

1985 March 20

[A. LOIZOU, J.]

IN THE MATTER OF ARTICLE 146
OF THE CONSTITUTION

ANDREAS ERACLEOUS AND OTHERS,

Applicants,

v.

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

Respondents.

(Cases Nos. 211/78, 164/78, 177/78, 169/78,
170/78, 208/78, 209/78, 210/78,
212/78, 198/78, 187/78, 188/78,
189/78, 190/78, 191/78, 192/78,
193/78, 194/78, 195/78, 202/78,
203/78, 204/78, 205/78, 206/78).

Police Force—Promotions—Process of promotion to the rank of sergeant—A composite act consisting of the decision of the Chief of Police to promote and the approval of the Minister of Interior which follows the decision—Section 13(2) of the Police Law, Cap. 285—Said statutory competence of Chief of Police cannot be assumed or regulated by the hierachically superior organ, the Minister—Deliberations of Chief of Police with the Minister—Doubt as to what transpired during such deliberations—Resolved in favour of the applicants—Further Court cannot control judicially the act for lack of due reasoning—“Marked ability” within the meaning of regulation 6(3)(b) of the Police (Promotion) Regulations, 1958—Loyalty and devotion to the lawful state and resistance to the Coup d’etat, constitute evidence of “marked ability”—But reports of KYP as well as reports from other sources and the personal knowledge of the Chief of Police and his officers should appear duly recorded.

Administrative Law—Administrative acts or decision—Administrative process requiring action on the part of two distinct organs—Each organ should reach its own independent conclusion—Hierarchically superior organ—Cannot assume the statutory competence of one of its subordinate organs and exercise it itself—Promotions in the Police Force—Deliberations of Chief of Police with Minister of Interior—Statutory competence to make selections for promotion lies with the Chief of Police—Doubts as to what transpired during the deliberations—Court deprived of the power to control judicially the act for lack of reasoning—Doubts resolved in applicants' favour.

Doubt—As to the factual situation—Resolved in favour of the applicants.

Administrative Law—Administrative acts or decisions—Reasoning—Promotions in the Police Force—Based, inter alia, on reports of KYP—Lack of proper records as to the contents of such reports—Which must have played an important role and must have materially affected the reaching of the sub judice decision—Reasoning thereof vague and uncertain and as such amounts to lack of due reasoning which renders the sub judice decision contrary to the general principles of administrative Law—And an act contrary to Law in the sense of Article 146.1 of the Constitution.

The Chief of Police by letter* dated 14th February, 1978, informed the Minister of Interior that he decided to promote to the rank of sergeant the Constables named therein and was seeking his approval, as provided by section 13(a) of the Police Law, Cap. 285; and the Minister by letter dated the 16th February, 1978 gave his approval. Following the publication of the promotions in the Police Weekly Orders of the 20th February, 1978 the applicants, all Police Constables challenged the validity of the promotions by means of the above recourses.

Counsel for the applicants mainly contended:

(a) That in view of the provisions of section 13(2)** of

* The letter is quoted at pp. 747-748 post.

** Section 13(2) is quoted at p. 749 post.

Cap. 285 the Chief of Police had no right to promote the interested parties before securing the approval of the Minister of Interior.

- (b) That the Minister seems to have taken part in the exercise of the administrative powers of the Chief of Police by the latter discussing and placing before him matters which were his exclusive competence and this amounted to a breach of section 13(2) of Cap. 285. 5
- (c) That the construction placed by the Chief of Police on the expression "marked ability" to be found in regulation 6(3)(b)* of the Police (Promotion) Regulations, 1958 was wrong. 10
- (d) That even if the construction placed on the expression "marked ability" in regulation 6(3)(b) was accepted by the Court as correct in Law, yet, the sub judice decisions suffered because there did not exist any record and consequently there was no material for its due reasoning as regards the relevant conduct of each candidate. 15 20
- (e) That the Chief of Police wrongly took into consideration the reports of KYP in respect of which there were no written records.

Contention (b) above was based on the contents of para. 2 of the above letter of the Chief of Police wherein after referring to the assessment he made of all the material about the personal service and national contribution, loyalty, conduct, efficiency and leadership qualifications of the candidate he says: "...which I placed orally before you for each one of the candidates during our recent deliberations on the subject...". 25 30

Regarding contention (c) above the "marked ability" relied upon by the Chief of Police as justifying the pro-

* Regulation 6 is quoted at p. 747 post; and regulation 6(3)(b) provides as follows:

«Notwithstanding anything in this regulation contained the Chief of Police:

(b) may promote any police officer who shows marked ability or exceptional aptitude for special work, irrespective of his length of service, and whether qualified by examination or not».

motions under the said regulation 6(3) (b) was the loyalty and devotion of the constables concerned to the lawful state and the resistance they have put up against the coup d'etat and the illegality in general.

5 *Held*, (1) that though it is correct that the administrative process of promotion to the rank of Sergeant is completed only upon the approval of the Minister being given this must be preceded by the exercise of the discretion of the Chief of the Police in selecting the most suitable candidate for the post and deciding to promote such candidate; that the act is a composite act consisting of two legs as far as this aspect of the process is concerned; that the first is the decision of the Chief of Police to promote and the second is the approval of the Minister. 10
15 When both are reached the promotion is completed and there is a final executory act in that respect; accordingly contention (a) must fail.

20 (2) That where the administrative process concerned requires action on the part of two distinct organs, such organ should reach its own independent conclusion; that further, a hierarchically superior organ cannot assume the statutory competence of one of its subordinate organs and exercise it itself; that since there does not appear any evidence whatsoever as to the nature of the deliberations 25
mentioned in the said letter with the Minister or the extent of his role and the influence it had in the exercise of the discretion of the Chief of the Police in the circumstances doubts are created as to what transpired between them and not only deprives the Court of the power to judicially control the sub judice act for lack of reasoning which gives rise to a ground of annulment, but also entitles the applicants to have any doubt resolved in their favour and have the sub judice decision annulled for that reason. 30

35 (3) That the illegality that appeared in the Republic and its culmination, the coup d'etat, have been judicially noticed; that there had been members of the Police Force that by deeds demonstrated their loyalty and devotion to the lawful State, combated illegality and put up resistance against the Coup d'etat; that such a conduct in that turbulent situation could not but be considered as a manifestation of "marked ability" within the ambit of regula- 40

tion 6(3) (b); and that, therefore, the approach on the subject of the Chief of the Police was in Law correct and is endorsed.

Held, further, that loyalty, devotion to duty, resistance to intimidation, and threats and exposure of life to risk by Police Officers are qualities that must be rewarded by one form or other, including promotion as it evidences "marked ability". There are moments in the history of nations that the successful passing of exams may be outweighed by "marked ability" which at times obliterates their nonpassing.

(4) That this Court is prevented from judicially controlling an administrative act which may be rendered defective by the lack of proper record, and if the reports of KYP referred to the conduct of the persons promoted, such reports as well as reports from other sources and at that the personal knowledge of the Chief of Police and his officers should appear duly recorded.

(5) That this Court is hampered in the exercise of its revisional jurisdiction by the lack of proper records to control judicially the exercise of the administrative discretion, in particular as to the contents of the reports of KYP, which must have played an important role and must have materially affected the reaching of the sub judge decisions; that this makes the reasoning vague and uncertain and as such it amounts to lack of due reasoning which renders the sub judge decision contrary to the general principles of Administrative Law; and that, therefore, the sub judge decision is contrary to Law in the sense of Article 146.1 of the Constitution; and that, accordingly, it must be annulled (see *Michael and Others v. Republic* (1984) 3 C.L.R. 1364).

Sub judge decision annulled.

Cases referred to:

Savoulla and Others v. Republic (1973) 3 C.L.R. 706 at pp. 714-715;

Frangides v. Republic (1968) 3 C.L.R. 90;

Frangoullides (No. 2) v. Republic (1966) 3 C.L.R. 676;

Malais v. Republic (1966) 3 C.L.R. 444 at p. 459;

Liasi and Others v. Attorney-General and Another (1975)
3 C.L.R. 558;

5 *Aristodemou v. General Insurance Co. Ltd. of Cyprus*
(1981) 1 C.L.R. 582;

Michael and Others v. The Republic (1984) 3 C.L.R.
1364.

Recourses.

15 Recourses against the decision of the respondents where-
by the interested parties were promoted and/or placed to
the rank of Sergeant in the Police Force in preference
and instead of the applicants.

A. Neocleous for applicant in Case No. 211/78.

20 *A. S. Angelides*, for applicants in Case Nos. 164/78
and 177/78.

I. Typographos, for applicants in Case Nos. 169/78
and 170/78.

25 *Chr. Mitsides*, for applicants in Case Nos. 208/78,
209/78 and 212/78.

Th. Montis with *Gl. Xenos*, for applicant in Case No.
210/78.

L. N. Clerides, for applicant in Case No. 198/78.

30 *A. Demetriades*, for the applicants in Case Nos. 187/78-
195/78.

- A. Magos, for applicant in Case No. 197/78.
- M. Pierides, for applicant in Case No. 196/78.
- A. Andreou, for applicant in Case No. 182/78.
- G. A. Georghiou, for applicants in Case Nos. 201/78-206/78. 5
- R. Gavrielides, Senior Counsel of the Republic, for the respondents.

Cur adv. vult.

A. LOIZOU J. read the following judgment. By these recourses which have been heard together as they present common questions of Law and fact the applicants seek a declaration of the Court that the acts and/or decisions of the respondents to promote and/or place the interested parties as from the 15th February 1978, to the rank of Sergeant in the Police Force of Cyprus instead of them. is null and void and with no legal effect. 10 15

In order to facilitate the hearing of these cases in which there were fifty-seven applicants and four-hundred and thirteen interested parties. the respondents prepared and filed copies of all documents material to the issues raised by these recourses except those relating to the reports of the Central Information Service (KYP). 20

In recourse No. 211/78, the applicants challenge all four-hundred and thirteen promotions to Police Sergeants published in the Weekly Orders of the 20th February, 1978, under Notification 109. The names of these interested parties are set out in Schedule "B" attached to the application and will serve no purpose to have same appended to this judgment and published in the Law Reports. A list of the names and of those promoted appears also in Appendix "C" attached to the opposition. On this appendix those marked with an asterisk were promoted under the exception provided by regulation 6(3)(b) of the Police (Promotion) Regulations, 1958, as amended, and the rest were promoted by virtue of regulation 6(1) of the said Regulations. Regulation 6, in so far as relevant to the present proceedings, reads as follows: 25 30 35

“6.- (1) A constable to be qualified for promotion to the rank of Sergeant must:-

5 (a) not have had any greater punishment than a severe reprimand imposed on him for an offence against discipline during the past two years;

(b) have passed the qualifying examinations;

(c) save for special reasons, to be stated in each individual case, have completed two years’ service in the performance of ordinary outside police duty:

10 (d) have completed four years’ service, unless the Chief Constable is satisfied that he possesses special qualifications for the performance of the particular duties on which he is to be employed

(e) have been recommended by the Board.

15 (2)

(3) Notwithstanding anything in this Regulation contained the Chief Constable:-

20 (a) may decide that members of the Force recommended by the Board for advancement should attend a short promotion course:

(b) may promote any police officer who shows marked ability or exceptional aptitude for special work, irrespective of his length of service, and whether qualified by examination or not.”

25 It is clear that the provisions of paragraph 6(3)(b) hereinabove set out provide sufficient legal basis for promotion without the necessary qualifications laid down in regulation 6(1).

30 The Chief of Police by letter dated 14th February 1978 sought from the Minister of Interior his approval as provided by section 13(a) of the Police Law, Cap. 285. The said letter (Appendix A) attached to the opposition reads as follows:

35 “Please refer to previous correspondence on the subject of promotions to the highest or higher ranks

of the Police. In order to complete the internal re-organisation of the Force there remain the promotions of Police Constables to the rank of Sergeant. So I carried out a thorough study of the material contained in the personal file of each candidate as well as their service, contribution and qualifications as they were stated by their Divisional Commanders and the Chief of KYP.

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2. After assessing all the material about their personal, service and national contribution, loyalty, conduct, efficiency and leadership qualifications of each one, criteria and circumstances which I placed orally, before you for each one of the candidates during our recent deliberations on the subject I decided to promote those set out on the attached lists to the rank of Sergeant as from the 15th February 1978, hence I pray your approval for the purpose under subsection 2 of section 13 of the Police Law Cap. 285.

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3. On list (A) are recorded, the acting Sergeants whereas on (B), the Police Constables, who possess regularly and by exception (by virtue of regulation 6(1) and 6(3)(b) respectively, of the Police (Promotions Regulations), qualifications, loyalty and ability justifying their promotion to the rank of Sergeant.

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4. Finally by the proposed promotions it is achieved on the one hand a replacement with permanent Sergeants of a great number of Acting Sergeants serving so, for years, a situation which ought to have a temporary only character, and on the other hand it becomes possible to include among those promoted by virtue of the exception i.e. the technical and specialist services, persons which have proved by deeds their loyalty and devotion to the lawful State and have put up resistance against the Coup d'Etat and the illegality in general."

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The Minister of Interior by letter dated the 16th February, 1978, Appendix "B", gave his approval for the promotion of the 413 Police Constables whose names appeared in the list attached to the aforesaid letter of the

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Chief of Police. The promotion of each one of the said interested parties with effect from the 15th February 1978, which was published as above stated.

5 In these proceedings which were heard together by direction of the Court because of the common questions of Law and fact that they present, I had the advantage of oral and written addresses made on behalf of the applicants, though some counsel merely endorsed the arguments so advanced and only made particular reference to
10 the merits of the applicants they represent.

Mr. Lefkos Clerides, in his able address raised a number of points which I feel they ought to be answered. The first one raised is that the Chief of Police had no right to promote the interested parties before securing the approval of
15 the Minister of Interior. He based this argument on the provisions of section 13(2) of the Law as amended by Law No. 29 of 1966 to which reference will shortly be made and to the wording of Appendix "A" in paragraph 2 of which it is stated:

20 "I decided to promote those set out in the attached lists to the rank of Sergeant as from the 15th February, 1978, and for that purpose I pray for your approval by virtue of sub-section 2 of section 13 of the Police Law, Cap. 285."

25 The said sub-section 2 reads:

"The Chief of Police shall, with the approval of the Minister, appoint, enlist, promote and dismiss all members of the force up to and including the rank of Chief Inspector."

30 It was contended that the Chief of Police proceeded and promoted these Police Constables acting under the misconception that what was expected from the Minister was a sort of covering approval, a situation which was "neither within the spirit nor the letter of the Law".

35 In my view this argument of counsel cannot stand. It is correct that the administrative process of promotion to the rank of Sergeant is completed only upon the approval of the Minister being given, but this must be preceded by

exercise of the discretion of the Chief of the Police in selecting the most suitable candidate for the post and deciding to promote such candidate. The act is a composite act consisting of two legs as far as this aspect of the process is concerned. The first is the decision of the Chief of Police to promote and the second is the approval of the Minister. When both are reached the promotion is completed and there is a final executory act in that respect.

The second point argued by Mr. Clerides is that the Chief of Police had a number of meetings with the Minister before exercising his discretion as to whom to promote. This it was said is born out by the following phrase from the passage Appendix "A", where after referring in paragraph 2 thereof to the assessment he made of all the material about their personal service and national contribution, loyalty, conduct, efficiency and leadership qualifications of the candidates he says: "... which I placed orally before you for each one of the candidates during our recent deliberations on the subject..."

The submission of counsel was that the Minister seems to have taken part in the exercise of the administrative powers of the Chief of Police by the latter discussing and placing before him matters which were his exclusive competence and this amounts to a breach of section 13(2) hereinabove set out as by no means it is permissible thereunder for the Chief of Police to discuss such material with the Minister before he reaches his decision and then upon apparently hearing what the Minister has to say, go back and decide himself on the promotions and then again pray for the approval of the Minister.

In the case of *George Savoulla and Others v. The Republic* (1973) 3 C.L.R. 706, Triantafyllides P., regarding the involvement of the President of the Republic and the Minister of the Interior as regards promotions of Constables to Sergeants had this to say at pp. 714-715:

"On the basis of all the material before me, including the relevant oral and documentary evidence, I have reached the conclusion that it has not been established that the President of the Republic has acted in such a way as to substitute the exercise of

his own discretion in the place of the exercise of the discretionary powers of either the Deputy Commander or the Minister of Interior, or that he acted in a manner amounting to intervening unlawfully in the relevant administrative process: I am satisfied that the expression of any views on his part about any candidate for promotion was made in the course—which was a proper one—of passing on to the appropriate organs relevant information in his possession, so that they could exercise their powers with full knowledge of all relevant facts.

Regarding the involvement of the President of the Republic in the matter in question I accept in full as correct and reliable the evidence of the Deputy Commander, Mr. Antoniou, and I prefer it in connection with the aspect in relation to which there exists any evidence to the contrary, or of a different nature: as it appears from the evidence of the Deputy Commander the main object of the involvement of the President of the Republic was related to the availability of promotion posts and reference to particular candidate was made, really, consequentially or incidentally to such object.

It is true that there appeared news items in the press, such as exhibits 12, 13 and 14, which might have given rise to wrong impressions regarding the exact role of the President of the Republic in relation to the promotions in question, but the contents of such publications lose their significance when viewed in the light of the evidence given by the Deputy Commander regarding what actually happened.”

It is obvious that the said case was decided in the light of its particular circumstances and refers to nothing more than the duty of an administrative organ to carry out a due inquiry and obtain relevant information from any source. At the same time it accepted the correctness of the principle of Administrative Law that where the administrative process concerned requires action on the part of two distinct organs, such organ should reach its own independent conclusion. I need not therefore go further into the principles pertaining to the functions of Ministers in rela-

tion to the process of promotion of civil servants and other State employees. The matter came up for consideration in a series of decisions. See inter alia *Frangides v. The Republic* (1968) 3 C.L.R. 90; and *Frangoullides (No. 2) v. The Republic* (1966) 3 C.L.R. p. 676. Useful reference may also be made to *Malais v. The Republic* (1966) 3 C.L.R. 444 where Triantafyllides, J., as he then was had this to say at p. 459:

“It is a clearly established principle of Administrative Law that a hierarchically superior organ cannot assume that statutory competence of one of its subordinate organs and exercise it itself. (Vide *Georghiades and The Republic* (reported in this part at p. 153 ante); and also Tsatsos on the Recourse for Annulment, 2nd Edition, pp. 129-131 and Kyriakopoulos on Greek Administrative Law 4th Edition, volume, 2, p. 35).

In my opinion, therefore, the Minister of Interior, in spite of his supervisory powers, under Article 58 of the Constitution and the aforesaid section 3A of the relevant legislation, could not assume upon himself the exercise of the Commander’s competence under section 13(2) of Cap. 285; and this view is, also, shared by counsel for Respondent himself.”

What is significant in the present case is that there does not appear any evidence whatsoever as to the nature of the deliberations mentioned in the said letter with the Minister or the extent of his role and the influence it had in the exercise of the discretion of the Chief of the Police in the circumstances. This situation creates doubts as to what transpired between them and not only deprives the Court of the power to judicially control the sub judice act for lack of reasoning which gives rise to a ground of annulment, but also entitles the applicants to have any doubt resolved in their favour and have the sub judice decision annulled for that reason.

The third ground turns on the construction as to the meaning and effect of the expression “marked ability” to be found in regulation 6(3)(b) hereinabove set out. It was pointed out by counsel that in Table “A” of Appendix

“A”, there are one-hundred and sixteen Acting Sergeants who were promoted to the rank of Sergeant and out of them seventy—those marked with an asterisk—were promoted under regulation 6(3) (b), that is under the exception. It was indicated that from Table “B” out of two-hundred and ninety-seven Police Constables who were promoted to the rank of Sergeant: one-hundred and seventy-three, again marked with an asterisk—were promoted under the said exception.

10 The “marked ability” relied upon by the Chief of the Police, as justifying these promotions under this Regulation, is to be found in paragraph 4 of Appendix “A”, where it is stated that with “the exception of technical and specialist services it has become possible to include in those
15 to be promoted many persons who have proved by deeds their loyalty and devotion to the lawful State and have put up resistance against the Coup D’ Etat and the illegality in general.

The illegality and subversion that appeared in the Republic in an intensive ugly shape in the form of bombing attacks on Government premises, Police Stations, and other establishments as well as of attacks against the person and the life of Law abiding citizens, Ministers—one of them was abducted, the house of another was bombed—
25 Government officials and members of the Police Force in particular who showed devotion to duty by supporting the lawful State and opposed all these acts of violence and indeed did not succumb to them and to their culmination, the Coup D’ Etat have been judicially noticed. Reference
30 may be made in that respect to a selection of cases that reached the Supreme Court, such as the case of *Liasi and others v. The Attorney-General of the Republic and Another* (1975) 3 C.L.R. 558; and the case of *Aristodemou v. General Insurance Company Ltd., of Cyprus* (1981) 1
35 C.L.R. 582.

As against those that subverted through intimidation and violence the lawful and democratic institutions of the country and undermined the constitutional order and Law and order itself, there had been citizens and officials including members of the Police Force that by deeds demonstrated their loyalty and devotion to the lawful State, com-

bated illegality and put up resistance against the Coop d'Etat. In relation to the present case and the relevant legal issue raised, I have no difficulty in holding that as regards members of the Police Force, such a conduct in that turbulent situation could no but be considered as a manifestation of "marked ability" within the ambit of section 6(3)(b) of the Police Law. I accept as in Law correct the approach on the subject of the Chief of the Police and I endorse it for the reasons I have just expounded. The ground of the recourse therefore fails.

No doubt the Chief of Police was fully aware and duly informed of the conduct of each one of them during those difficult years. The conduct which legitimately could be taken into consideration as going to the credit of the persons concerned. Loyalty, devotion to duty, resistance to intimidation, and threats and exposure of life to risk by Police Officers are qualities that must be rewarded by one form or other, including promotion as it evidences "marked ability". There are moments in the history of nations that the successful passing of exams may be outweighed by "marked ability" which at times obliterate their nonpassing.

Ancillary to this ground was the argument advanced that even if the aforesaid interpretation was accepted by the Court as correct in Law, yet, the sub-judice decisions suffered because there did not exist any record and consequently no material for its due reasoning as regards the relevant conduct of each candidate. Admittedly this Court is prevented from judicially controlling an administrative act which may be rendered defective by the lack of proper record, and if the reports of KYP referred to the conduct of the persons promoted, such reports as well as reports from other sources and at that the personal knowledge of the Chief of Police and his officers should appear duly recorded.

The fifth ground turns on the involvement of the Chief of KYP in respect of which there are no written records. It was alleged on behalf of the respondents but such allegation has not been substantiated that his involvement related to information regarding the remarkable activities of certain Police Constables. There is nothing on record

to indicate that and that inevitably raises doubts, that have to be resolved in favour of the applicants.

In the case of *Andreas Michael and Others v. The Republic*, a judgment delivered on the 17th November 1984, as yet unreported: * Louis Loizou J., held the following:-

“A crucial document in these proceedings is the letter dated 16th January, 1980 (exhibit 3) addressed by the Chief of Police to the Minister. It leaves no room for doubt that the Chief of Police in selecting the candidates for promotion out of the list submitted to him (exhibit 5) which contains the names of all officers selected by the Board took into consideration, apart from the rating of the Board and the opinions expressed and the recommendations of the Commanding Officers, information and material supplied by the Director of the Central Information Service. What information and material were placed before the Chief of Police either with regard to the applicants or with regard to the interested parties or on what facts and criteria the Central Information Service based their assessment has not been disclosed and can only be a matter of conjecture. Certainly the Court is absolutely in the dark and counsel for the Republic, as stated earlier on, frankly admitted that she, herself, was not aware of the nature of such information. One thing is clear that in a number of cases applicants were not recommended for promotion by the Chief of Police because of the report of KYP but the Court is not in a position to know if and how many of the interested parties were promoted because of such report nor how many or who of the applicants may have been victimized as a result thereof.

The jurisdiction of this Court under Article 146 is limited to scrutiny of the validity of the act or decision challenged and it is aimed to ensure that the administration functions within the sphere of its authority and subject to the principles of good administration. But for the Court to be able to exercise its control in any particular case it is necessary that it must have before it the reasons for such decision and hence the requirement of administrative Law for due

* Now reported in (1984) 3 C.L.R. 1364.

reasoning and the well established principle that lack of it is a ground for annulment.

In the present case it is clear from the facts as stated above that the reasoning that has led to the sub judge decision in so far as it relates to the promotions is, in some instances non-existent and where an attempt has been made to give reasons it is vague. What is, however, most important is the fact that there has been a flagrant violation of the rules of natural justice by taking into consideration information contained in reports of the Central Information Service, which, quite obviously, in some cases were adverse without the officers adversely affected being aware of the existence or contents of such reports and without having the opportunity to be heard in regard thereof.

This, in my view, is a sufficient enough reason that these recourses, in so far as they relate to the promotion to the rank of Inspector of the thirty interested parties whose names appear in exhibit 1 (and in Appendix A) should succeed and the decision relating to them be annulled.

Useful reference may be made to the following cases relevant to this issue:

Tsangarides and Others v. The Republic (1981) 3 C.L.R. 117; *Ierides and Another v. The Republic* (1983) 3 C.L.R. 1028; *Haviaras v. The Republic* (1981) 3 C.L.R. 415; *HadjiGeorghiou v. The Republic* (1981) 3 C.L.R. 587; *Iacovides v. The Republic* (1981) 3 C.L.R. 305 and *Koudounas v. The Republic* (1981) 3 C.L.R. 46.”

It is clear from the above that I am hampered in the exercise of my revisional jurisdiction by the lack of proper records to control judicially the exercise of the administrative discretion, in particular as to the contents of the reports of KYP, which must have played an important role and must have materially affected the reaching of the sub judge decisions. This makes the reasoning vague and uncertain and as such it amounts to lack of due reasoning which renders the sub judge decision contrary to the

general principles of Administrative Law. So the sub judice decision is contrary to Law in the sense of Article 146.1 of the Constitution.

5 For all the above reasons the sub judice decisions regarding the promotion to the rank of Sergeant of all interested parties set out in the Weekly Orders of the 20th February, 1978 under Notification 109, are hereby annulled.

In the circumstances, however, there will be no order as to costs.

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*Sub judice decisions
annulled. No order as
to costs.*