

1983 August 1

[SAVVIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

FRIXOS DEMETRIADES AND OTHERS,

Applicants,

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE EDUCATIONAL SERVICE COMMITTEE,

Respondents.

(Cases Nos. 421/81, 423/81,
432/81, 433/81, 435/81, 442/81,
451/81, 460/81, 461/81, 473/81,
484/81, 489/81, 498/81, 504/81,
2/82, 33/82, 41/82, 52/82, 53/82,
54/82, 55/82, 56/82, 163/82,
168/82).

*Educational Officers—Promotions—Interview of candidates—Com-
menced and completed in two stages with an interval of 18 months
—Performance of candidates at the interview one of the factors
taken into consideration—No record in the relevant minutes
of the Committee as to such performance—Change in number
of posts that had to be filled between the interview and the sub
judice promotions—Amendment of schemes of service between
the two interviews and previously interviewed candidates who
satisfied new schemes of service were not interviewed after the
amendment, and no record was made about their performance
at the first interview—One of the members of the Committee
absent at the first interview when 194 candidates were interviewed
—Sub judice promotions annulled for lack of due reasoning and
wrong exercise of discretion.*

*Educational Officers—Promotions—Administrative abilities of the
candidates could not be taken into consideration because such
factor is not provided by section 35 of the Public Educational*

Service Law, 1969 (Law 10/69)—It is an extraneous factor which renders sub judice decision bad for wrong exercise of discretion.

Administrative Law—Discretionary powers—Defective exercise of, through taking into consideration an extraneous factor.

- 5 *Educational Officers—Promotions—Personal views of members of respondent Commission about the candidates—Principles on which they may be taken into account.*

10 The applicants in these recourses challenged the validity of the promotion of 61 out of 76 schoolmasters, to the post of Assistant Headmaster in the secondary education in preference to them. It was clear from the minutes of the decision of the respondent Commission that one of the factors that they took into consideration in effecting the sub judice promotions was the view formed by its members during the interviews about each one of the candidates. It was, also, clear from these minutes that the Commission took into consideration regarding the interested parties, “administrative ability and/or their high academic qualifications and/or their long experience as well as the excellent impression that the members of the Committee have about their personality and their paedagogical and scientific backgrounds”.

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25 The interviews for the intended promotions commenced and were completed in two stages. The first stage took place between the 28th April, and the 16th May, 1980 and the second stage between the 16th and the 22nd October 1981. The sub judice decision was taken on the 2nd November, 1981. Also during the interval that elapsed between the two stages of the interviews the schemes of service were amended. When the Committee was interviewing the candidates, it was considering that 30 54 posts had to be filled and its mind was directed all along to that fact, whereas, on the date when the sub judice decision was formally taken, they promoted 76 candidates as two days earlier they were authorised to fill an additional number of 22 posts. Further one of the members of the Commission was absent at 35 the first stage of the meetings at which 194 candidates were interviewed.

Counsel for the applicant mainly contended that because of the long time that had elapsed between the interviews held during the first stage and those held during the second stage,

and the date when the decision was taken, such time being 18 months it was impossible for the members of the respondent Committee when they finally met to take their decision to make a proper comparison of the persons interviewed at such long intervals in the absence of any record kept for the performance of each candidate at the interviews. 5

Held, that in the absence of any record in the relevant minutes of the meeting of the respondent Committee as to the performance and the special view formed about each candidate, it could not be possible for its members to have clearly in mind when taking the sub judge decision on 2.11.1981, the views formed about candidates interviewed 18 months earlier as compared with the views formed from the interviews of candidates whom they saw only a few days before taking their final decision; that the absence of any indication in the records of the Educational Service Committee as to the performance of the candidates at the interviews and their marking (if such system was adopted) touches the validity of a decision; that also there was irregularity in the whole procedure because (a) of the change in the number of posts that had to be filled between the interview and the time of the taking of the sub judge decision (b) of the fact that following the amendment of the scheme of service the previously interviewed candidates who satisfied the new schemes of service were not interviewed and there was no record about their preference at the first interview and (c) the member of the respondent, who was absent at the first stage of the interviews at which 194 candidates were interviewed could not form an opinion about the performance of such candidates and compare them with those seen by him at the subsequent meetings; accordingly the sub judge decision must be annulled both for lack of due reasoning and wrong exercise of discretion. 10
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Held, further, (1) that the administrative abilities of the interested parties was not a valid consideration for the respondent to bear in mind, since such factor is not one of the factors mentioned in section 35 of Law 10/69, which the Committee may consider in taking its decision; that it is an extraneous new factor and as such renders the decision of the respondent bad for wrong exercise of discretion, especially in view of the fact that such administrative ability was not a requirement of the schemes of service and there is nothing to show that any of the candidates had exercised any administrative duties in the past. 35
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(2) That with regard to the taking into consideration the excellent impression that the members of the Committee had about the personality of the interested parties it is not mentioned in the relevant minutes of the Committee how its members
 5 acquired such excellent impression; that personal knowledge or information possessed by members of a collective organ may be validly taken into consideration provided that they merely strengthen the picture appearing in the files; otherwise it should be recorded in detail so as to enable judicial control;
 10 that as in this case it has not been recorded the sub judice decision must be annulled on this ground also.

Sub judice decision annulled.

Cases referred to:

- 15 *Nemitsas Industries Ltd. v. Municipal Corporation of Limassol* (1967) 3 C.L.R. 134;
Papaleontiou v. Republic (1970) 3 C.L.R. 54 at p. 62;
Hadjigeorghiou v. Republic (1974) 3 C.L.R. 436 at p. 445;
Michaeloudes and Another v. Republic (1979) 3 C.L.R. 56 at pp. 71-72;
 20 *Ioannou v. Electricity Authority of Cyprus* (1981) 3 C.L.R. 280 at pp. 299-302;
Karageorghis v. Republic (1982) 3 C.L.R. 435;
Bagdades v. Central Bank (1973) 3 C.L.R. 417 at p. 460;
Georghiou v. Republic (1983) 3 C.L.R. 17 at p. 34;
 25 *Protopapas v. E.S.C.* (1981) 3 C.L.R. 456 at p. 460.

Recourses.

Recourses against the decision of the respondents to promote the interested parties to the post of Assistant Headmaster in the secondary education in preference and instead of the applicants.

- 30 *C. Clerides*, for applicants in cases Nos. 421/81 and 489/82.
A. S. Angelides, for applicants in cases Nos. 423/81, 432/81, 433/81, 435/81, 451/81, 460/81, 461/81, 473/81, 484/81, 504/81, 41/82 and 163/82.
A. S. Angelides for *A. Triantafyllides*, for applicant in Case
 35 No. 442/81.
A. S. Angelides for *T. Papadopoulos*, for applicants in Cases Nos. 52/82 - 56/82.

- Ph. Valiandis*, for applicant in Case No. 498/81.
- K. Anastassiades* for *E. Efstathiou*, for applicant in Case No. 2/82.
- A. Pandelides*, for applicant in Case No. 33/82.
- A. S. Angelides* for *P. Pavlou*, for applicant in Case No. 168/82. 5
- R. Vrahimi (Mrs.)*, for respondents in Case Nos. 421/81, 423/81, 451/81, 461/81, 473/81, 484/81, 489/81, 504/81, 2/82, 53/82-56/82, 163/82 and 168/82.
- E. Papadopoullou (Mrs.)*, for respondents in the remaining cases. 10
- N. Ioannou (Mrs.)*, for interested party *Ioanna Moushiouta*, in Cases 432/81, 433/81, 435/81, 489/81, 504/81, 2/82 and 41/82.
- Cur. adv. vult.* 15

SAVVIDES J. read the following judgment. The applicants in these 24 recourses challenge the validity of the promotion of 61 out of 76 school masters, colleagues of theirs, to the post of Assistant Headmaster in the secondary education in preference to them. Each recourse is directed against the promotion of different persons, but in their totality the recourses attack the validity of the promotions of 61 from those promoted who were served as interested parties, with copies of the recourses concerning each one of them. In the course of these proceedings the recourse against interested party Maro Michaelidou (P.M.P. 4049) in Case No. 168/82, was withdrawn and as the promotion of this interested party is challenged only in that recourse, the recourse against her is dismissed and the number of the interested parties is, therefore, reduced to 60. 20

When these recourses came up for directions before me, counsel appearing for all parties concerned, stated that these cases presented common questions of law which could be dealt with as preliminary points of law in respect of all cases, and that after determination of such points, if necessary, each case could be heard separately on the merits. 30

The preliminary points of law agreed upon between the parties, are as follows: 35

1. That the procedure followed by the respondent Committee

as well as the procedure in submitting recommendations by the Heads of Departments, is contrary to the Law and to decided cases.

- 5 2. That the Respondent Committee had prepared a "short-list" of candidates by employing criteria specified by them on the 7.10.1981, this being contrary to the Law and as a result of which, in the interviews which followed, they did not receive all the candidates available for promotion.
- 10 3. That the Respondent Committee, acting contrary to the Law and decided cases, took into consideration the specialisation of the candidates as a criterion for promotion.
- 15 4. That the Respondent Committee employed as the most serious and decisive criterion, the opinion that its members had formed concerning candidates during the private interviews with each candidate.
- 20 5. That the Respondent Committee did not proceed to a complete inquiry into the claims of candidates for promotion and failed to take into consideration the additional qualifications envisaged by the schemes of service. The Respondent Committee failed to give reasoning for the non promotion of applicants possessing additional qualifications, higher grades and recommendations for promotion and in preference to them it promoted candidates who did not possess the additional qualifications of the applicants.
- 25 6. That the Respondent Committee did not have and/or did not take any measures so as to have before it, all the necessary information and documents regarding all candidates before it proceeded with the promotions challenged, and/or it did not take into consideration such information and documents.
- 30 In view of the above statement, the said legal points were set down for hearing as preliminary points of law in all recourses and the question of merit was left to be decided later. It has been common ground for counsel on both sides that the act involved in these proceedings is a composite administrative act and that the invalidity of any of the component parts which led
35 to the final concluded act, renders all acts which follow, including the final act, null and void. This is in line with the well

established principles of Administrative Law, as pronounced and adopted by our Supreme Court in a number of cases (see *Nemitsas Industries Ltd. v. The Municipal Corporation of Limassol and Another* (1967) 3 C.L.R. 134, *Papaleontiou v. The Republic* (through the *Public Service Commission*) (1970) 3 C.L.R. 54 at p. 5
62, *HadjiGeorghiou v. The Republic* (1974) 3 C.L.R. 436 at p. 445, *Michaeloudes & Another v. The Republic* (through the *Educational Service Committee*) (1979) 3 C.L.R. 56 at pp. 71-72, *Ioannou v. Electricity Authority of Cyprus* (1981) 3 C.L.R. 280 at pp. 299 - 302. Also, *Conclusions from the Jurisprudence of the Greek Council of State* (1929 - 1959) p. 244). 10

The promotions concerned were effected by a decision of the respondent Educational Service Committee taken on the 2nd November, 1981, copy of which has been produced as exhibit 1 before me. The relevant part of this decision, which is at p. 15
3(b) of exhibit 1, reads as follows:-

“(β) Προαγωγές στη θέση Β. Διευθυντή Σχολείων Μέσης
Ἐκπαιδεύσεως

Ἡ Ἐπιτροπὴ Ἐκπαιδευτικῆς Ὑπηρεσίας ἔχοντας ὑπόψη
τις διατάξεις τοῦ Νόμου καὶ τῶν Σχεδίων Ὑπηρεσίας καθὼς 20
καὶ τις συστάσεις τῶν Οἰκείων Τμημάτων (βλ. πρακτ. 29.
10.1981 καὶ παρ. 1 τῶν πρακτικῶν αὐτῶν), καὶ τις ὑπηρεσιακὲς ἐκθέσεις καὶ λαμβάνοντας ὑπόψη τὴν ἀξία, τὰ προσόντα καὶ τὴν ἀρχαιότητα καθὼς καὶ τὴ γνώμη ποὺ τὰ μέλη τῆς σχημάτισαν κατὰ τις προσωπικὲς συνεντεύξεις 25
γὰ τὸν καθένα ἀπὸ τοὺς ὑποψηφίους, ἀποφασίζει ὅτι οἱ ἀκόλουθοι Καθηγητὲς, Τεχνολόγοι καὶ Ἐκπαιδευτὲς γὰ τοὺς ὁποίους ὑπάρχει σύσταση τοῦ Οἰκείου Τμήματος εἶναι μὲ βάση τὰ πιὸ πάνω στοιχεῖα οἱ καταλληλότεροι γὰ προαγωγή στη θέση Β. Διευθυντή, λαμβανομένων εἰδικὰ 30
ὑπόψη τῆς διοικητικῆς ἱκανότητάς τους ἢ/καὶ τῶν ὑψηλῶν τους ἀκαδημαϊκῶν προσόντων ἢ/καὶ τῆς μακροχρόνιας πείρας τους καθὼς καὶ τῆς ἀριστης ἐντυπώσεως ποὺ τὰ μέλη τῆς Ἐπιτροπῆς ἔχουν γὰ τὴν προσωπικότητά τους καὶ τὴν παιδαγωγικὴ καὶ ἐπιστημονικὴ τους συγκρότηση”. 35

(The English translation of which reads):

“(b) *Promotions to the post of Assistant Headmaster of Schools of Secondary Education.*

The Educational Service Committee having in mind the

provisions of the Law and the Schemes of Service as well as the recommendations of the Departments concerned (see Min. 29.10.81 and para. 1 of these minutes), and the service reports and taking into account the merit, qualifications and seniority as well as the view that its members formed during the interviews about each one of the candidates, decides that the following masters, technologists and instructors for whom there is a recommendation of the Department concerned are, on the basis of the above material, the most suitable for promotion to the post of Assistant Headmaster, taking especially into consideration their administrative ability and/or their high academic qualifications and/or their long experience as well as the excellent impression that the members of the Committee have about their personality and their paedagogical and scientific background.”)

It is clear from the above quoted extract that one of the factors that the respondent Committee took into consideration in effecting the sub judice promotions was the view formed by its members during the interviews about each one of the candidates. The attention of the Court was drawn to this fact by counsel for the applicants who added that it is also clear from exhibits 3 and 4 that the interviews for the intended promotions commenced and were completed in two stages. The first stage took place between the 28th April and the 16th May, 1980 (see exhibit 4) and the second stage between the 16th and the 22nd October, 1981. It was the contention of counsel for the applicants that because of the long time that had elapsed between the interviews held during the first stage and those held during the second stage, and the date when the decision was taken, such time being 18 months it was impossible for the members of the respondent Committee when they finally met to take their decision to make a proper comparison of the persons interviewed at such long intervals in the absence of any record kept for the performance of each candidate at the interviews. He further added that when the interviews commenced till the time they were concluded, the respondent Committee was considering the promotion of 54 candidates to the post of Assistant Headmaster which was the number of posts they had been authorised to fill. Two days before their meeting at which the sub judice decision was taken, the Committee was authorised to fill 22

additional posts, thus making the total 76 instead of 54. Nothing appears in the minutes of the Committee, counsel contended, indicating the line of success of each candidate at the interviews which took place in 1980 to help the Committee compare them with those interviewed 18 months later. 5

Counsel for the respondent, on the other hand, in answering the address of counsel for the applicants on the above point, contended that since the interviews on both occasions were made for the filling of the same type of post, that is, the post of Assistant Headmaster, and the candidates were interviewed with the same criteria, the lapse of time is immaterial. 10

It is clear from exhibits 2 and 3 that when the respondent Committee held the interviews from the 28th April till the 16th May, 1980, they interviewed the candidates bearing in mind that they had to select the best candidates for filling the 45 vacancies in the post of Assistant Headmaster, plus 9 which would be created by the promotion of 9 Assistant Headmasters to Headmasters. From what appears also from the records of the Committee, during the meetings from the 7th May till the 16th May, 1980 at which a number of 194 candidates were interviewed, only four of the members of the Educational Service Committee were present, the remaining one Mr. A. Papadopoulos, being absent on leave. After the 16th May, 1980, the respondent discontinued interviewing any candidate till the 16th October, 1981 and the taking of a decision as the appointment remained thus in abeyance for 17 months. In the meantime on the 26th September, 1981 the Ministry of Education sent the following letter to the respondent (exhibit 2):- 15 20 25

“Πρόεδρο
 Έπιτροπής Έκπαιδευτικής Ύπηρεσίας, 30

Έχω οδηγίες να σας πληροφορήσω ότι το Ύπουργείο Οικονομικών έχει εγκρίνει την πλήρωση πάνω σε μόνιμη βάση 9 θέσεων Διευθυντών Μέσης Έκπαιδύσεως και 45 θέσεων Βοηθών Διευθυντών Σχολών Μέσης Έκπαιδύσεως καθώς και των θέσεων των Βοηθών Διευθυντών που θα κενωθούν ύστερα από προαγωγές. 35

2. Έξάλλου, το Ύπουργικό Συμβούλιο, κατά τη Συνεδρία του τής 24.9.1981 έχει εγκρίνει νέα Σχέδια Ύπηρεσίας

για τις πιο πάνω θέσεις. 'Αντίγραφα τῶν Σχεδίων 'Υπηρεσίας τῶν θέσεων αὐτῶν ἐπισυνάπτονται.

(Ἵπ.) Χρ. Ἰωάννου
Γιὰ Ἀν. Γενικό Διευθυντή”.

5 (“Chairman,
Educational Service Committee,

10 I am directed to inform you that the Ministry of Finance has approved the filling, on a permanent basis, of 9 posts of Headmaster, Secondary Education and 45 Assistant Headmasters, Secondary Education as well as the posts of Assistant Headmasters which will become vacant after the promotions.

15 2. Besides, the Council of Ministers, at its meeting of the 24.9.1981 has approved new schemes of service for the above posts. Copies of the schemes of service of these posts are attached.

(Sgd.) Chr. Ioannou
for Ag. Director-General”).

20 According to paragraph (2) of the above letter new schemes of service had been approved by the Council of Ministers on 24.9.81 and in consequence the respondent when continuing the interviews they had to bear in mind the new schemes of service. As a result of such letter, the respondent Committee met on 7.10.1981 (see exhibit 3) and decided to publish the posts of Assistant Headmaster and invite applications for the filling of such posts, the last date for which was fixed the 23rd October, 1981. The decision then goes on as follows:

30 “(γ) ἀφοῦ μελέτησε τοὺς Φακέλλους ὄλων τῶν καθηγητῶν, τεχνολόγων καὶ ἐκπαιδευτικῶν ποὺ δικαιοῦνται σὲ προαγωγή στὴ θέση Β. Διευθυντῆ καὶ ἐπειδὴ ὁ ἀριθμὸς τῶν ἐν λόγῳ ὑποψηφίων εἶναι μεγάλος ἐνῶ ὁ ἀριθμὸς τῶν κενῶν θέσεων εἶναι περιορισμένος ἀποφασίζει νὰ ἐπιλέξει ἀπὸ αὐτοὺς τοὺς ἐπικρατέστερους μὲ βάση τὴν ἀξία, τὰ προσόντα καὶ τὴν ἀρχαιότητα καὶ νὰ τοὺς καλέσει σὲ προσωπικὴ συνέντευξη στὶς 16, 17, 19, 20, 21 καὶ 22 Ὀκτωβρίου 1981.

35 Συγκεκριμένα ἀποφασίζεται νὰ κληθοῦν ὅσοι ἔχουν στὶς 31.8.1981 πάνω ἀπὸ 25 ἔτη ὑπηρεσία καὶ στὶς δυὸ τελευταῖες ἐμπιστευτικὲς ἐκθέσεις τουλάχιστο εὐδόκιμο ὑπηρεσία, ὅσοι ἔχουν στὶς 31.8.1981 πάνω ἀπὸ 20 ἔτη ὑπηρεσία καὶ

μέσο ὄρο βαθμολογίας στis δυὸ τελευταῖες ὑπηρεσιακὲς ἐκθέσεις τουλάχιστον 31, ὅσοι ἔχουν στis 31.8.1981 πάνω ἀπὸ 15 ἔτη ὑπηρεσία καὶ μέσο ὄρο βαθμολογίας στis δυὸ τελευταῖες ὑπηρεσιακὲς ἐκθέσεις τουλάχιστον 32, καὶ ἀπὸ τοὺς ὑπόλοιπους δικαιούχους ὅσοι ἔχουν μέσο ὄρο βαθμολογίας στis δυὸ τελευταῖες ὑπηρεσιακὲς ἐκθέσεις τουλάχιστο 33 καθὼς καὶ ὅσοι ἔχουν εὐδόκιμο τουλάχιστον ὑπηρεσία ἀλλὰ ἔχουν μεταπτυχιακὸ τίτλο. 5

Ἐπιπροστίθεται ἐπίσης ἀπὸ τοὺς πρὸ πάνω νὰ μὴ κληθοῦν ξανά ὅσοι κλήθηκαν καὶ προσήλθαν σὲ προσωπικὴ συνέντευξη μὲ βάση τὴν ἀπόφαση τῆς Ἐπιτροπῆς μὲ ἡμερομηνία 14.4.1980". 10

("(c) after having considered the files of all school masters, technologists and instructors who are entitled to promotion to the post of Assistant Headmaster and because the number of the said candidates is great whereas the number of vacant posts is limited it decides to select from them the most suitable on the basis of merit, qualifications and seniority and to call them for a personal interview on the 16, 17, 19, 20, 21 and 22 October, 1981. 15 20

Precisely it decides to call those who have on the 31.8.81 more than 25 years of service and in the last two confidential reports at least successful service, those who have on the 31.8.1981 more than 20 years of service and an average grade in the last two service reports of at least 31, those who have on 31.8.1981 more than 15 years of service and an average grade in the last two service reports at least 32, and from the rest of those entitled those who have an average grade in the last two service reports at least 33 as well as those who have at least successful service but have a post graduate title. 25 30

It also decides that from the above not to call again those who were called and attended a personal interview on the basis of the decision of the Committee dated 14.4.1980").

It is manifest from the above decision that the candidates who were to be included in the short list for interviews had to satisfy certain criteria which were not considered a prerequisite when the interviews of the first stage took place. Also, the persons to be included in such short list had to satisfy the new 35

schemes of service. A strange situation is also created by the same decision of the respondent, whereas under paragraph (b) of its decision the last date for submitting applications was fixed the 23rd October, 1981 from which it may be inferred
5 that the short list of outstanding candidates had to be prepared after the last date for submitting applications had expired, under paragraph (c) of its decision it fixed the interviews between the 16th and the 22nd of October, 1981, that is, before the last date for submitting applications for such posts had expired.

10 I fully agree with the contention of counsel for applicants, that in the absence of any record in the relevant minutes of the meetings of the respondent Committee as to the performance and the special view formed about each candidate, it could not be possible for its members to have clearly in mind when taking
15 the sub judge decision on 2.11.1981, the views formed about candidates interviewed 18 months earlier as compared with the views formed from the interviews of candidates whom they saw only a few days before taking their final decision. It has been held by this Court time and again that the absence of any in-
20 dication in the records of the Educational Service Committee as to the performance of the candidates at the interviews and their marking (if such system was adopted) touches the validity of a decision. Thus, in the case of *Karageorghis v. The Republic* (1982) 3 C.L.R. 435, in adopting what was said in *Bagdades v.*
25 *The Central Bank* (1973) 3 C.L.R., 417; *Hadjianastassiou J.*, stated the following at page 460:-

“But, in my opinion, the sub judge decision is invalid also for the following reasons:-

30 Among other matters taken into consideration in peffering interested party Papaleontiou was ‘the personal evaluation formed by the members of the Commission about each one of the candidates from their personal interviews’. In the absence of any record in the relevant minutes as to the result of the interview and in the absence of any indi-
35 cation as to whether a system of marking was adopted (see the *Bagdades* case supra, at p. 428) so as to enable this Court to examine how and why it was reasonably open to the respondent to act upon the results of the personal interview, notwithstanding the substantially greater seniori-
40 ty of the applicant, such a general statement in the minutes

of the respondent, as aforesaid, cannot have the effect of rendering the promotion of interested party Papaleontiou one which can be treated as having been properly decided upon in the exercise of the particular powers of the respondent.”

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The same dictum in *Bagdades* and *Karageorghis* cases has also been adopted in the case of *Georghiou v. The Republic* (1983) 3 C.L.R., 17, at p. 34, where I said the following:-

“The last factor to consider is the performance at the interviews which was one of the factors taken into consideration. Nothing appears in the minutes about the results of the interviews of the candidates and no record has been produced as to the performance and marking (if such system was adopted) of the candidates at the interview. In *Bagdades v. The Central Bank* (1973) 3 C.L.R. 417, the Court in dealing with such matter, had this to say:

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‘However, in the absence of any cogent reasons given in the minutes regarding what were actually the results of the interviews (whether a record was kept and the system of marking was adopted) as well as what were the other relevant factors which the Committee said they took into consideration, and the reason why they disregarded the greater seniority of the applicant, I have reached the view that the respondent had exercised their discretionary powers in a defective manner because it was not reasonably open to them to reach such a conclusion’. (per Hadjianastassiou, J. at p. 428).”

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Moreover, in the present case, in addition to the absence of any record as to the performance of candidates, especially in view of the fact that between the interviews of the first group and the second group an interval of more than 17 months elapsed, which by itself is sufficient to nullify the sub judice decision, there are additional factors which indicate some irregularity in the whole procedure. Some of such factors are:

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(a) When the Committee was interviewing candidates, it was considering that 54 posts had to be filled and its mind was directed all along to that fact, whereas, on the date when the

sub judge decision was formally taken, they promoted 76 candidates as two days earlier they were authorised to fill an additional number of 22 posts.

(b) Though the interviews of the second stage which, as I have
5 already mentioned, took place more than 17 months from the
previous ones, and new criteria had been introduced and new
schemes of service came into operation in the meantime, the
respondent Committee, in the absence of any record about the
10 performance of candidates at the first interview, did not con-
sider it necessary to interview again at least those of the pre-
viously interviewed candidates who satisfied the criteria and the
new schemes so that they could be in a better position to make
a comparison with those interviewed at the last stage.

(c) Another matter which cannot be by-passed without any
15 observation is how in the absence of any record justifying it, the
one member of the respondent who was absent at the first
stage of the meetings at which 194 candidates were interviewed
could form an opinion about the performance of such candidates
and compare them with those seen by him at the subsequent
20 meetings.

Before concluding on this point, I wish to observe that by
comparing the list of names of the 76 candidates promoted
according to the sub judge decision (exhibit 1) and the list of
25 names published in the official Gazette of the Republic, the
name of one of the promoted candidates, namely, Maro Payiasi
(P.M.P. 2685) does not appear in those referred to in the sub
judge decision as promoted by the respondent and from the
various exhibits before me no explanation appears how she
came to be promoted.

30 For all the above reasons, I find that the sub judge decision
must be annulled both for lack of due reasoning and wrong
exercise of discretion.

Another part of the sub judge decision with which I propose
to deal is the last part of such decision, where it is stated that:

35 “_____ ἀποφασίζει _____ λαμβανομένων ειδικά υπόψη
τῆς διοικητικῆς ικανότητάς τους ἢ/καί τῶν _____ καθῶς
καί τῆς ἀριστοῦς ἐντυπώσεως πού τά μέλη τῆς Ἐπιτροπῆς
ἔχουν γιά τήν προσωπικότητά τους _____”.

(“_____ decides _____ especially taking into account their *administrative abilities* and/or the _____ as well as the *excellent impression* which the members of the Committee have for their personality _____”).

(The underlining is mine).

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The respondent took especially into account the administrative abilities of the interested parties. This was not a valid consideration for the respondent to bear in mind, since such factor is not one of the factors mentioned in section 35, which the Committee may consider in taking its decision. It is an extraneous new factor and as such renders the decision of the respondent bad for wrong exercise of discretion, especially in view of the fact that such administrative ability was not a requirement of the schemes of service and there is nothing to show that any of the candidates had exercised any administrative duties in the past.

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The other point raised by the same statement in the sub judge decision is with regard to the “excellent impression that the members of the Committee have about their personality _____”. It is not mentioned in the minutes of the Committee how its members acquired such excellent impression about the interested parties. If it was through the interview, they should have stated so as they did earlier on in the sub judge decision, about other factors. Moreover, the word “have” and not “formed”, or any other similar word, implies some element of personal knowledge. In this respect it has been held in a number of cases by our Courts to a number of which reference is made in *Angelidou v. The Republic* (1982) 3 C.L.R. 520, at p. 526), that personal knowledge or information possessed by members of a collective organ may be validly taken into consideration provided that they merely strengthen the picture appearing in the files; otherwise it should be recorded in detail so as to enable judicial control. In the case of *Angelidou* (supra) it has been found at p. 527, that:

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“In the present instance the relevant passage of the minutes of December 9, 1981 (exhibit 12), which has been already quoted in this judgment, is so sweepingly and widely phrased that it renders impossible the exercise at all of any judicial control for the purpose of ascertaining whether the personal knowledge of members of the Commission

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about the various candidates was consistent or inconsistent, and to what extent in each particular case, with the other material, regarding such candidates, which was before the Commission.”

5 The cases of *Frangos v. The Republic* (1970) 3 C.L.R. 312, 333–338; *Ierides v. The Republic* (1976) 3 C.L.R. 9, 22–24; and on appeal, *Ierides v. The Republic* (1980) 3 C.L.R. 165, 180–181, are stated in the case of *Angelidou* (supra) in support of the above principle, together with other Greek authorities.

10 The sub judge decision must, therefore, be annulled with regard to this point also.

The last point I wish to examine is the point taken by counsel for the applicants with regard to the additional qualifications. It is the contention of counsel for the applicants, and it has
15 not been disputed by counsel for the respondents, that certain of the interested parties, have no additional qualifications whilst some of the applicants who were not promoted, are possessed with such qualifications and the respondent disregarded these qualifications with no special reasoning.

20 By the schemes of service for the post of A. Headmaster, which have been produced as exhibit 13, a post-graduate course abroad or an additional title in paedagogics or other subjects connected with the administration of schools, are considered as an additional qualification. It has been held
25 in a number of cases by our Courts that when in such cases the additional qualifications are disregarded, special reasons must be given by the respondent (see in this respect, *Protopoulos v. E.S.C.* (1981) 3 C.L.R. 456, at p. 460).

30 However, having regard to the fact that no evidence was adduced as to which of the interested parties are not possessed with such additional qualification and which of the applicants are so possessed and this because the case was not examined on its merits, and, also, in view of the fact that the sub judge decision has already been annulled on other grounds, I am not
35 going to decide the issue.

In view of the above and as I have already concluded that the sub judge decision should be annulled on the above points,

I find it unnecessary to deal with any other points raised by counsel.

The sub judice decision in respect of the parties whose promotion has been challenged by these recourses is hereby annulled but in the circumstances I make no order for costs.

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Sub judice decision annulled. No order as to costs.