

1981 December, 19

[HADJIANASTASSIOU, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

KIKA GAVA,

Applicant,

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondent.

(Case No. 280/78).

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- Public Officers—Promotions—Head of Department—Director of the Department of Personnel—Not knowing all the candidates for post of Administrative Officer 1st Grade because they were scattered all over Cyprus—Proceedings before Commission adjourned for a month to enable him make inquiries from Heads of Departments, under whom candidates were working, on their abilities—At resumed meeting of the Commission Director of Personnel Department not conveying to the Commission the views of Head of Departments on the candidates but making specific recommendation in favour of the interested parties—Public Service Commission relying on such recommendation—In the circumstances of this case respondent Commission ought not to have given to such recommendation the weight it did give—Sub judice promotion annulled.* 5
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 - Public Officers—Promotions—Confidential reports—Applicant with better confidential reports than interested parties—Reasons given by respondent Commission for selecting interested parties contrary to the administrative records viz. the confidential reports—Sub-judice decision annulled for lack of due reasoning.* 15
 - Administrative Law—Administrative acts or decisions—Reasoning—Due reasoning—Need for—Public Officers—Promotions—Reasoning given by Public Service Commission for selecting the interested party contrary to the contents of the relevant administrative* 20

records viz. the confidential reports—Promotions annulled for lack of due reasoning.

5 The applicant was a candidate for promotion to the post of Administrative Officer, 1st Grade, in the General Administrative Staff, a promotion post. When the Public Service Commission met to consider the filling of the vacancies in this post the Director of the Department of Personnel, who is the Head of Department of the General Administrative Staff, stated that he did not know all the candidates as they were scattered all over Cyprus and suggested that all candidates be interviewed by the Commission before making its final selection. Thereupon the Commission decided to adjourn the filling of the vacancies for a month in order to give a chance to the Director of the Department of Personnel to make, in the meantime, the necessary inquiries and obtain the views of the Heads of Departments under whom the candidates were working, regarding the merits and abilities of the candidates. The Commission met again in the presence of the Director of the Department of Personnel who stated before the Commission that having regard to the merits and abilities of all the candidates, he considered Messrs. Leandros Isaias and Diomedes Avraam as the best and recommended them for promotion; and the Commission "after taking into consideration all the facts appertaining to each one of the candidates and after giving proper weight to the merits, qualifications, seniority, service and experience of these candidates, and having regard to the views expressed as well as to the recommendations made by the Director of the Department of Personnel", came to the conclusion that the above two officers were on the whole the best and decided to promote them to the above post.

Neither of the interested parties have obtained even one blue report (special confidential report) in contrast with the applicant, who from 1966–1977 had to her credit 10 such reports.

35 Applicant challenged the above decision by means of this recourse and mainly contended that the respondent Commission erroneously attributed undue weight to the views of the Department of Personnel who was not the immediate and actual superior of all the candidates and had no personal knowledge of their merits.

40 *Held*, that since the Director of the Personnel Department admitted that he did not know all the candidates, and once

the filling of the vacancies was adjourned for a month in order to give the chance to the Director of the Personnel Department to make, in the meantime, the necessary inquiries and obtain the views from the Heads of Departments regarding the merits and the abilities of all the candidates, the Director ought to convey to the Commission the views of the Heads of Departments on all the candidates and leave the matter in the hands of the Commission to draw its own conclusions and not to make specific recommendations, as he did, about the two interested parties only; that in the particular circumstances of this case, the Commission ought not to have given to the recommendation of the Director of the Personnel the weight it did give and indeed the Commission made it clear that they relied entirely on the recommendation of the Director of the Personnel Department; accordingly the *sub judice* decision must be annulled (see *Georghiou v. Republic* (1976) 3 C.L.R. 74 at pp. 84, 85). 5 10 15

Held, further, that since applicant had better confidential reports than the interested parties the reasons given by the respondent Commission in its minutes for selecting the interested parties appear to be definitely contrary to the relevant administrative records viz. the annual confidential reports; accordingly the *sub judice* decision must be annulled for lack of due reasoning. (*Savva v. Republic* (1980) 3 C.L.R. 675 at pp. 695, 696 followed). 20

Sub judice decision annulled. 25

Cases referred to:

Georghiou v. The Republic (1976) 3 C.L.R. 74 at pp. 84, 85;

Savva v. The Republic (1980) 3 C.L.R. 675, at pp. 695, 696;

Ioannou v. Republic (1977) 3 C.L.R. 61 at p. 74;

Lardis v. Republic (1967) 3 C.L.R. 64; 30

Iacovides v. Republic (1966) 3 C.L.R. 212;

Petrondas v. Attorney-General (1969) 3 C.L.R. 214.

Recourse.

Recourse against the decision of the respondent to promote the interested parties to the post of Administrative Officer 1st Grade in preference and instead of the applicant. 35

St. Erotocritou (Mrs.), for the applicant.

Cl. Antoniadis, Senior Counsel of the Republic, for the respondent.

Cur. adv. vult. 40

HADJIANASTASSIOU J. read the following judgment:

THE FACTS:

The applicant is a spinster and was born on 27th June, 1938 and she joined the public service on 1st July, 1956. She served
5 with the Education Office of the then British Colony of Cyprus as a temporary clerical assistant from 1st July, 1956, and as a permanent clerical assistant from 1st May, 1957. After Cyprus became independent, she was attached in the service of the Greek Communal Chamber and was appointed a stenographer, 2nd
10 grade on 1st January, 1966, as well as being a recorder of minutes -clerk, on 1st May, 1961. After the Greek Communal Chamber had ceased to function in 1965, she was eventually emplaced in the post of Administrative Officer, 3rd grade, as from 1st February, 1966, by virtue of the provisions of section 16(1)
15 of the Transfer of Exercise of the Competences of the Greek Communal Chamber and the Ministry of Education Law, 1965 (Law 12/65). On 1.12.1970 she was seconded to the post of Administrative Officer 2nd Grade and she was promoted to that post as from 15th July, 1971. The applicant was not
20 emplaced in the post of administrative officer third grade straight away, under s. 16(1) of Law 12/65 and at about the same time when other officers in the service of the Greek Communal Chamber were emplaced in other posts in the Public Service under the said section 16(1). She was initially erroneously
25 emplaced in the post of Stenographer 1st Grade, and it was only after she had made successfully a recourse under Article 146 of the Constitution against such emplacement that she was emplaced in the post of Administrative Officer, third Grade as from 1st February, 1966, having been eventually informed
30 of this decision by a letter dated 8th October, 1968.

In view of the above delay in relation to the emplacement of the applicant in the post of Administrative Officer 3rd Grade, and her claims for promotion to the post of Administrative Officer, 2nd Grade, were adversely affected in that other public officers
35 who were appointed or promoted to the post of Administrative Officer 3rd Grade after the time at which she would have been normally emplaced in such post, became or were treated as her seniors instead of as her juniors, in the post of Administrative Officer 3rd Grade, and were consequently promoted ahead
40 of her to the post of Administrative Officer 2nd Grade, thus

gaining seniority over the applicant in that post; and some of them have already been promoted to Administrative Officer, 1st Grade.

The applicant, feeling aggrieved, raised with the Commission the prejudicial effect on her career, and pointed out that in relation to other public officers who had been in the service of the Greek Communal Chamber and who were employed in analogous posts under s. 16 of Law 12/65, their years of service under the Greek Communal Chamber were taken into consideration for purposes of seniority and promotion. Indeed, she was also informed on 26th July, 1977, that her seniority in the post of Administrative Officer, 3rd Grade, would be calculated as from 1st May, 1962. (See letters dated 22nd January, 1973, 16th February, 1976, 14th January, 1977 and 26th July, 1977, (*exhibits* 2, 3, 4 and 5).

On the 20th August, 1977, the applicant addressed a letter to the Chairman of the Public Service Commission, and had this, *inter alia*, to say:-

“Καίτοι ή άρχαιότης τών δημοσίων υπαλλήλων, ή όποία καθορίζεται βάσει τών πρόνοιών του άρθρου 46 του περί της Δημοσίας Υπηρεσίας Νόμου 33 του 1967, δέν είναι τό μοναδικόν ή τό άποφασιστικόν κριτήριον διά προαγωγήν, έν τούτοις αύτη άποτελεί ένα τών ούσιωδών παραγόντων. Είναι προφανές ότι εις τήν ιδικήν μου περίπτωση, έν ή κοινοποιηθεϊσα εις έμέ ειρήμην άπόφασις είχε ληφθή ένωρίτερον, όπως έγένετό εις τās περιπτώσεις άλλων υπαλλήλων της τέως ΕΚΣΚ, ή σειρά άρχαιότητός μου εις τήν θέσιν Διοικητικοῦ Λειτουργοῦ, 3ης Τάξεως θά ήτο πολύ διάφορος άπό ότι μέχρι τώρα, ή δέ προαγωγή μου εις τήν 2αν Τάξιν θά ειχεν έπιταχυνθή αναλόγως και δέν θά καθυστερεί μέχρι της 15.7.1971. Η τοιαύτη καθυστέρησις έπηρέασε και έξακολουθεϊ νά έπηρεάζη τήν σειράν άρχαιότητός μου εις τήν 2αν Τάξιν του Διοικητικοῦ Λειτουργοῦ.

Εις τόν συνημμένον πίνακα παρατίθενται ένδεικτικώς περιπτώσεις συναδέλφων μου οι όποιοι είχον ή θά είχον χαμηλοτέραν έμου σειράν άρχαιότητος επί τη βάσει της νέας ήμερομηνίας 1.5.1962, ήτις ισχύει τώρα εις τήν περίπτωσηί μου, και οι όποιοι προήχθησαν εις τήν 2αν Τάξιν του Διοικ. Λειτουργοῦ ένωρίτερον έμου, τινές δέ έξ αυτών έχουν ήδη τύχει περαιτέρω προαγωγής εις τήν 1ην Τάξιν.

Ἐκ τῶν ἀνωτέρω καθίσταται πρόδηλον ὅτι, συμπτωματικῶς ἀλλὰ καὶ οὐχὶ ἐξ ὑπαιτιότητός μου ἐπιηρέασθη λίαν δυσμενῶς ἡ ὑπηρεσιακὴ μου ἐξέλιξις, ἐλπίζω δὲ ὅτι ἡ ὑμετέρα Ἐπιτροπὴ θὰ θελήσῃ νὰ δώσῃ τὴν δέουσαν λύσιν εἰς τὰς ἀξιώσεις μου διὰ προαγωγὴν ὅταν θὰ ἐπιληφθῇ προσεχῶς τοῦ θέματος προαγωγῶν εἰς τὴν θέσιν Διοικητικοῦ Λειτουργοῦ, 1ης Τάξεως, καθ' ὅτι, ἄλλως, θὰ ἐξακολουθήσω νὰ ὑφίσταμαι τὰ συνεπεῖας ἀνίσου μεταχειρίσεως”.

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(“Although the seniority of public officers, which is defined by the provisions of section 46 of the Public Service Law No. 33 of 1967, is not the only or decisive criterion for promotion, yet it constitutes one of the substantive factors. It is obvious that in my case, if your decision communicated to me had been received earlier as was done in the case of other officers of the ex Greek Communal Chamber, my seniority in the post of Administrative Officer 3rd Grade would be very different from what it is until now, and my promotion to the 2nd Grade would have been accelerated accordingly and would not have been delayed until the 15.7.1971. This delay has affected and continues to affect my seniority in the 2nd Grade of the Administrative Officer.

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In the attached schedule are shown indicatively cases of colleagues of mine who had or would have had a lower seniority on the basis of the new date 1.5.1962, which is now in force in my case, and who were promoted to the 2nd Grade of Administrative Officer before me, some of whom have already been further promoted to the 1st Grade.

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From the above it is evident that, symptomatically and not due to my responsibility my advancement in the service was very adversely affected, and I hope that your Committee will want to give the proper solution to my claims for promotion when it will consider presently the question of promotions in the post of Administrative Officer, 1st Grade, because otherwise I shall continue to suffer the effects of unequal treatment”).

There is no doubt that the applicant quite rightly was inquiring to find out how the Commission was proposing to apply the

decision communicated to her regarding her revised date of seniority as administrative officer, 3rd grade in relation to her claim for promotion in future to Administrative Officer, 1st Grade so as to put an end to her continuous victimization or unequal treatment.

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In reply to the letter of the applicant, the Chairman of the Commission informed her that both her seniority as well as her demands in general for promotion to the post of Administrative Officer, 1st class, would be taken duly into consideration if and when the Commission would deal with the filling of that post.

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Furthermore, the writer pointed out that in accordance with the provisions of s. 44(a) of the Public Service Law, No. 33/67, the seniority of an employee does not constitute the only criterion for promotion.

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On the contrary, counsel appearing for the respondent opposed the application on the following grounds of law, viz., that the decision complained of was properly and lawfully taken in the proper exercise of the respondent's discretion and after careful consideration of all the relevant facts and circumstances. Indeed, the facts relied upon in the opposition were that the Director of the Ministry of Finance wrote to the Chairman of the Commission informing him that the Minister of Finance had approved, *inter alia*, the filling of two vacancies in the post of administrative officer, 1st grade, in the General Administrative Staff, as well as any consequential ones and requested him to take the necessary steps for their filling. (See encl. No. 1).

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According to the relevant scheme of service (encl. No. 2), the post of Administrative Officer, 1st Grade, in the General Administrative Staff is a "Promotion Post". The Public Service Commission at its meeting of 16.11.1977 (encl. No. 3), decided that the filling of the abovementioned vacancies be considered on 16.12.1977 and that the Director, Department of Personnel, should be requested to be present.

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At its meeting of 16.12.1977 (encl. No. 4) and in the presence of the Director, Department of Personnel, the Commission, having carefully considered (a) the merits, qualifications, seniority, service and experience of all the officers (including

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Applicant) serving in the lower post of Administrative Officer, 2nd Grade, as reflected in their personal files and in their annual confidential reports; and (b) the views expressed on each one of the candidates by the Director of the Department of Personnel and the recommendations made by him, decided that the interested parties were on the whole the best and that they should be promoted to the permanent post of Administrative Officer, 1st Grade with effect from 15.2.1978. The promotion of the interested parties to the abovementioned post was published in the Official Gazette of the Republic of 7.4.1978 under Notification No. 623.

On the 16th November, 1979, according to the minutes of the meeting, the Director of the Department of Personnel stated orally that he did not know all the candidates as they were scattered all over Cyprus. In view of this statement, the Director suggested that all candidates might be interviewed by the Commission before final selection was made.

The Commission, after considering the above suggestion, decided that it would not be necessary to interview the candidates for the post of administrative officer first grade and administrative officer second grade. Indeed, the Commission further decided that the filling of the vacancies in the above post be considered after about one month in order to give a chance to the Director of the Department of Personnel to make, in the meantime, the necessary inquiries and obtain the views from the heads of departments regarding the merits and abilities of the candidates. With that in mind, the Commission decided (i) that the filling of the vacancies in the post of Administrative Officer 1st Grade and 2nd grade be considered on 16th December, 1977, at 9.30 a.m. in the presence of the Director of the Department of Personnel.

On the 16th December, 1977, in the presence of the Director of the Department of Personnel, Mr. G.M. Anastassiades, Mr. C. Lapas withdrew from the meeting because he was related to one of the candidates.

It appears further that under the relevant scheme of service, the following requirements, *inter alia*, are needed:-

- (i) a minimum of five years' administrative experience,

two of which should be in the post of Administrative Officer, 2nd Grade;

- (ii) an excellent knowledge of Greek and a very good knowledge of English;
- (iii) the officers must have passed the exams in Cyprus Statute Laws, or certain specified laws, General Orders, Financial Instructions and Stores Regulations; and 5
- (iv) possession of a University Diploma or Degree will be considered as an advantage.

Then, encl. No. 4 shows that the Commission considered the merits, qualifications, seniority, service and experience of all the officers serving in the lower post of Administrative Officer, 2nd Grade, as reflected in their personal files and in their annual confidential reports. The Director of the Department of Personnel stated that having regard to the merits and abilities of all the candidates, he considered Messrs. Leandros Isaias and Diomedes Avraam as the best and recommended them for promotion. Finally, the Director of the Department of Personnel added (i) L. Isaias; (ii) D. Avraam. 10 15

Then, the Commission, having dealt with the case of Mr. L. Isaias, observed that he entered the Government Service on 1st May, 1944, as an Inspector of Cereals and, after working for a number of years in the Clerical staff, joined the Administrative Staff as from 1.3.1957 as a temporary Administrative Officer, 3rd Grade (on secondment); on 2.7.1962 he was appointed substantively to the permanent post of Administrative Officer, 3rd Grade, and as from 1.12.1967 he was promoted to the permanent post of Administrative Officer, 2nd Grade. In his Annual Confidential Reports, Mr. Isaias has been assessed generally as "very good" and "excellent". 20 25 30

With regard to Mr. D. Avraam, the Commission observed that this officer entered the Government Service on 1.4.1955 as a temporary Clerical Assistant and as from 1.1.1957 he was promoted to the post of Clerk, 2nd Grade; after working for a number of years in that capacity, he joined the Administrative Staff as a temporary Administrative Officer, 3rd Grade (on secondment), and as from 1.5.1966 he was appointed substantively to the permanent post of Administrative Officer, 3rd Grade; 35

as from 1.10.1968 he was seconded to the temporary (Dev.) post of Administrative Officer, 2nd Grade, and as from 1.2.69 he was promoted to the permanent post of Administrative Officer, 2nd Grade. In his Annual Confidential Reports for the years 1968–1973, Mr. Avraam was assessed as “very good” and “excellent”, whereas in the Annual Confidential Reports for the years 1974–1976 he was assessed as “excellent” and in the last two reports he was recommended for promotion.

Finally, the Commission, after comparing the qualifications, seniority, service and experience as well as the assessments made in the Annual Confidential Reports of all the candidates, decided to follow the recommendations made by the Director of the Department of Personnel.

According to the relevant scheme of service, candidates for promotion to the post of Administrative Officer, 1st Grade, must possess “an excellent knowledge of Greek and a very good knowledge of English”. Having regard to the long and satisfactory service in the Government of Messrs. L. Isaias and D. Avraam, as well as their educational qualifications, the Commission was satisfied that the officers in question did possess “an excellent knowledge of Greek and a very good knowledge of English”.

After considering all the above and after taking into consideration all the facts appertaining to each one of the candidates and after giving proper weight to the merits, qualifications, seniority, service and experience of these candidates, and having regard to the views expressed as well as to the recommendations made by the Director of the Department of Personnel, the Commission came to the conclusion that the following officers were on the whole the best. The Commission accordingly decided that the officers in question be promoted to the permanent post of Administrative Officer, 1st Grade, w.e.f. 15.2.1978: Leandros Isaias; Diomedes Avraam.

QUALIFICATIONS:

According to a table showing particulars of the Government Service and the qualifications of the applicant and the two interested parties, the applicant joined the service as a Clerical Assistant (unestablished) on 1.7.1956 and became permanent on 1.5.1957. On 1st May, 1962, she became a Secretary–Clerk,

Greek Communal Chamber, and on 1.2.1966, after being emplaced in the post of Stenographer, 1st Grade G.C.S. under s. 16(1) of Law 12/65, it was cancelled by the Supreme Court and on the same date she was emplaced to the post of Administrative Officer, 3rd Grade G.A.S. under s. 16(1) of Law 12/65 (seniority is reckoned as from 1.5.1962). On 1.12.1970 she was seconded to the T(D) post of Administrative Officer, 2nd Grade, G.A.S.; and on 15.7.1971 she became an Administrative Officer, 2nd Grade, G.A.S. 5

The qualifications of the applicant are these:- 10

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| (i) Greek Gymnasium, Morphou | 1950-1956 | |
| (ii) C.C.E.: | | |
| English Lower and Higher | | |
| Greek Higher | | |
| History | | 15 |
| Turkish Lower | | |
| Maths "A" and "B" | | |
| Geography | | |
| (iii) General Orders | 1970 | |
| (iv) Financial Instructions | 1970 | 20 |
| (v) Specified Laws | 1972 | |

The Interested Party Diomedes Avraam joined the Public Service on 1.4.1955 as a Temporary Clerical Assistant. On 1.1.1957 he became a Clerk, 2nd Grade, G.C.S. On 1.9.1965 he was promoted to Assistant District Inspector (sec.) District Administration, and became permanent in this post on 1.5.1966. On 1.10.68 he was seconded to temp. (Dev.) Administrative Officer, 2nd Gr., G.A.S.; on 1.2.1969 he became Admin. Officer, 2nd Gr., G.A.S. (Perm.); and on 15.2.1978 he became Adm. Officer, 1st Gr., G.A.S. 30

His qualifications are the following:-

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| (i) English School, Nicosia | 1949-1955 | |
| (ii) C.C.E.: | | |
| English Lower and Higher | | |
| Greek Lower and Higher | | 35 |
| Turkish Lower and Higher | | |
| Maths "A" and "B" | | |

History
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	(iii) General Orders	1958
	(iv) Financial Instructions	1962
5	(v) Specified Laws	1966
	(vi) Attended a course for Establishment Officers in London	14.4.72- 6.7.72
10	(vii) Public Administration Course, Univ. of Manchester	1976-1977

Interested Party Leandros Isaias joined the Public Service as Inspector of Cereals on 1.5.1944. On 1.1.1945 he became a Temporary Clerical Assistant, and was made permanent in that post on 1.1.1956. On 1.3.1957 he was seconded to temp. Asst. District Inspector, and on 2.7.1962 he became Asst. District Inspector, District Admin. (Perm.). On 1.12.1967 he was promoted to Adm. Officer, 2nd Gr. G.A.S., and he became 1st grade in that post on 15.2.1978.

His qualifications are the following:-

20	(i) Greek High School, Morphou	1932-1934
	(ii) Pancyprian Gymnasium and English School, Nicosia	1934-1937
	(iii) English Ordinary	
	(iv) English Higher, C.C.E.	
25	(v) General Orders	1967
	(vi) Financial Instructions	1967
	(vii) Specified Laws	1966

Turning now to the confidential reports of the applicant, it appears that the Public Service Commission, once it decided to accept and adopt the recommendation made by Mr. Anastasiades, the Director of the Personnel Department, it did not proceed to make any mention of the confidential reports of the applicant, which, from 1966-1967 were all Special Confidential Reports (blue reports), and the reporting officer was Mr. Adamides.

From April, 1966–May, 1967, a special assessment of the applicant reads:– “An outstanding officer who may well prove herself extremely efficient in the performance of duties of even more responsibility, especially in the administrative field”.

From May, 1967–December, 1967, she was assessed as “An outstanding officer”; and for the period December, 1976–December, 1977, this observation was made: “Leading personality and undertakes initiative on any matter assigned to her”. In view of the above assessment she was recommended for accelerated promotion.

It may be noted that neither of the interested parties have obtained even one blue report, in contrast with the applicant, who from 1966–1977 had to her credit 10 blue reports.

GROUND'S OF LAW:

Counsel in support of his grounds of law argued (1) that the decision to promote the interested parties is not duly reasoned and/or its reasoning is contrary to the Constitution, the law and the principles of proper administration; (2) that the respondent Commission acted in excess and abuse of powers and/or exercised erroneously its discretion and that (a) it overlooked the striking superiority of the applicant as a whole over the interested parties; (b) that the Commission attributed to the seniority of the interested parties over the applicant (22 months in the case of interested party Avraam and 3 years in the case of interested party Isaias) undue weight which was not justifiable in the particular circumstances of the present case; (3) the Commission acted under a material misconception of fact in that it regarded the more apparent than real, in the particular circumstances of the present case, seniority of the interested parties over the applicant as indicative of administrative experience whereas the applicant had by far greater administrative experience, as from 1.5.1962, as compared to that of interested party Avraam (as from 1.5.1966).

(4) The respondent Commission contravened the principle of equality safeguarded by Article 28 of the Constitution in that it did not afford to the applicant the opportunity to be promoted to Administrative Officer 1st Grade on the same basis as those who were emplaced in the post of Administrative Officer 3rd Grade as from 1.5.1962, this being the date, as from when

the applicant would have been regarded as so emplaced to such post under section 16(1) of Law 12/65 not being inordinately delayed through no fault of her own.

5 (5) Moreover, the applicant is the victim of unequal treatment in that in the manner in which her eventual and belated emplace-
ment at the post of Administrative Officer 3rd Grade was made deprived her of the recognition, for purposes of seniority and
10 promotion, of her years of service in the analogous post under the Greek Communal Chamber, such recognition having been
invariably accorded to all other officers of the Greek Communal Chamber who were emplaced in the posts in the Public Service
under section 16 of Law 12/65.

15 (6) The respondent Commission erroneously attributed undue weight to the views of the Department of Personnel who was not the immediate and actual superior of all the candidates and had no personal knowledge of their merits.

Having considered carefully what was said by counsel for the applicant and for the respondent, it is necessary to add that since the Director of the Personnel Department admitted
20 that he did not know all the candidates, and once the filling of the vacancies was adjourned for a month in order to give the chance to the Director of the Personnel Department to make, in the meantime, the necessary inquiries and obtain the views from the Heads of Departments regarding the merits and the
25 abilities of all the candidates, the Director ought to convey to the Commission the views of the Heads of Departments on all the candidates and leave the matter in the hands of the Commission to draw its own conclusions; and not to make specific recommendations, as he did about the two interested
30 parties only. With that in mind, and in the particular circumstances of this case, the Commission ought not to have given to the recommendation of the Director of the Personnel the weight it did give and indeed the Commission made it clear that they relied entirely on the recommendation of the Director
35 of the Personnel Department. If authority is needed on this point, I think that the case of *Odysseas Georghiou v. The Republic of Cyprus through the Public Service Commission*, (1976) 3 C.L.R. 74 at pp. 84, 85 provides the answer. Triantafyllides, P., had this to say:-

40 "There exists, in our opinion, yet another reason for annul-

ling the *sub judice* decision of the Commission: As it appears from the already quoted extract from its minutes the Commission observed that the Head of Department of the candidates, namely the Director of the Department of Personnel, was not in a position to make any specific recommendations as the candidates were scattered all over Cyprus. It seems that the Director of Personnel felt that, in the circumstances, he could not know sufficiently well the quality of the work of all candidates, as they were not all of them working directly under his supervision. The Commission, however, recorded, as one of the reasons for selecting the interested party instead of the appellant, the fact that 'after discussion' with the Director of Personnel it reached the conclusion, and the Director 'agreed', that, on the whole, the interested party was the best.

We think that the Commission could not have properly given the weight that it appears that it did give to the opinion of the Director of Personnel, since, as already stated, he was not in a position to make specific recommendations; and in this respect, it must not be lost sight of that this was, certainly, not an occasion when the Commission had interviewed the eligible candidates in the presence of the Head of Department and it might be said that he expressed an opinion on the basis of his assessment of the candidates in the light of their performance at the interviews".

Turning now to the question of lack of due reasoning, I think one can receive sufficient guidance from the case of *Andreas Savva v. The Republic of Cyprus, through the Public Service Commission*, (1980) 3 C.L.R. 675 at pp. 695, 696 where I had this to say:

"Turning now to the second question as to whether the Commission erred in not giving reasons for preferring the interested party, going through the relevant administrative records, I find that on the whole the applicant has more qualifications, better confidential reports, and more overall experience in the Government service, and, therefore, I would have expected, and I agree with counsel for the applicant that the Commission should have given

5 full reasons for preferring the interested party. The whole object of the rule requiring reasons to be given by the Commission in administrative decisions is to enable the person concerned, as well as this Court on review to ascertain in each case whether the decision is well founded in fact and in law.

10 In *Elli Chr. Korai and Another v. The Cyprus Broadcasting Corporation*, (1973) 3 C.L.R. 546, dealing with this very same point, viz., the lack of due reasoning, I had this to say at pp. 555, 556:.....

15 With these principles in mind, I would like to state that the reasons given by the respondent commission in its minutes for selecting the interested party, appear to be definitely contrary to the relevant administrative records and incompatible with the factors taken into account by them, viz., the qualifications of the candidates concerned and the annual confidential reports. This is another reason why the *sub judice* promotion of the interested party should be annulled".

20 See also *Ioannou v. Republic*, (1977) 3 C.L.R. 61 at p. 74, *Lardis v. Republic*, (1967) 3 C.L.R. 64; *Iacovides v. Republic* (1966) 3 C.L.R. 212; *Petrondas v. Attorney-General*, (1969) 3 C.L.R. 214.

25 For the reasons I have given, I have reached the conclusion that the promotion of the interested parties should be annulled.

Recourse succeeds. No order as to costs.

*Sub judice decision annulled.
No order as to costs.*