

CASES  
DECIDED BY  
THE SUPREME COURT OF CYPRUS  
ON APPEAL  
AND  
IN ITS ORIGINAL JURISDICTION

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[A. LOIZOU, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

MARIA PIERIDOU,

*Applicant,*

v.

THE REPUBLIC OF CYPRUS, THROUGH  
THE PUBLIC SERVICE COMMISSION,

*Respondent.*

(Case No. 448/80).

*Public officers—Appointments and promotions—Interview of candidates  
—Performance at—Nothing wrong in law to attach the necessary  
importance to such performance because it reveals a candidate's  
personality and ability—Sub judice decision reasonably open  
to the Commission on the totality of the material before it.*

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This was a recourse against the validity of the promotion  
and/or appointment to the post of Examiner 2nd Grade in the  
Audit Office of the three interested parties in preference and  
instead, of the applicant. In taking the sub judice decision  
the respondent Public Service Commission took, inter alia,  
into consideration the performance of each of the candidates  
at the interview, their confidential reports and the views and  
recommendations of the Head of Department.

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*Held*, that on the totality of the material before the Commission, including all the relevant factors that under section 44 of the Public Service Law, 1967 had to be taken into consideration, the sub judice decisions, which were duly reasoned and arrived at after due and proper inquiry, were reasonably open to it and there has been neither wrong exercise of discretion nor abuse or excess of power nor any misconception of fact in any respect; that, no doubt, the performance at the interviews played a role and there is nothing wrong in law to attach the necessary importance to them as such interviews reveal a candidate's personality and abilities; that the impressions created at the interviews were not the only ones that weighed with the respondent Commission which had before it the confidential reports of those already in the service and the recommendations of the Head of the Department which were born out by and consistent with the rest of the material that the respondent Commission had before it in taking the subject decisions; accordingly the recourse must fail.

*Application dismissed.*

**Recourse.**

Recourse against the decision of the respondent to promote and/or appoint the interested parties to the post of Examiner, 2nd Grade in the Audit Office, in preference and instead of the applicant.

*E. Efstathiou*, for the applicant.

*A. Papasavvas*, Senior Counsel of the Republic, for the respondent.

*Cur. adv. vult.*

A. Loizou J. read the following judgment. By the present recourse the applicant challenges the validity of the promotion and/or appointment to the post of Examiner, 2nd Grade in the Audit Office of Florentia Evripidou, Panayiotis Lambrou and Alkis Eraclides, hereinafter to be referred to as the interested parties.

As the said post is a first entry and promotion post, the respondent Commission advertised in the Official Gazette of the 23rd November, 1979, the existing vacancies inviting applications giving three weeks during which applications ought to be submitted. In response thereof, 50 such applications

were received and forwarded together with the personal files and confidential reports of those already in the service, as well as with all other necessary documents, to the Auditor-General of the Republic in his capacity as a Chairman of the Departmental Board. After examining all applications and documents, the Board invited the candidates to an interview which 41 of the 50 candidates attended. In its turn it transmitted to the respondent Commission its minutes (Appendix 4A in the bundle of documents attached to the Opposition). The said Board recommended in alphabetical order 16 of the candidates, among whom the applicant and the interested parties, as suitable for promotion or appointment as superior to the rest of the candidates. These 16 applicants were invited for an interview by the respondent Commission; 10 of them were interviewed on the 10th, 2 on the 11th and the remaining 4 on the 12th April, 1980, in the presence of the Auditor-General who was invited by the respondent Commission to be present and assist. The relevant minutes are Appendices 6, 7 and 8 in the bundle of documents attached to the Opposition.

After the conclusion of the interviews, the Auditor-General was asked by the respondent Commission to express his assessment and opinion on the performance of each one of the candidates during the interviews with it, which in so far as the applicant and the interested parties are concerned, were the following:—

“(1) *Maria Pieridou*—She answered generally well but in two questions she gave no answer. She is very sensitive, she bursts without reason into cries during the interview. This fact confirms the situation which is observed in the Office where she works as Examiner of Accounts, 3rd Grade, whenever a serious service subject arises.

(2) *Florentia Evipidou*—She was firm, her answers were very good, she is clever and her English very good.

(3) *Panayiotis Lambrou*—He was firm in his replies, he answered correctly and his English was good. In his case it will be a question of promotion, his experience generally in the audit as Examiner of Accounts, 3rd Grade, is excellent.

(4) *Alkis Eraclides*—His answers were firm, he performed

well and his English was good. As a casual ("ektaktos") Examiner of Accounts, 3rd Grade, he renders excellent service on account of his knowledge and his Diploma in Law which he possesses, factors which will help greatly in the new image of audit and especially in the strict application of laws and regulations". 5

The Auditor-General then withdrew from the meeting of the respondent Commission which after examining all factors before it, including the applications with the relevant certificates and the personal files and the confidential reports of those candidates who were already civil servants and after taking into consideration the conclusions of the Departmental Board and the performance of each one of the candidates at the interviews with the respondent Commission with it, on the basis of the views and recommendations of the matter of the Auditor-General, considered that all candidates possessed the required under the relevant scheme of service qualifications, including a good knowledge of the English language and further "selected the following candidates as superior on the whole of the rest of the candidates and as suitable for appointment/promotion to the permanent (ordinary) post of Examiner of Accounts, 2nd Grade, in the Audit service: 10 15 20

- |                            |                   |    |
|----------------------------|-------------------|----|
| (1) Florentia Evripidou    | For promotion     |    |
| (2) Theodoulitsa Kouloubri | For appointment   |    |
| (3) Panayiotis Lambrou     | For promotion     | 25 |
| (4) Eleni Parouti          | For appointment". |    |

As a result, however, of the decision of the respondent Commission to annul the offer which was made to Eleni Parouti for appointment, the question of the filling of the said post by another candidate arose. The respondent Commission as its minutes of the 16th June, 1980 (Appendix 9) read "re-examined all factors before it relevant to the filling of the vacant post and after taking into consideration the applications of the candidates with the relevant certificates, the conclusions of the Departmental Board and the performance of every candidate at the interviews with the respondent Commission and in the light of the views and assessments of the Auditor-General of the Republic on the subject, considered that Alkis 30 35

Eraclides was superior on the whole to the rest of the candidates, found him suitable for the filling of the post and decided to appoint him to the Permanent (Ordinary) Post of Examiner of Accounts, 2nd Grade, in the Audit Department”.

- 5 The general ground of law upon which the main ground of law relied upon on behalf of the applicant is that the respondent Commission failed in its paramount duty to select the best candidate for the post, inasmuch as she had striking superiority over the remaining parties, seniority over interested party  
10 Panayiotis Lambrou, better qualifications than him and with regard to the other interested parties, that she was strikingly superior and that it was wrong to assess the candidates by what took place at the interviews alone. Relevant to these issues are the careers and qualifications of the applicants as  
15 well as the contents of the confidential reports for those that were already in the service.

- The applicant entered the service as an Examiner of Accounts 3rd Grade, on the 15th December, 1970; she is a graduate of the Pancyprian Gymnasium from which she graduated in 1969.  
20 She passed the Book-keeping Elementary, Intermediate and Higher, and Accounting Higher Examinations of the L.C.C. and the Government qualifying examinations, General Orders, Financial Instructions and Store Regulations. In the last three confidential reports she is rated for the year 1977 as “very good”.  
25 Likewise for 1978, where in the majority of ratings for the year 1978 the “excellent” ratings given by the reporting officer were reduced to “very good” with the observation of the Auditor-General, as countersigning officer, that this reporting officer usually exaggerates things. For the year  
30 1979 she is rated as “very good” by the same reporting officer.

- Panayiotis Lambrou* attended the Pancyprian Commercial Lyceum, Larnaca, and graduated from the High Commercial Lyceum of Nicosia in 1957. He passed the L.C.C. Book-keeping Intermediate and Accounting Higher Examinations,  
35 the Government qualifying examinations, the General Orders, Financial Instructions and Store Regulations. He entered the service as a Storeman 2nd Grade on the 1st November, 1970, he became an Examiner 3rd Grade on the 1st April, 1973 until the 15th June, 1980, when by the sub judge decision  
40 he was made an Examiner of Accounts 2nd Grade.

*Florentia Evripidou* graduated the English School Nicosia in 1974, she passed a good number of G.E.C. University of London examinations of Ordinary Level and one at Advanced Level and she has a Diploma in Business Sciences of the Higher School of Economics and Business Sciences, Athens. She joined the service by the sub judge decision. 5

*Alkis Eraclides* graduated the Pancyprian Gymnasium in 1964 and he obtained a Law Degree at Athens University and he is a registered advocate. He worked as a casual Examiner of Accounts 3rd Grade in the Audit Department as from February 1976 until the 15th June, 1980, when by the sub judge decision he was made an Examiner of Accounts 2nd Grade. There are no confidential reports for him because of the casual nature of his employment with the Audit Office, but it is clear that his performance at that was known to the Auditor-General. 10 15

On the totality of the material before the Commission, including all the relevant factors that under section 44 of the Public Service Law 1967 had to be taken into consideration, I have come to the conclusion that the sub judge decisions which are duly reasoned and arrived at after due and proper inquiry, were reasonably open to it and there has been neither wrong exercise of discretion nor abuse or excess of power nor any misconception of fact in any respect. No doubt that the performance at the interviews, both before the Departmental Board as well as the respondent Commission, played a role and there is nothing wrong in law to attach the necessary importance to them as such interviews reveal a candidate's personality and abilities. But the impressions created at the interviews were not the only ones that weighed with the respondent Commission which had before it the confidential reports of those already in the service and the recommendations of the Head of the Department which were born out by and consistent with the rest of the material that the respondent Commission had before it in taking the subject decisions. 20 25 30

For all the above reasons this recourse is dismissed, but in the circumstances I make no order as to costs. 35

*Recourse dismissed. No order as to costs.*