

1984 November 30

[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. 486/78).

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*Public Officers—Promotions—Applicant having better confidential reports than the interested parties but latter recommended for promotion by Head of Department—Such recommendation, which could not be overlooked, making their overall picture more favourable than that of the applicant—Reasonably open to the Commission to select the interested parties.*

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This was a recourse against the decision of the respondent Commission to promote the interested parties to the post of Administrative Officer 1st Grade. Though the applicant had better confidential reports than the interested parties the latter were recommended for promotion by the Head of Department.

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*Held*, that though applicant had better confidential reports than the interested parties this does not mean that the Public Service Commission was obliged to promote her because the question is whether it was reasonably open to it to select the interested parties; that despite the confidential reports the interested parties had also the recommendations of Head of Department, which made the overall picture of the interested parties more favourable than that of the applicant and it is settled that such recommendations could not be overlooked; accordingly the recourse must fail.

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*Application dismissed.*

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**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.

*St. Erotokritou (Mrs.), for the applicant.*

*Cl. Antoniadès, Senior Counsel of the Republic, for the respondent.*

*Cur. adv. vult.*

10 HADJIANASTASSIOU J. read the following judgment. Indeed, this has been a difficult case to decide because the applicant as well as the interested parties have excellent reports. The facts of the case appear in the application and the opposition. On 24.7.78 the Public Service Commission  
15 appointed A. Angelides and M. Zapitis to the post of Administrative Officer, 1st Grade, after consideration of their merits, qualifications and seniority. Before their decision they received the recommendations of the Director of the Personnel Department who recommended the interested parties.  
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The applicant disputes the decision of the Public Service Commission because she had, as she alleged better confidential reports. Also she alleged that she was senior to the interested parties. This latter allegation is disputed by  
25 the respondents. Mr. Antoniadès, in his address, noticed this:

“Unfortunately in the present case what happened as to affect the seniority of the applicant was her own delay in taking and eventually passing the exams provided by the relevant schemes of service.  
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Looking into exh. στ. that in the personal file of the applicant and especially red 53 and 52 you can see the exact date when the applicant passed her exams which is the 31st July, 1970.

35 In view of the above, it is evident that the applicant was not qualified to be promoted to the post of Administrative Officer second grade and as you can

see further as soon as she passed her exams she was seconded to the post of Administrative Officer Second grade and on the first opportunity she was promoted to the permanent post on 15.7.71."

With regard to the contention of the applicant as to seniority, it appears to me that the position put forward by counsel for the Republic is correct. Despite her previous service with the Greek Communal Chamber, it necessitated by the relevant schemes of service to pass certain examinations in order to become qualified to get the position of Administrative Officer, second grade. Therefore, the Public Service Commission made no mistake about the seniority of the applicant. 5 10

The assessment of the merits of the candidates is more difficult because all of them had exceptionally good confidential reports. It is a fact that applicant has better confidential reports than the interested parties. However, this does not mean the Public Service Commission was obliged to appoint her. The question is whether it was reasonably open to it to select the interested parties. 15 20

In the result, and after I have taken into account all the material before me, I think the recourse must be dismissed because the interested parties appointed, despite the confidential reports, had also the recommendations of the Director of the Personnel Department which make the overall picture of the interested parties more favourable than that of the applicant. It is settled that such recommendations could not be overlooked. 25

For the reasons above, the recourse fails and is dismissed. 30

Let there be no order as to costs.

*Recourse dismissed.  
No order as to costs.*