

1985 November 28

[SAVVIDES, J.]

IN THE MATTER OF ARTICLE 146  
OF THE CONSTITUTION

PETROS CLERIDES AND ANOTHER.

*Applicants.*

v.

THE REPUBLIC OF CYPRUS, THROUGH  
THE PUBLIC SERVICE COMMISSION,

*Respondent.*

(Cases Nos. 297/81 and 300/81).

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*Public Officers—Appointments and promotions—First entry and promotion posts—Specialised posts—Advisory Committee—Composition, powers and procedure of—The Public Service Laws, 1967-1980 (Law 33/67 as amended), ss. 34 and 35—Said committee vested with a wide discretion in the matter of selection of candidates to be recommended to the Public Service Commission for appointment to a specialised post—In the light of s. 35(6) and the case law the Public Service Commission rightly restricted the final selection of the candidates for appointment to the specialised post of counsel for the Republic among the candidates recommended by the Advisory Committee—S. 35(3) of said Laws—The fact that the Advisory Committee examined the qualifications of candidates in the course of the interviews and not earlier is a mere irregularity—S. 35(5) and its proviso.*

*The Public Service Laws, 1967-1980—Sections 34 and 35.*

The present two recourses, which had been heard together as presenting common questions of law and fact, are directed against the appointment of the two interested parties to the post of Counsel for the Republic instead of

the applicants. The post in question is a first entry and promotion post.

5 As the said post had been declared to be a specialised post the respondent Commission in compliance with the provisions of s. 35 of the Public Service Laws 1967-1980 forwarded the applications made for the two posts to the Attorney-General as Head of the Advisory Committee contemplated under s. 35(2) of the said Laws. The Attorney-General appointed in accordance with s. 34(2) the two  
10 other members of the said Committee. The Committee interviewed on 8.5.81 all the candidates and decided at its meeting of the 9.5.81 that only three out of the 14 candidates were suitable to be recommended to the respondent Commission. The two interested parties were among the  
15 three candidates recommended whilst the applicants were not.

The respondent Commission decided to appoint to the two posts in question the two interested parties as being the most suitable of those recommended by the Committee.

20 As a result the applicants filed the present 'recourses. In support of the applicants' case it was contended inter alia that the respondent Commission wrongly restricted itself in considering only those recommended by the said Advisory Committee, that the said Committee wrongly  
25 failed to carry out a preliminary investigation as to whether all candidates possessed the required qualification, that the manner in which the interviews were conducted was not proper, that its recommendations were not duly reasoned and that it acted contrary to s. 35(5) of the Law  
30 in not recommending four candidates in respect of each vacant post.

*Held*, dismissing the recourses (1) The composition, procedure and powers of an Advisory Committee set up in the case of "specialised posts" under the Public Service Law 33/67 as amended are to be found in sections 34  
35 and 35 of the said Law. From the said provisions it is clear that an Advisory Committee for the filling of vacancies in specialised posts is vested with a wide discretion

in the matter of selection of candidates for recommendation to the Public Service Commission.

(2) In the light of the provisions of s. 35(6) of the Public Service Law and the case law on the subject the submission of counsel for the applicants that the recommendation of the Advisory Committee was of an advisory character and that the respondent Commission wrongly restricted itself in considering only those candidates who were recommended by the Advisory Committee cannot be accepted. The Commission rightly restricted the selection among those candidates who were recommended by the Advisory Committee. 5 10

(3) Bearing in mind the wide discretion of the Advisory Committee, the fact that the question as to whether the candidates possessed the necessary qualifications was examined by the Committee in the course of the interviews and not earlier, is a mere irregularity of such a nature as not to vitiate the whole process of the selection of the candidates most suitable for recommendation. S. 35(3) cannot be interpreted as narrowly as suggested by counsel for the applicants. 15 20

(4) In the circumstances it was reasonable for the Advisory Committee, at least in those of the cases in which the Committee could not be sure from the material before it such as the information contained in the application forms or the fact that a candidate was holding a certain post in the legal service, to take the opportunity of the interview and put questions to the candidates in order to ascertain the extend of the adequacy of the experience of a candidate and his suitability for appointment to the post of Counsel for the Republic. 25 30

(5) The recommendation of the Advisory Committee did not lack due reasoning.

(6) The provision in s. 35(5) of the Public Service Law that it is the duty of an Advisory Committee to recommend four candidates in respect of each vacant post is subject to the proviso in the same sub-section that such suitable candidates do exist. In the present 35

case and in the exercise of its wide discretion the Committee came to the unanimous conclusion that only three out of the fourteen candidates were suitable for recommendation.

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*Recourse dismissed.*  
*No order as to costs.*

Cases referred to:

*Thalassinos v. The Republic* (1973) 3 C.L.R. 386;  
*Christoudias v. The Republic* (1984) 3 C.L.R. 657.

10 **Recourses.**

Recourses against the decision of the respondent to appoint the interested parties to the post of Counsel of the Republic in preference and instead of the applicants.

*N. Panayiotou*, for applicant in Case No. 297/81.

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*A. S. Angelides*, for applicant in Case No. 300/81.

*N. Charalambous*, Senior Counsel of the Republic, for the respondent.

*Cur. adv. vult.*

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SAVVIDES J. read the following judgment. The applicants in the present recourses which were heard together as presenting common questions of law and fact challenge the appointment of Georghia Constantinou and Clelia Theodoulou-Tomboli (the interested parties in this recourse) to the post of Counsel for the Republic instead of the applicants.

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Applicant in Case No. 297/81 was at the material time serving on contract in the Legal Department of the Republic since 1.1.74 as a Legal Assistant in the Department of the Revision and Consolidation of the legislation of Cyprus. He was enrolled as an advocate on 27 1 72.

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Applicant in Case No. 300/81 was at the material time serving on contract in the Legal Department. He was attached to the Ministry of Agriculture and Natural Resources as a Legal Assistant since 1976. Prior to that he was serving on a daily basis in the same Department

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as from September, 1974. He enrolled as an advocate on 30.11.73.

Interested party Georgia Constantinou enrolled as an advocate on 15.1.73. She served in the office of the Attorney-General of the Republic as a Legal Assistant on contract for the period of 1.4.73—31.3.78, then as a Legal Assistant Class II, temporary, from 1.4.78 to 14.5.80 and since 15.5.80 she was holding the post of Legal Assistant Class I in the office of the Attorney-General. 5

Interested party Clelia Theodoulou-Tomboli enrolled as an advocate on 10.2.73. She served in the office of the Attorney-General as a Legal Assistant on a casual basis from August, 1972 to 31.3.78, then as a Legal Assistant Class II, temporary, from 1.4.78 to 14.5.80 and subsequently as a Legal Assistant Class I, temporary, a post which she was holding at the material time. 10 15

Both the applicants and the interested parties were amongst the candidates who submitted applications for appointment to two vacant posts of counsel for the Republic. The filling of such posts by the respondent was requested by the Attorney-General of the Republic by his letter to the Chairman of the respondent dated the 13th March, 1981, informing him at the same time that the approval of the Minister of Finance for the filling of such posts had been obtained and had already been forwarded to the respondent. 20 25

The said posts were first entry and promotion posts and, therefore, the respondent at its meeting of the 28th March, 1981, decided to publish the vacancies in the official Gazette of the Republic and a period of three weeks from such publication was allowed for the submission of applications. 30

In response to such publication 14 applications were submitted. Due to the fact that the post of counsel for the Republic had been declared as a "specialized" post the respondent Commission in compliance with the provisions of s. 35 of the Public Service Laws 1967-1980 (Law 33/67 and its subsequent amendments) and following the procedure therein provided submitted the applications to 35

the Attorney-General of the Republic in his capacity as Chairman of the Advisory Committee contemplated under s. 35(2) of Law 33/67 for the necessary action in the matter.

5 The Attorney-General acting in compliance with s. 34(b) of Law 33/67 appointed Mr. Achilleas Frangos and Mr. Soterakis Georghiades, both of them Senior Counsel for the Republic, as the two other members of the Advisory Committee under his chairmanship to consider the  
10 applications and make its recommendations to the respondent. The Advisory Committee interviewed on the 8th May, 1981, all the candidates and decided, at its meeting of the 9th May, 1981, that only three out of the 14 candidates were suitable to be recommended to the  
15 respondent Commission. The three candidates so selected by the Advisory Committee, as mentioned in the minutes of its meeting were, in alphabetical order, the two interested parties and one Charalambos Kyriakides.

The Attorney-General by his letter dated the 9th May, 20 1981, submitted the report of the Advisory Committee to the effect that the Advisory Committee having examined all the applications and having interviewed all candidates satisfying the scheme of service, recommended in alphabetical order the three candidates as suitable for  
25 selection for the filling of the vacant posts. By a letter dated the 26th May, 1981, the Attorney-General clarified his previous letter by stating that the Committee recommended only three candidates because they found that there were no other candidates suitable for recommen-  
30 dation.

The respondent met subsequently and selected the interested parties as the most suitable candidates for appointment to the vacant posts, out of those whose names appeared on the list submitted by the Attorney-General  
35 and decided to appoint them to the post of Counsel of the Republic on probation as from the 1st July, 1981. The decision was published in the official Gazette of the Republic on the 10th July, 1981. As a result the applicants filed the present recourses challenging  
40 such appointments.

The legal grounds on which recourse No. 297/81 is based are the following:

1. The sub judice decision was taken in abuse and/or excess and/or in wrong exercise of the discretionary power of the respondent in that

(a) It failed to take into consideration the qualifications, experience and abilities of the applicant.

(b) It failed to consider all real facts and give sufficient reasons for their decision.

(c) It failed to take into consideration the fact that the applicant was superior to those appointed both in respect of qualifications, experience and ability.

2. (a) The omission of the Advisory Committee not to include the applicant in the list of names prepared by it as suitable candidates was made in excess and/or abuse and/or in wrong exercise of its discretionary power.

(b) The act and/or decision of the Advisory Committee in recommending only three candidates instead of four, that is the applicant, is illegal and contrary to the provisions of s. 35 of Law 33/67 and it was taken under a misconception of fact and of law and was based on irrelevant and/or illegal grounds.

(c) The Advisory Committee went wrong in its assessment as to the suitability of the applicant and/or ignored and/or diminished his actual merit and/or his superiority over those recommended.

The legal grounds on which recourse 300/81 is based as set out therein are:

1. The respondent did not in fact exercise its powers properly in that it failed to carry out a proper inquiry to ascertain the claims of the applicant and the interested parties for appointment and it failed to evaluate the candidates in accordance with the scheme of service.

2. The procedure followed by the Advisory Committee for the selection of the suitable candidates on the basis of which the sub judice decision was taken is legally wrong

as it contravenes the provisions of the law and the Constitution both in respect of its composition and also in the way that the examination of the candidates and the recommendations in respect of them were made.

5       3. In this way the principle that the most suitable from the available candidates should be selected for appointment in the vacant post has been violated.

10       4. The decision for the selection of the interested parties instead of the applicant lacks due reasoning and/or the reasoning is vague and uncertain and is contrary to the real facts.

15       5. The respondent acted under misconception of fact and law concerning the prerequisites under the scheme of service for appointment in the said post or in relation to the law.

20       By his opposition in both cases counsel for the respondent contended that the sub judice decision was taken lawfully and in compliance with the relevant provisions of the law and after the Advisory Committee set up under s. 34 of the Public Service Law, 1967, properly exercised its discretion.

Both these recourses are directed against the same administrative decision and they raise common questions of law and fact.

25       The grounds which were advanced and have been argued by counsel for both applicants touch the procedure before the Advisory Committee, the way such committee acted, the opinion formed and the effect of such opinion in the final decision taken by the respondent.

30       In so far as the procedure and the mode in which the Advisory Committee acted are concerned the arguments may be summed up in that before the holding of the interviews the committee failed to carry out a preliminary inquiry as to whether all candidates possessed the necessary  
35       qualifications for appointment to such post and prepare a list of those so qualified and call them for an interview. Instead, it proceeded to interview all candidates and depended solely on their performance at the interview in



forming an opinion about them. Also the Advisory Committee submitted a list of only three candidates as suitable for the post instead of eight (four for each post) as provided by s. 35(5) of the Law.

Concerning the object and effect of the recommendations of the Advisory Committee it is the contention of counsel for applicants that they should have been limited to and have been treated as being of an advisory nature and not as binding upon the respondent which simply had to take notice about them. 5  
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Finally it was contended that the decision of the Advisory Committee is not duly reasoned.

Counsel expounded on the nature of a composite administrative act and the effect of any defects in the intermediate steps which render the final act null and void and submitted that in the present case the procedure followed by the Advisory Committee was so wrong and contrary to law as to vitiate the final decision taken by the respondent Commission. 15

The composition, procedure and powers of an Advisory Committee set up in the case of "specialized" posts under the provisions of the Public Service Law 33/67 are to be found in sections 34 and 35 of the law. The provisions under s. 34(b) are to the effect that for the filling of vacancies in specialized posts in an independent office, the Advisory Committee is composed of the Head of that office who will act as Chairman and of two officers nominated by the Head of such office in the particular case; provided that the members of such Committee will be the holders of a higher post than the vacancy to be filled. 20  
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The procedure before such committee and its powers are, as set out in section 35 of the same law the following:

\*35. (1) Πρό παντός διορισμοῦ ἢ προαγωγῆς εἰς ἐξειδικευμένην θέσιν, ἡ Ἐπιτροπὴ Ζητεῖ τὴν συμβουλὴν τῆς ἀρμοδίας Συμβουλευτικῆς Ἐπιτροπῆς. 35

(2) Ἀπασαὶ αἱ δι' οἰανδήποτε δημοσιευθεῖσαν κενὴν θέσιν ληφθεῖσαι ὑπὸ τῆς Ἐπιτροπῆς αἰτήσεις, ἐν πε-

ριπτώσει δὲ προαγωγῆς εἰς θέσιν Προαγωγῆς κατά-  
 λογος τῶν ἐκλεξίμων διὰ προαγωγὴν ὑποψηφίων ἐτοι-  
 μασθεῖς ὑπὸ τῆς Ἐπιτροπῆς, ἀποστέλλονται ὑπὸ τοῦ  
 Γραμματέως τῆς Ἐπιτροπῆς εἰς τον πρόεδρον τῆς ἀρ-  
 μοδίας Συμβουλευτικῆς Ἐπιτροπῆς ἐντός δύο ἑβδο-  
 μάδων ἀπὸ τῆς τελευταίας ἡμερομηνίας διὰ τὴν ὑπο-  
 βολὴν αἰτήσεων ἢ ἀναλόγως τῆς περιπτώσεως, ἀπὸ  
 τῆς ἡμερομηνίας κατὰ τὴν ὁποῖαν ἐζητήθη παρὰ τῆς  
 Ἐπιτροπῆς ἡ πλήρωσις τῆς θέσεως Προαγωγῆς

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 10 (3) Ἡ Συμβουλευτικὴ Ἐπιτροπὴ ἐξετάζει ἀπάσας  
 τὰς διὰ δημοσιευθεῖσαν κενὴν θέσιν ληφθείσας αἰτή-  
 σεῖς ἢ, ἀναλόγως τῆς περιπτώσεως, τὸν κατάλογον  
 τῶν ἐκλεξίμων διὰ προαγωγὴν ὑποψηφίων, καὶ ἐτοι-  
 μάζει κατάλογον τῶν κατεχόντων τὰ ἐν τῷ οἰκειῷ σχε-  
 15 δίῳ ὑπηρεσίας καθοριζόμενα προσόντα ὑποψηφίων

(4) Ἡ Συμβουλευτικὴ Ἐπιτροπὴ ἐπιλαμβάνεται τό-  
 τε τῆς κρίσεως τῆς σχετικῆς ἀξίας τῶν ὑποψηφίων.  
 Κατὰ τὴν ὑπ' αὐτῆς κρίσιν τῆς ἀξίας τῶν ὑποψηφίων  
 ἡ Συμβουλευτικὴ Ἐπιτροπὴ δυνατόν νὰ ἀπαιτήσῃ παρ'  
 20 αὐτῶν ὅπως ὑποστῶσι γραπτὴν ἢ προφορικὴν ἐξέτασιν  
 ἢ ἀμφοτέρας.

(5) Ἡ Συμβουλευτικὴ Ἐπιτροπὴ ἀποστέλλει τότε  
 25 ἐκθεσιν εἰς τὴν Ἐπιτροπὴν, περιέχουσαν κατ' ἀλφαβη-  
 τικὴν σειρὰν τὰ ὀνόματα τῶν συνιστωμένων πρὸς ἐπι-  
 λογὴν διὰ διορισμὸν ἢ προαγωγὴν.

Νοεῖται ὅτι, οὐχὶ ὀλιγώτεροι τῶν τεσσάρων δέον ὅ-  
 πως συστηθῶσιν δι' ἐκάστην κενὴν θέσιν ἐφ' ὅσον ὑ-  
 πάρχουσι πρόσωπα κατάλληλα διὰ τοιαύτην σύστασιν.

30 (6) Ἡ Ἐπιτροπὴ προβαίνει εἰς τὴν ἐπιλογὴν τῶν  
 διορισθησομένων ἢ προαχθησομένων προσώπων ἐκ τῶν  
 ὑπὸ τῆς Συμβουλευτικῆς Ἐπιτροπῆς συστηθέντων ὑπο-  
 ψηφίων:

35 Νοεῖται ὅτι ἡ Ἐπιτροπὴ δύναται νὰ καλέσῃ εἰς συ-  
 νέντευξιν τοὺς ὑπὸ τῆς Συμβουλευτικῆς Ἐπιτροπῆς συ-  
 στηθέντας ὑποψηφίους πρὶν ἢ προβῆ εἰς τὴν ἐκλογὴν.»

The English translation of which reads as follows:

“35. (1) Before any appointment or promotion to a

specialized office, the Commission asks for the advice of the appropriate Advisory Board.

(2) All applications received by the Commission for any advertised vacancy and, in the case of a promotion to a Promotion post, a list of the candidates eligible for promotion prepared by the Commission are forwarded by the Secretary of the Commission to the chairman of the appropriate Advisory Committee within a fortnight of the closing date for the submission of applications or of the date on which the Commission received a request for the filling of the Promotion post, as the case may be. 5 10

(3) The Advisory Committee examines all applications received for an advertised vacancy or the list of candidates eligible for promotion, as the case may be, and prepares a list of those candidates who possess the qualifications prescribed in the relevant scheme of service. 15

(4) The Advisory Committee then proceeds to the consideration of the relative merit of the candidates. In determining the merit of the candidates the Advisory Committee may require the candidates to undergo a written or oral examination or both. 20

(5) The Advisory Committee then forwards a report to the Commission, containing the names of the candidates recommended for selection for appointment or promotion, in alphabetical order: 25

Provided that, if suitable candidates are available not less than four candidates shall be recommended in respect of each vacant post. 30

(6) The Commission selects the persons to be appointed or promoted from amongst the candidates recommended by the advisory Committee.

Provided that the Commission may interview the candidates recommended by the Advisory Committee before making the selection." 35

It is clear from the above provisions that an Advisory

Committee for the filling of vacancies in specialized posts is vested with a wide discretion in the matter of selection of candidates for recommendation to the Public Service Commission. It has the authority, at its discretion, to interview candidates, or require them to submit to oral or written examinations or to both. Such requirements are necessary for the effective discharge of its duty in selecting the most suitable candidates for recommendation for the filling of the vacant posts and submitting a list of the candidates so recommended to the Public Service Commission especially in view of the provisions of section 35(6) that it is only from candidates included in such list that the Public Service Commission has to choose the most suitable for appointment to the vacant posts.

Counsel for applicants have contended that the opinion of the Advisory Committee, even in the case of specialized posts, is merely of an advisory character and the respondent in the present cases has wrongly considered such opinion as binding and restricted itself in considering only those candidates who were included in the list submitted by the Advisory Committee as the only suitable candidates. Such contention might have been sound if the case was one of a departmental committee set up by the Council of Ministers under s. 36 of the law, the composition and powers of which as well as its procedure are regulated by the Council of Ministers but not in the case of an Advisory Committee for the filling of specialized posts. A comparison of sections 35 and 36 shows that there is considerable difference regarding the composition, powers and procedure between the two types of advisory committees.

Furthermore whereas the recommendations of an advisory Committee for specialized posts are binding upon the Public Service Commission (section 35(6)) those of a departmental committee under s. 36(1) are only instructive. An elaborate analysis of the two sections has been made by A. Loizou, J. in the case of *Thalassinos v. The Republic* (1973) 3 C.L.R. 386, where he said the following, at p. 391 which I adopt for the purposes of the present cases:

"The setting up of Boards under the said section, their composition, functions and procedure, are left to be decided by the Council of Ministers, and a com-

parison may usefully be made, with the provisions of sections 34 and 35 of the Law, regarding the establishment of advisory boards for specialized offices. In the latter case, their composition is restricted by the requirement that they should consist of the Director-General of the Ministry who shall act as Chairman and two other officers, one of whom shall be the Head of the Department concerned, if any, and in the case of Independent Offices, they should consist of the Head of the office who shall act as Chairman and two other officers nominated by the Head of that Office, for the particular case, whereas in the case of the Board to be set up under section 36, there are no restrictions as to its composition which is left to the absolute discretion of the Council of Ministers. Furthermore, a Board set up under the provisions of section 36, advises the Commission directly and independently of its obligation under section 44(3), that in making a promotion, due regard shall be had to the recommendations made by the Head of the Department in which the vacancy exists.”

Sections 35(6) and 36(1) were also considered in the case of *Christoudias v. The Republic* (1984) 3 C.L.R. 657 where the exposition of the law in *Thalassinos* case was followed. At p. 663 of the judgment, Pikis, J. said:

“.... A comparison of the provisions of s. 36(1) with those of s. 35(6), reveals that unlike recommendations under s. 36(1), those of an Advisory Committee set up under s. 35(1) are binding upon the Public Service Commission. Reference to s. 35(1) is instructive in this sense. It was within the contemplation of the legislature to establish preliminary mechanisms for the evaluation of candidates as a means of filling the gap from lack of expertise on the part of members of the Public Service Commission in detailed branches of knowledge. And in that way utilise accumulated knowledge of the permanent establishment in the selection process.

As A. Loizou, J. pointed out in *Thalassinos v. The*

5 *Republic* (1973) 3 C.L.R. 386, s. 36 gives statutory effect to a perfectly acceptable practice followed in other countries, such as Greece, as a proper expedient for the exercise of the power to appoint. Thus, as  
10 a matter of statutory law and proper administrative practice, neither the establishment of an advisory committee nor solicitation of its views on the suitability of candidates entails abdication of the substantive competence vested in the appointing body or divestiture of its powers (see, *Conclusions from the Jurisprudence of the Greek Council of State 1929-1959*, pp. 193-194)."

15 In the light of the above I find that the respondent Commission rightly treated the recommendations of the advisory committee as binding and proceeded with the final selection of the most suitable candidates out of the list submitted by the Advisory Committee.

20 I come next to consider the arguments of counsel for applicants concerning the irregularities in the procedure before the advisory committee.

25 It emanates from the facts of the case, as already explained, that the list of the candidates who applied for appointment to the posts in question was submitted to the Advisory Committee on 4.5.81. The Advisory Committee proceeded to fix a date for interviewing the candidates. In the course of such interview, which was in fact in the form of an oral examination of the candidates, the committee considered whether the candidates possessed the qualifications required under the scheme of service and in particular the required practice as advocates and excluded those who did not satisfy such requirements, recording in the minutes of the interview such fact. Bearing in mind the wide discretionary powers of the Advisory Committee I cannot treat the fact that the question as to whether the  
30 candidates possessed the necessary qualifications was examined by the Committee in the course of the interview and not earlier is an irregularity of such nature as to vitiate the whole process of selection of the most suitable candidates for recommendation. I cannot accept the sub-  
35 mission of counsel for applicants in this respect and con-  
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strue s. 35(3) in such a narrow manner as suggested by counsel for applicants.

A question was also raised as to the manner the interviews of the candidates were conducted.

It is apparent from the minutes of the interview that its object was for the Advisory Committee to ascertain, in addition to whether the candidates possessed the necessary qualifications, their experience in the profession in view of the requirement under the scheme of service for adequate experience in advocacy. In the circumstances it was reasonable for the Advisory Committee, at least in those of the cases in which the Committee could not be sure from the material before it such as the information contained in the application forms or the fact that a candidate was holding a certain post in the legal service, to take the opportunity of the interview and put questions to the candidates in order to ascertain the extend of the adequacy of the experience of a candidate and his suitability for appointment to the post of counsel for the Republic. In this respect I find that the way the Advisory Committee conducted the interviews for the purpose of ascertaining the academic qualifications and the practical experience of the candidates was neither arbitrary nor in excess or abuse of its powers.

It appears from the minutes of the Advisory Committee that the impression about the applicant in case No. 300/81 was not satisfactory. Bearing this fact in mind as well as the contents of exhibits (1) and (2) (annexed to the written address of counsel for respondent) the decision of the Advisory Committee not to include him in the list of suitable candidates for appointment to the post of Counsel for the Republic is neither arbitrary nor lacking due reasoning.

As far as applicant in case No. 297/81 is concerned it appears that what affected the judgment of the Committee in not considering him as a suitable candidate for the post was his lack of experience in advocacy and handling of cases before the Courts as mentioned in the minutes at the interview.

In contradistinction to the two applicants, interested

party Georgia Constantinou, who at the material time was working at the office of the Attorney-General, the chairman of the Advisory Committee, is described in a letter sent by the Attorney-General to the Chairman of the respondent  
5 Commission on 9.5.80 (exhibit 5 to the written address of counsel for respondent) as follows:

“... in the course of her service in this office she has been performing her duties with full devotion to her duty and in a manner which proves her to be  
10 an advocate of excellent merit and ability. Miss Constantinou who in fact performs the duties of a Counsel for the Republic, has handled successfully many complicated cases, suffices it to mention that during the period of 1979 she handled the biggest  
15 number of recourses compared to any other advocate in this office...”

Finally I come to the last point raised that the Advisory Committee failed to discharge its duty under the law and acted contrary to the provisions of section 35(5) in recommending only three candidates as suitable instead of four  
20 for each vacant post.

The duty of an Advisory Committee to recommend four candidates for each vacant post is subject to the proviso in section 35(5) that such suitable candidates do exist. In  
25 the present case the Advisory Committee which was the body responsible for the selection of the suitable candidates for recommendation, after having interviewed and orally examined the candidates, in the exercise of its wide discretionary powers, came to the unanimous decision that only  
30 three out of the 14 candidates were suitable for recommendation for appointment to the post of Counsel for the Republic, to be included in the list which was to be submitted to the respondent Commission. The letter of the Attorney-General, the Chairman of the Advisory Committee, of the 26th May, 1981, to the Chairman of the  
35 Public Service Commission, mentioned specifically that only three candidates were recommended because it was found that there were no other candidates suitable for recommendation for such posts.

40 I have not been satisfied that the Advisory Committee



exercised its discretion in a wrong manner and that this Court should in the circumstances interfere with the exercise of such discretion and substitute its own discretion to that of the competent organ, the advisory committee.

In the light of my findings as above both these recourses fail. In the result both recourses are hereby dismissed with no order for costs. 5

*Recourses dismissed.  
No order as to costs.*