

1985, November 12

[MALACHTOS, J.]

IN THE MATTER OF ARTICLE 146
OF THE CONSTITUTION

CHRISTODOULOS ARGYROU

Applicant,

v.

- THE REPUBLIC OF CYPRUS, THROUGH
1. THE MINISTER OF INTERIOR
2. THE COMMANDER OF POLICE,

Respondents.

(Case No. 454/72).

Police Force—Promotions from the rank of Sub-inspector to the rank of Inspector—The Police (Promotion) Regulations 1958, Reg. 2(2)—Seniority.

5 The applicant by means of this recourse impugns the promotion of seven interested parties from the rank of Sub-inspector to the rank of Inspector in the Police Force. Counsel for the applicant submitted that, since the other relevant factors were more or less equal, applicant's seniority ought to have prevailed.

10 *Held*, dismissing the recourse:

(1) Regulation 2(2) of the Police (Promotion) Regulations provides that seniority shall be taken into account, but shall not be allowed to govern promotion and greater importance shall be attached to professional ability, personal qualities of leadership, loyalty, initiative, excellence
15 of character, real and true appreciation of the objects of the Police.

(2) In the circumstances it was open to the Chief of Police, who took all relevant factors into consideration,
20 to reach the decision complained of. The applicant

failed to satisfy the Court that he was strikingly superior to the interested parties.

Recourse dismissed.

No order as to costs.

Recourse.

5

Recourse against the decision of the respondents to promote the interested parties to the rank of Inspector of Police, in the Police Force, in preference and instead of the applicant.

F. Markides, for the applicant.

10

N. Charalambous, Senior Counsel of the Republic, for the respondents.

Cur. adv. vult.

MALACHTOS J. read the following judgment. The applicant in this recourse claims the following remedies:

15

A. A declaration of the Court that the act and/or decision of the respondent to promote the interested parties to the rank and/or the post of Inspector of Police in preference and/or instead of the applicant, is null and void and of no legal effect whatsoever, and

20

B. A declaration of the Court that the refusal or omission of the respondent to promote the applicant to the rank or the post of Inspector of Police, is null and void and of no legal effect whatsoever, and whatever has been omitted should have been performed.

25

The applicant, a graduate of secondary education, joined the Police Force on 12.5.1952 and on 20.9.1960 was promoted to the rank of sergeant and on 1.7.1962 to the rank of Sub-Inspector.

In the Weekly Orders of the Police Force of 18.9.1972 the names of the seven interested parties were published as being promoted from the rank of Sub-Inspector to that of Inspector.

30

By virtue of section 13(2) of the Police Law, Cap. 285, the promotions up to and including the rank of Chief Inspector are made by the Chief of Police, with the approval of the Minister of Interior.

5 In making the above promotions the Chief of Police took into consideration the recommendations of the Divisional Police Commanders concerned, as well as the views of the Selection Board set up in accordance with Regulation 4 of the Police (Promotion) Regulations, 1958.

10 The Chief of Police also took into consideration, as stated in his decision, the professional and educational abilities of the candidates, their loyalty and seniority as well as all the other elements of each one of them.

15 It is the case for the applicant that the respondent in promoting the interested parties disregarded his seniority without giving any cogent reasons for doing so. Counsel for applicant submitted that, since as regards the other relevant factors being more or less equal, seniority ought to have prevailed according to the principle laid down in
20 *Partellides v. The Republic* (1969) 3 C.L.R. 480.

As it appears from the documentary evidence before me the applicant and the interested parties were recommended for promotion by their respective Divisional Police Commanders and by the Selection Board and that the applicant
25 is the most senior of all the interested parties. However, as stated earlier in this judgment, the Chief of Police in selecting the interested parties for promotion instead of the applicant, took into consideration, over and above the factor of seniority and the recommendations of the Divisional Police Commanders and the Selection Board, the
30 provisions of Regulation 2(2) of the Police (Promotions) Regulations 1958, which provides, that seniority shall be taken into account, but shall not be allowed to govern promotion, and greater importance shall be attached to professional ability and personal qualities of leadership, loyalty,
35 initiative, excellence of character, real and a true appreciation of the objects of the Police.

In my opinion, it was open to the Chief of Police, who

took all relevant factors into consideration, and in exercising his discretion to reach the decision complained of. The applicant also failed to satisfy me that he was strikingly superior to the interested parties.

For the reasons stated above, this recourse fails and is 5
dismissed with no order as to costs.

Recourse dismissed.

No order as to costs.