have rendered his participation in the relevant administrative process a factor vitiating its validity (see the Conclusions from the Case-Law of the Council of State in Greece (1929-1959), p. 111 and Odent "Contentieux Administratif" (1970-1971), 2nd ed., vol. 5, pp. 1465-1466). (*Kallouris v. The Republic*, 1964 C.L.R. 313, distinguished). 20 25 30

(4) Though we do agree that due reasoning is an essential requirement for an administrative decision such as the *sub judice* one, we cannot share the view that this is a case where, as for example in the case of *Constantinides v. The Republic*, (1967) 3 C.L.R. 7, the reasoning of the *sub judice* decision is such as to leave this Court, or any person interested in the matter, in any real and substantial doubt as regards its nature. In our opinion, due reasoning for such decision is to be sufficiently derived from the totality of the relevant material which 35

is before us and, in particular, from the minutes of the Committee.

Application dismissed.

Cases referred to:

- 5 *Frangoulides (No. 2) v. The Republic* (1966) 3 C.L.R. 676, at p. 683;
 Kallouris v. The Republic, 1964 C.L.R. 313;
 The Pancyprian Federation of Labour (PEO) v. Board of Cinematograph Films Censors and Another (1965) 3 C.L.R. 27;
 10 *Constantinides v. The Republic* (1967) 3 C.L.R. 7.

Recourse.

Recourse against the decision of the respondent to appoint interested parties D. Theodorides and H. Ahniotis to the post of Manager in the service of the Central Bank of Cyprus in preference and instead of the applicant.

L. Clerides, for the applicant.

N. Charalambous, Counsel of the Republic, for the respondent.

Chr. Vakis with *L. Georghiadou (Mrs.)*, for interested party
 20 *D. Theodorides*.

Cur. adv. vult.

The judgment of the Court was delivered by:

25 TRIANTAFYLIDIS P.: The applicant challenges, by this recourse, the appointments of two interested parties, D. Theodorides and H. Ahniotis, to the post of Manager in the service of the Central Bank of Cyprus, as from March 13, 1970.

30 This case was tried initially by one of the Judges of this Court and he annulled the appointments in question as being unconstitutional; his decision was reversed on appeal and we then heard the case on the remaining issues; we adopted the rather exceptional course of continuing ourselves the trial, after disposing of the appeal, in order to avoid any delay in these proceedings, and we did so with the consent of all the parties concerned.

35 The said appointments were made by the Governor of the Central Bank, Mr. C. Stephani, on March 14, 1970, with effect as from the previous day, when the offers of appointment had been made to the interested parties.

Learned counsel for the applicant has attacked the validity of the appointments on three main grounds: First, that they were made contrary to the provisions of section 15 of the Central Bank of Cyprus Law, 1963 (Law 48/63); secondly, that in making them there were taken into account "appraisal reports" about the performance of the applicant and of interested party Theodorides which were made contrary to regulation 12 of the Central Bank of Cyprus Employees' (Conditions of Service) Regulations, 1964; and, thirdly, that the Governor's *sub judice* decision is not duly reasoned.

The relevant provisions of section 15 of Law 48/63) are subsections (2) and (3) and they read as follows:-

"(2) Άνευ έπηρεασμοϋ τής γενικότητος τοϋ έδαφίου (1), ό Διοικητής διορίζει, θέτει είς διαθεσιμότητα ή άπολύει άπαντας τούς άξιωματούχους ή ύπαλλήλους τής Τραπεζής πλην εκείνων δι' οϋς γίνεται ειδική πρόνοια έν τῶ παρόντι Νόμῳ, τηρουμένων τῶν έκάστοτε έν Ισχύϊ νόμων και συμφώνως πρὸς Κανονισμούς γενομένους δυνάμει τοϋ παρόντος Νόμου άναφορικῶς πρὸς τούς άξιωματούχους και ύπαλλήλους τής Τραπεζής.

(3) Ό Διοικητής έν τή ένασκήσει οίασδήποτε τῶν λειτουργιῶν αϋτοϋ δυνάμει τοϋ έδαφίου (2) δέον ὅπως ένεργή συμφώνως πρὸς γνωμοδότησιν Έπιτροπής επί τούτῳ συνιστωμένης, συγκειμένης έξ έαυτοϋ ὡς Πρόεδρου, τοϋ Έποδιοικητοϋ, ένὸς Συμβούλου επί τούτῳ διοριζομένου ύπὸ τοϋ Συμβουλίου, τοϋ Έπουργικοϋ Έπιτρόπου και ένὸς έτέρου προσώπου επί τούτῳ διοριζομένου ύπὸ τοϋ Συμβουλίου ή θητεία τοϋ προσώπου τούτου είναι διετής έκτός εάν παυθῆ προηγουμένως ύπὸ τοϋ Διοικητοϋ."

("(2) Without prejudice to the generality of subsection (1) the Governor shall, subject to any Law in force for the time being and in accordance with regulations relating to the officers and employees of the Bank made under this Law, appoint, suspend or dismiss any officer or employee of the Bank other than officers or employees in respect of whom other provision is made in this Law.

(3) The Governor in carrying out any of his functions under subsection (2) shall act in accordance with the advice of a Committee established for the purpose and consisting

of himself as Chairman, the Deputy Governor, one director nominated by the Board in this respect, the Minister's Representative and one other person nominated by the Board in this respect to hold office for a period of two years, unless earlier removed by the Governor."').

The decision to appoint the interested parties was taken in accordance with the advice of the Committee established under subsection (3) of section 15, above; such advice was given on March 12, 1970; as it appears from the relevant minutes before us, there had previously taken place two preparatory meetings of the Committee, one on February 20, 1970, and one on March 6, 1970.

After the last meeting of the Committee, on March 12, 1970, of which the Governor was a member and the Chairman, and at which it was unanimously agreed to appoint the two interested parties, the Governor made formal offers of appointment to the interested parties, on March 13, 1970, and, then, he proceeded, on March 14, 1970, to make the appointments; thus, pursuant to unanimously given advice of the Committee concerned, the Governor proceeded to make himself the two *sub judice* appointments.

In our opinion the course of the relevant administrative action was fully in accordance with both the letter and spirit of section 15 of Law 48/63, and, in particular, of subsection (3) thereof. There is nothing to show that the Committee has, in any way, usurped the powers of the Governor to the extent to which such powers are, under section 15, to be treated as being separate from the function of the Committee, or that the Governor has ceded his powers to the Committee contrary to section 15, or that he mistakenly has considered himself as bound, in any way, by the decision of the Committee.

We shall deal, next, with the issue of the "appraisal reports":

Regulation 12(1) of the relevant Regulations provides as follows:-

" 12. (1) Every Manager or, in his absence, the Section Head of the Bank, shall submit to the Governor annually on a special form confidential appraisal reports on every employee in their department or section, who has been confirmed in his post."

It appears from the said reports (two of which relate to the applicant in respect of 1966 and 1967, and another to interested party Theodorides in respect of 1966) that they were made by the Governor himself because, as it is expressly stated in them, they could not have been made as provided in regulation 12 (1), inasmuch as the applicant and the said interested party were not, at the material times, serving under a Manager or Section Head of the Bank, but were serving directly under the Governor, because they were performing then duties of Acting Managers. 5

We are of the view that, since no reports could possibly have been made in exact conformity with regulation 12 (1), it was not at all improper for the Governor to proceed to put on record himself, contemporaneously and at a time when no appointments or promotions were envisaged, his views regarding two officers of the Bank who were working directly under him. 10 15

Nor was it wrong to place these reports before the aforementioned Committee at the time when the making of the *sub judice* appointments was being considered; in any event, the Governor had personal knowledge of the performance of the candidates concerned and he could have expressed the same views at the meetings of the Committee as had been recorded by him in the "appraisal reports", and he was entitled to act on the basis of these views, even if he had not recorded them previously in such reports. 20

The present case is clearly distinguishable from that of *Fran-goulides (No. 2) v. The Republic*, (1966) 3 C.L.R. 676, where Vassiliades J., as he then was, stated (at p. 683):- 25

"While it may well be that in certain circumstances a Minister could, perhaps, place his views regarding the candidates for a post in a Department of the Ministry in his charge, before the Public Service Commission, (which we do not purport to decide in these proceedings) there is no doubt in our mind that he cannot do so in substitution of the views of the Head of Department, (or the Officer acting for him) as reflected in the annual confidential reports concerning a subordinate officer. The difference between the nature of the office of a Minister and that of a superior officer in the permanent public service, who is the Head of a Department, is so clear under the relative 30 35

provisions of the Constitution; under the Service Regulations; and in actual practice, that we find it unnecessary to elaborate at length on the point.”

5 The Governor of the Central Bank is not a political personage, as was the Minister concerned in the *Frangoulides* case, and, furthermore, in that case there was a Head of Department who could have made the confidential reports which the Minister had made in his place; in the present case the Governor in making the “appraisal reports” did not act instead of a Head
10 of Department, who could have made them; the Governor was—in view of the particular circumstances of this case—himself the “Head of the Department” and an official possessing a completely independent status.

15 The present case is distinguishable, also, from that of *Kallouris v. The Republic*, 1964 C.L.R. 313, where it was held that the body which had made the disputed promotions was composed in a defective manner because one of its members was closely related to one of the candidates. Even though the two of the “appraisal reports” which the Governor had made in relation
20 to the applicant for 1966 and 1967 were not on the whole favourable reports, there is, nevertheless, nothing at all which shows that, either at the time when the Governor made them, or at any later time, and, particularly, when he participated in the process leading up to the appointments of the interested parties,
25 he was motivated by any personal feelings of hostility, animosity, favouritism or bias, which would have rendered his participation in the relevant administrative process a factor vitiating its validity (see, in this respect, the Conclusions from the Case-Law of the Council of State in Greece (1929–1959), p. 111, and Odent “Contentieux Administratif” (1970–1971), 2nd ed.,
30 vol. 5, pp. 1465–1466).

Regarding the complaint of the applicant that the *sub judice* decision does not contain due reasoning, we do agree with counsel for the applicant that due reasoning is an essential
35 requirement for an administrative decision such as the one with which we are concerned in the present instance; he has referred, in this respect, to, *inter alia*, the case of *The Pancyprian Federation of Labour (PEO) v. Board of Cinematograph Films Censors and another*, (1965) 3 C.L.R. 27; and there have, indeed,

been many cases since then where the need for due reasoning was stressed, again and again, by this Court.

We cannot, however, share the view that this is a case where, as for example in the case of *Constantinides v. The Republic*, (1967) 3 C.L.R. 7, the reasoning of the *sub judice* decision is such as to leave this Court, or any person interested in the matter, in any real and substantial doubt as regards its nature. In our opinion, due reasoning for such decision is to be sufficiently derived from the totality of the relevant material which is before us and, in particular, from the minutes of the Committee, to which we have already referred earlier on; from the minutes of March 6, 1970, it appears that, in the process of selecting the two interested parties as the most suitable candidates, there were taken into account the applications of the candidates, in which there were set out their qualifications and other relevant information concerning them, the outcome of the interviews of the candidates, as well as the confidential reports that existed in relation to those of them who were already in the service; as the post in question is a "first entry and promotion post" and applications were invited, also, from outsiders, it was not possible to have available confidential reports in respect of them, too. It is true that in the said minutes it is stated that "other relevant factors" were taken into account, too, but we do not agree that this statement renders the reasoning for the *sub judice* decision so vague that it should be treated as being defective; we are of the opinion that the said statement was intended to convey, and that it does, indeed, convey, that all possibly relevant considerations were duly weighed.

For all the reasons which we have set out in this judgment we cannot hold that the present recourse can succeed, and it is dismissed accordingly; but, we do not intend to make an order of costs against the applicant.

Application dismissed.
No order as to costs.