

1984 May 5

[TRIANTAFYLLIDES, P.]

IN THE MATTER OF ARTICLE 146
OF THE CONSTITUTION

CHRYSSO A. EFREM AND OTHERS,

Applicants,

v.

THE REPUBLIC OF CYPRUS, THROUGH THE
PUBLIC SERVICE COMMISSION,

Respondent.

(Case No. 207/79).

Public Officers—Promotions—Judicial control—Principles applicable—Striking superiority of applicants over interested parties not established.

5 *Public Officers—Promotions—Seeking of reports, from Central Information Office (Κ.Υ.Π.) as to whether interested parties were loyal and law-abiding—Not relevant to the validity of the sub judice decision because the information was sought after the interested parties had been selected for promotion—Section 58(1)(a) of the Public Service Law, 1967 (Law 33/67).*

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The applicants challenged a decision of the respondent Public Service Commission regarding promotions and secondments to the post of Assistant Labour Officer.

15 *Held*, that it is not the task of this Court to substitute its own discretion in the place of that of the Commission as regards the candidates who ought to have been selected as the most suitable for promotion or secondment; that there has not been actually established striking superiority of any one of the applicants over any one of

20 the interested parties concerned so as to justify this Court in reaching the conclusion that it was not reasonably open to the respondent Commission, in the proper exercise of

its discretionary powers, to select for promotion or secondment the interested parties and that, consequently, by doing so the Commission has exceeded the proper limits of its said powers; accordingly the recourse must fail.

Held, further, that the seeking by the Commission of reports, from the Central Information Office (Κ.Υ.Π.), as to whether the interested parties were loyal and law-abiding is not in any way relevant to the validity of the sub judice decision because the information was sought only after the interested parties had been selected for promotion or secondment, and not in the process of selecting the most suitable candidates.

Application dismissed.

Cases referred to:

- Georgiou v. Republic* (1976) 3 C.L.R. 74 at pp. 82, 83; 15
Evgeniou v. Republic (1979) 3 C.L.R. 239 at p. 249;
Ierides v. Republic (1980) 3 C.L.R. 165 at p. 180;
Alexandridou v. Cyprus Tourism Organization (1980) 3 C.L.R. 360 at pp. 367, 368;
Christou v. Republic (1980) 3 C.L.R. 437 at p. 444; 20
Karageorghis v. Republic (1982) 3 C.L.R. 435 at p. 453;
Ioannou v. Republic (1983) 3 C.L.R. 75 at p. 79;
Tokkas v. Republic (1983) 3 C.L.R. 361 at p. 367;
Makrides v. Republic (1983) 3 C.L.R. 750 at p. 758;
Hji Ioannou v. Republic (1983) 3 C.L.R. 1041 at p. 1045; 25
Vourkos v. Republic (1983) 3 C.L.R. 1442 at p. 1450.

Recourse.

Recourse against the decision of the respondent to promote and/or second the interested parties to the post of

Assistant Labour Officer in preference and instead of the applicants.

M. Christofides, for the applicants.

5 *M. Kyprianou*, Senior Counsel of the Republic with
A. Vassiliades, for the respondents.

Cur. adv. vult.

10 TRIANTAFYLLIDES P. read the following judgment. The applicants in this case challenge a decision of the respondent Public Service Commission regarding promotions and secondments to the post of Assistant Labour Officer.

15 Each one of the applicants does not challenge the promotions or secondments of all the "interested parties" (as are to be referred to in this judgment those promoted or seconded); and in the course of the proceedings in this case most of the applicants have limited the scope of their
20 respective claims for relief in so far as are concerned the interested parties whose promotions or secondments are being challenged.

20 The essence of the claims of the applicants is that they ought to have been preferred for promotion or secondment instead of the interested parties.

25 Having examined everything that was placed before this Court in support of the claims of the applicants I am not satisfied that there has been actually established striking superiority of any one of the applicants over any one of the interested parties concerned so as to justify me in reaching
30 the conclusion that it was not reasonably open to the respondent Commission, in the proper exercise of its discretionary powers, to select for promotion or secondment the interested parties and that, consequently, by doing so the Commission has exceeded the proper limits of its said powers (see, inter alia, in this respect, *Georghiou v. The Republic*, (1976) 3 C.L.R. 74, 82, 83, *Evgeniou v. The Republic*, (1979) 3 C.L.R. 239, 249, *Ierides v. The Republic*, (1980) 3
35 C.L.R. 165, 180, *Alexandridou v. The Cyprus Tourism Organization*, (1980) 3 C.L.R. 360, 367, 368, *Christou v. The Republic*, (1980) 3 C.L.R. 437, 444, *Karageorghis v. The Republic*, (1982) 3 C.L.R. 435, 453, *Ioannou v. The Repu-*

blic, (1983) 3 C.L.R. 75, 79, *Tokkas v. The Republic*, (1983) 3 C.L.R. 361, 367, *Makrides v. The Republic*, (1983) 3 C.L.R. 750, 758, *Hjiloannou v. The Republic*, (1983) 3 C.L.R. 1041, 1045 and *Vourkos v. The Republic*, (1983) 3 C.L.R. 1442, 1450). It is not the task of this Court to substitute its own discretion in the place of that of the Commission as regards the candidates who ought to have been selected as the most suitable for promotion or secondment. 5

It has also been complained of by the applicants that the Commission has sought from the Central Information Office (Κ.Υ.Π.), in the light of section 58(1)(a) of the Public Service Law, 1967 (Law 33/67), reports as to whether the interested parties were loyal and law-abiding. 10

As, however, this was done only after the interested parties had been selected for promotion or secondment, and not in the process of selecting the most suitable candidates, I cannot accept that the complaint in question of the applicants is in any way relevant to the validity of the sub judice decision of the respondent Commission to prefer the interested parties instead of them. No such reports were sought in respect of any one of the applicants, who had already been found, in comparison with the interested parties, not to be the most suitable candidates for promotion or secondment. 15 20

Nor do I find any merit in the contention of the applicants that the sub judice decision of the respondent Commission is not duly reasoned. In my view the reasons which are set out in its relevant minutes are quite adequate and they are, also, to be derived from the administrative records which were before the Commission at the material time. 25 30

In the light of all the foregoing this recourse fails and it is dismissed; but I do not propose to make any order as to its costs.

Recourse dismissed.
No order as to costs. 35