

1986 September 27

[DEMETRIADES, J.]

IN THE MATTER OF ARTICLE 146  
OF THE CONSTITUTION

COSTAS CH. MAKRIDES AND OTHERS,

*Applicants,*

v.

THE REPUBLIC OF CYPRUS, THROUGH  
THE PUBLIC SERVICE COMMISSION.

*Respondent.*

(Cases Nos. 315/82, 325/82,  
330/82, 334/82 and 338/82).

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*Collective organs—Minutes of their meeting—Obligation to keep such minutes as required for purposes of proper administration—They should state correctly the names of the members of the organ, who are present at a meeting and what they decided.*

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By means of this recourse the applicant challenges the promotions of the interested parties to the post of Senior Public Administration and Personnel Officer. The Minutes of the respondent Commission in respect of its meeting dated 22.4.82, when the performance of the candidates at the interview before it was evaluated, stated that there participated as members of it L. Xenopoulos, G. Serghides, Chr. HadjiProdromou and L. Christodoulou, whereas the minutes for the meeting of the 23.4.82, when the sub-judice decision was reached, stated that there participated as members of it L. Xenopoulos, N. Papaxenophontos, Chr. HjiProdromou and C. Christodoulides. Counsel for the respondents argued that as L. Christodoulou and G. Serghides ceased to be members of the Commission as from 3.6.82 and as Papaxenophon'os and Christodoulides were appointed as members of the Commission on the

10.7.82. there is an obvious mistake, in the minutes of the 23.4.82.

*Held*, annulling the sub judice decision: (1) Collective organs should keep such minutes as are required for purposes of good and proper administration. 5

(2) In the present case the minutes should have described correctly the members of the Commission who were present at the relevant meeting. The Court cannot speculate what had taken place. The minutes were defective and contrary to the principles of proper administration. 10

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

**Cases referred to:**

*Medcon Construction v. The Republic* (1968) 3 C.L.R. 535; 15

*Michael v. The Republic* (1972) 3 C.L.R. 206.

**Recourses.**

Recourses against the decision of the respondent to promote the interested parties to the post of Senior Public Administration and Personnel Officer in preference and instead of the applicants. 20

*Ch. Ierides*, for applicant in Case No. 315/82.

*Chr. Triantafyllides*, for applicant in Case No. 325/82.

*C. Clerides*, for applicant in Case No. 330/82. 25

*A. S. Angelides*, for applicant in Case No. 334/82.

*E. Lemonaris*, for the applicant in Case No. 338/82.

*R. Gavrielides*, Senior Counsel of the Republic, for the respondent.

*M. Spanos*, for the interested party *Chr. Taliadoros*. 30

*Cur. adv. vult.*

DEMETRIADES J. read the following judgment. The applicants in the present recourses, which were heard together in view of their nature, are challenging the decision of the respondent Public Service Commission to promote, as from the 1st May, 1982, to the post of Senior Public Administration and Personnel Officer, instead of them, the interested parties whose names are referred to in each Application and, also, to appoint interested party K. Triantafyllides to the same post as from the 1st July, 1982.

As the post concerned is a first entry and promotion post, the respondent Commission, after it was requested to fill six vacancies in such post, decided to advertise them in the Official Gazette on the 27th November, 1981, and afford to candidates a time of three weeks for the submission of applications. Fifty-one applications were, as a result, submitted, which were forwarded, together with the confidential report files of those serving in the public service, to the Director of the Public Administration and Personnel Service, as Chairman of the Departmental Committee constituted under section 36 of the Public Service Laws 1967 to 1980. Later, and after the submission of a relevant request in this respect, the Minister of Finance approved the filling of two more vacancies and the Public Service Commission informed accordingly the Departmental Committee.

On the 9th February, 1982, the Chairman of the Departmental Committee forwarded to the respondent Commission the report of the Committee by means of which there were recommended for promotion twenty-five candidates including the applicants and the interested parties.

All candidates, except G. Charalambides who was absent abroad at the material time, were interviewed by the respondent Commission in the presence of the Director of the Public Administration and Personnel Service (see *exhibits 10 - 17*).

At its relevant meeting of the 10th April, 1982, the Commission was informed that the Director-General of the Ministry of Finance was requesting the filling of two more vacancies and they, acting on the basis of an advice from

the Attorney-General's Office decided to proceed to fill the said two vacancies together with the other vacancies which were to be filled originally. At this meeting the Director of the Public Administration and Personnel Service made an evaluation in respect of the performance of each candidate during the interviews.

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On the 22nd April, 1982, the respondent Commission evaluated itself the performance of each candidate at the interviews, their merit and suitability and decided that eight candidates, namely the interested parties, were the best, but adjourned the further examination of the matter for the next day so as to select another two candidates for the filling of all vacancies, which were requested to be filled.

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At its meeting of the 23rd April, 1982, the respondent Commission re-examined the request of the appropriate authority dated the 10th April, 1982, for the filling of the last two vacancies, as aforesaid, and having taken into consideration that such request was submitted at an advanced stage of the relevant process before it and that there was a possibility that other candidates might be interested to submit applications for those additional posts, decided not to by-pass the strict procedure for the filling of vacancies and to publish them in the Official Gazette so as to afford to persons interested the opportunity to submit an application in this respect.

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Thereafter, the respondent Commission proceeded with the filling of only eight vacancies and having taken into account the relevant material contained in the personal and confidential report files of all those serving in the public service, the report of the Departmental Committee, the performance of the candidates at the interviews, in the light of the opinion and views, also, of the Director of the Public Administration and Personnel Service, decided that the interested parties were superior to the remaining candidates and promoted, as from the 1st May, 1982, interested parties. D. Avraam, M. Antoniou, A. Georghiou, X. Lazarou, Chr. Taliadoros, A. Physentzides and L. Chrysochos, to the post of Senior Public Administration and Personnel Officer, whereas it appointed to the same post

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interested party K. Triantafyllides, as from the 1st July, 1982.

5 One of the main submissions put forward by counsel for the applicants, in seeking the annulment of the promotions concerned, is that the difference in the constitution of the Public Service Commission throughout the administrative process, which is apparent on the face of the relevant minutes, vitiates the sub judice decision, or, else, such minutes were not kept as prescribed by section 11 of the Public  
10 Service Law, 1967 (Law 33/67), contrary to the rules of proper administration.

15 From a perusal of the minutes of the respondent Commission it appears that on the 22nd April, 1982 (see *Appendix 19*) the Commission proceeded with the evaluation and assessment of the candidates and at such meeting there participated as members of the Commission L. Xenopoulos, G. Serghides, Chr. HadjiProdromou and L. Christodoulou, whereas on the next day (see *Appendix 20*),  
20 when the Commission proceeded to make the appointments on the basis of the evaluation made on the previous day, as members of the Commission appear L. Xenopoulos, N. Papaxenophontos, Chr. HadjiProdromou and C. Christodoulides.

25 Counsel for the respondent argued that as N. Papaxenophontos and C. Christodoulides were appointed as members of the Public Service Commission on the 10th July, 1982, and L. Christodoulou and G. Serghides ceased to be members of the Commission as from the 3rd June, 1982, it is obvious that there is a mistake in the minutes  
30 of the 23rd April, 1982, which could not result in the annulment of the sub judice decision. No explanation was given on behalf of the Commission for this inconsistency in their minutes.

35 In proceedings before collective organs it is important that such minutes should be kept as are required for purposes of good and proper administration (see, in this respect, *Medcon Construction v. The Republic*, (1968) 3 C.L.R. 535, 543 and *Michael v. The Republic*, (1972) 3 C.L.R. 206, 210).

In the present case the minutes of the Commission should have described correctly the members of the Commission who had attended and were present at the relevant meeting and what they had decided. In the absence of any such record, I cannot speculate myself as to what had taken place and, therefore, I treat the way in which such minutes were kept as defective and as being contrary to the rules of proper administration. 5

In the result, the sub judice decision is annulled.

Having reached the above conclusion I see no reason for me to deal with the other issues raised in these Applications. 10

There will be no order as to costs.

*Sub judice decision annulled.*  
*No order as to costs.* 15