

1987 July 23

[STYLIANIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

PANAYIOTIS PETRIDES,

Applicant,

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondents.

(Case No. 302/83).

GEORGHIOS STERGIDES,

Applicant,

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondents.

(Case No. 478/83).

PANAYIOTIS M. TSANGARIS,

Applicant,

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondents.

(Case No. 479/83).

3 C.L.R.

Petrides and Others v. Republic

Public Officers — Promotions — Merit, Qualifications, Seniority — Merit is a most weighty consideration, but is neither the sole factor nor it can overrule the other criteria

5 *Public Officers — Promotions — Head of Department — Recommendations of — Cogent reasons should be given for not following them — When such recommendations are inconsistent with the picture emanating from the confidential reports, they should be disregarded or be given limited weight depending on the extent of inconsistency*

10 *Public Officers — Promotions — Qualifications — Scheme of service providing for «three years service» in the immediate lower post — Whether reasonably open to the Commission to conclude that candidates, who held such a post, but had been performing other duties on secondment, satisfied scheme of service — Question answered in the affirmative*

15 *Public Officers — Promotions — Due inquiry — Presumption of regularity — Onus on applicant to establish excess or abuse of power*

Reasoning of an administrative act — May be supplemented from the material in the file — Unless circumstances specifically call for it it is not necessary for all factors that have been taken into consideration to be mentioned in the reasoning of a decision

20 *Public Officers — Promotions — Duty of appointing organ to select the best suitable candidate — Judicial control — Principles applicable*

Public Officers — Promotions — Striking seniority — Meaning of

25 *By means of the aforesaid recourses the applicants impugn the promotions of the interested parties to the post of Senior Health Inspector, 2nd Grade on the following grounds, viz*

(1) *The respondents did not comply with section 44 of the Public Service Law 33/67*

30 (2) *The respondents laboured under a misconception of fact in respect of applicant in case 302/83, as it was not before them a certificate that applicant attended for one year the School of Medicine of Prague University*

(3) *Two of the interested parties lacked the required by the relevant «scheme of service» qualification of «three years service» in the immediate lower post, because, though they held such a post, they had been seconded to other duties*

35 (4) *Respondents failed to carry out a due inquiry*

(5) *Applicants possessed qualifications additional to those required by the scheme of service*

(6) *The sub judice decision is not duly reasoned*

(7) Respondents failed in their duty to select the most suitable candidates.

Held, dismissing the recourse: (1) Promotion has two objects: the service of the public and the elevation of the civil servant. The Commission in filling promotion posts has to take into consideration that the functions of a public office are better performed in the general interest of the public by a public officer better in merit. At the same time it has to apply the statutory provision that the claims of the civil servants for promotion are based on the three criteria set out in the Law. Merit is a most weighty consideration, but it is neither the sole nor it can override the other criteria. It is well settled that the Public Service Commission has to give cogent reasons if they decide to disregard the recommendations of the Head of the Department.

When the recommendations of the Head of the Department are inconsistent with the overall picture, presented by the confidential reports, they should be either disregarded or be given limited weight, depending on the extent of the inconsistency. In this case the recommendations were not inconsistent with the overall picture of the candidates as presented by the record.

(2) A certificate to the effect that applicant in case 302/83 attended the aforesaid medical school was in his personal file and, therefore, it cannot be said that the Commission laboured under a misconception of fact as on the principle of the presumption of regularity and the wording of the sub judice decision they took into consideration all the material before them.

(3) The assignment of duties to a civil servant other than the duties of his post cannot be lawfully used adversely against him and exclude him from promotion. It would have been contrary to every notion or principle of good administration and justice, if an officer, who is directed by the Head of his Department to perform duties other than those of his post, were to be found at a disadvantageous position vis-a-vis his colleagues regarding promotion.

(4) The personal files and the files of the confidential reports of the candidates were at all relevant times before the respondent Commission; on the presumption of regularity and in the absence of evidence to the contrary, it should be accepted that sufficient inquiry was carried out.

(5) Qualifications additional to those provided by the scheme of service should not weigh greatly in the mind of the Commission.

(6) The reasoning of an administrative act may be supplemented by the material in the file. Unless the circumstances specifically call for it, it is not necessary for all factors that have been taken into consideration and weighed by the administration to be mentioned in the reasoning of the decision. The sub judice decision does not lack due reasoning.

(7) The choice of the most suitable candidate for promotion rests on the competent organ and this Court does not annul a decision of an appointing

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authority, which in all the circumstances of the case, it was reasonably open to it The sub judge decision was reasonably open to the respondent Commission

Recourse dismissed

No order as to costs

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Cases referred to

Georghiou v The Republic (1976) 3 C L R 74,

The Republic v Zachanades (1986) 3 C L R 852,

The Republic v Hans (1985) 3 C L R 106,

10 *Sotenadou v The Republic* (1983) 3 C L R 921,

Koussoulides v The Republic (1967) 3 C L R 438,

Partellides v The Republic (1969) 3 C L R 480,

Smyrnios v The Republic (1983) 3 C L R 124,

Lardis v The Republic (1967) 3 C L R 64,

15 *HjiConstantinou v The Republic* (1973) 3 C L R 65,

Petndes v Public Service Commission (1975) 3 C L R 284,

Mytides and Another v The Republic (1983) 3 C L R 1096,

The Republic v Koufettas (1985) 3 C L R 1950,

HjiGeorghiou v Republic (1975) 3 C L R 477,

20 *Larkos v The Republic* (1982) 3 C L R 513,

Papaleontou v Karageorghis and Another (1987) 3 C L R 211,

Savva v Republic (1985) 3 C L R 694

Neophytou v The Republic, 1964 C L R 280,

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*Pancypnan Federation of Labour (P E O) v Board of Cinematograph
Films Censors* (1985) 3 C L R 27,

Constantinides v Republic (1967) 3 C L R 7 at 14,

Georghiades & Others v Republic (1967) 3 C L R 653,

PapaZachariou v Republic (1972) 3 C L R 486 at p 504,

Elefthenou v Central Bank of Cyprus (1980) 3 C L R 85,

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Mikellidou Republic (1981) 3 C L R 461,

Petrides and Others v. Republic

(1987)

Papageorghiou v Republic (1984) 3 C L R 1348,

Papaleontiou v Republic (1967) 3 C L R 624,

Mavromatis v Educational Service Committee (1974) 3 C L R 226,

HadjiCleanthous v Republic (1983) 3 C L R 810,

Petndes v Republic (1983) 3 C L R 216, **5**

Onctaco v Republic (1985) 3 C L R 1327,

Strata Tours Ltd v Republic (1985) 3 C L R. 2560,

Chnstou v Republic (1986) 3 C L R 89,

Alona Co-Operative Society v Republic (1986) 3 C L R 222,

Mouzouns v Republic (1972) 3 C L R 43, **10**

Vassiliou v Republic (1982) 3 C L R 220,

Hjiloannou v The Republic (1983) 3 C L R 1041,

HjSavva v The Republic (1982) 3 C L R 76

Recourses.

Recourses against the decision of the respondent to promote the interested parties to the post of Senior Health Inspector 2nd Grade in preference and instead of the applicants. **15**

A Pandelides, for applicant in Case No. 302/83.

K. Michaelides, for applicants in Cases Nos. 478/83 and 479/83. **20**

.E. Papadopoulou (Mrs.), for respondents

N Stylianidou (Miss), for E Efstathiou for interested party G. Violans.

Cur. adv. vult.

STYLIANIDES J. read the following judgment. The applicants are Health Inspectors A. Six Health Inspectors A were promoted as from 15/6/83 to the post of Senior Health Inspector 2nd Grade. **25**

The applicants by means of these recourses challenge the validity of the decision to promote the interested parties in preference and instead of the applicants. **30**

A letter of request for the filling of six vacant posts of Senior Health Inspector 2nd Grade was sent to the respondent

Commission on 15/4/82. The respondents referred the matter to a Departmental Board which was set up for the purpose.

5 The Departmental Board chaired by the Director of Medical and Public Health Services recommended 22 including the applicants and the promotees.

10 The respondent Commission on 25/4/1983 heard the recommendations of the Head of the Department, the Director of Medical and Health Services. He recommended five candidates for the first five posts; with regard to the sixth post he recommended five candidates including applicants in Cases 478/83 and 479/83. He did not recommend applicant in Case No. 302/83. He said the following about this candidate:-

15 «Panayiotis Petrides interrupted his service in 1970 and was re-appointed in 1974. He has excellent confidential reports and he is holder of a diploma in law, but taking into consideration the established criteria in their totality he is inferior to the candidates that have been recommended. He has no post-graduate qualification.»

20 The respondent Commission on 7/6/83 took the sub judge decision, the material part of which reads as follows:-

«Ακολουθως η Επιτροπή ασχολήθηκε με την αξιολόγηση και σύγκριση των υποψηφίων.

25 Η Επιτροπή εξέτασε τα ουσιώδη στοιχεία από το Φάκελο Πλήρωσης της θέσης, τους Προσωπικούς Φακέλους και τις Εμπιστευτικές Εκθέσεις των υποψηφίων και έλαβε υπόψη τα πορίσματα της Τμηματικής Επιτροπής και τις κρίσεις και συστάσεις του Διευθυντή Ιατρικών Υπηρεσιών και Υπηρεσιών Δημόσιας Υγείας.

30 Η Επιτροπή παρατήρησε ότι από τους υποψηφίους που συστήθηκαν από το Διευθυντή οι Παναγιώτης Ιωαννίδης, Μόδεστος Μιχαηλίδης, Αγαμέμνων Πολυδώρου, Κωστάκης Παπαδόπουλος, Ζαχαρίας Ζαχαριάδης, Γεώργιος Βιολάρης και Παναγιώτης 35 Τσαγκάρης έχουν εξαιρετες Εμπιστευτικές Εκθέσεις τα τρία τελευταία χρόνια και ότι οι Εμπιστευτικές Εκθέσεις των υπόλοιπων υποψηφίων, που επίσης συστήθηκαν από το Διευθυντή, έχουν ως εξής:

Παύλος Παυλίδης: 1980, 1981 και 1982:
Γενικά 'Λίαν Καλός'.

Μάμας Φιλίππου: 1980 και 1981: Γενικά
'Λίαν Καλός'.

1982: Γενικά 'Εξαιρετος'.

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Γεώργιος Στεργίδης: 1980: Γενικά 'Λίαν
Καλός'. 1981 και 1982:
Γενικά 'Εξαιρετος'.

Εξαιρέτες Εμπιστευτικές Εκθέσεις και στα τρία
τελευταία χρόνια έχουν επίσης και οι Βύρων Λοίζου, 10
Ανδρέας Χ" Βασίλης και Παναγιώτης Πετρίδης που δε
συστήθηκαν από το Διευθυντή.

Η Επιτροπή έλαβε επίσης υπόψη τα προσόντα και
την αρχαιότητα των υποψηφίων.

Η Επιτροπή, έχοντας υπόψη όλα τα ενώπιον της 15
στοιχεία, υιοθέτησε τη σύσταση του Διευθυντή για τους
Ιωαννίδης, Μιχαηλίδης, Πολυδώρου και Παπαδό-
πουλο και τους επέλεξε για προαγωγή στις τέσσερις
πρώτες θέσεις. Για τις υπόλοιπες δύο θέσεις η Επιτροπή 20
επέλεξε τους Ζαχαριάδη και Βιολάρη, που ο Διευθυντής
σύστησε μαζί με τρεις άλλους προς επιλογή για την
έκτη θέση.

Όσον αφορά τον Παυλίδη, τον οποίο ο Διευθυντής
σύστησε ως πέμπτο, η Επιτροπή δεν υιοθέτησε τη 25
σύστασή του γιατί έκρινε ότι σε σύγκριση μ' αυτούς που
επιλέγηκαν ο Παυλίδης ήταν κατώτερος

.....
Συμπερασματικά η Επιτροπή, λαμβάνοντας υπόψη
όλα τα ενώπιον της στοιχεία, έκρινε με βάση τα 30
καθιερωμένα κριτήρια στο σύνολο τους (αξία,
προσόντα, αρχαιότητα) ότι οι παρακάτω υπερέχουν
των άλλων υποψηφίων και αποφάσισε να τους
προαγάγει σαν τους πιο κατάλληλους στη μόνιμη
(Τακτ. Προϋπ.) θέση Ανώτερου Υγειονομικού 35
Επιθεωρητή, 2ης Τάξης, στις Ιατρικές Υπηρεσίες και
Υπηρεσίες Δημόσιας Υγείας από 15.6.83: ΒΙΟΛΑΡΗΣ
Γεώργιος, ΖΑΧΑΡΙΑΔΗΣ Ζαχαρίας, ΙΩΑΝΝΙΔΗΣ Πανα-

γιώτης, ΜΙΧΑΗΛΙΔΗΣ Μόδεστος, ΠΑΠΑΔΟΠΟΥΛΟΣ
Κωστώκης, ΠΟΛΥΔΩΡΟΥ Αγαμέμνων.»

(«Then, the Commission dealt with the evaluation and comparison of the candidates.

5 The Commission examined the material factors of the file for the filling of the post, the personal files and the confidential reports of the candidates and took into consideration the conclusions of the Departmental Committee and the evaluation and recommendations of the Director of Medical
10 and Health Services.

The Commission noted that from the candidates recommended by the Director Panayiotis Ioannides, Modestos Michaelides, Agamemnon Polydorou, Costakis Papadopoulos, Zacharias Zachariades, Georghios Violaris
15 and Panayiotis Tsangaris have excellent confidential reports for the last three years and that the confidential reports of those of the other candidates, who were also recommended by the Director were as follows:

20 Pavlos Pavlides: 1980, 1981 and 1982: 'Very good'.
Mamas Philippou: 1980 and 1981: 'Very good' (1982) 'Excellent'.
Georghios Stergides: 1980 «Very good», 1981 and 1982 'Excellent'.

25 The following candidates, that is Vyron Loizou, Andreas Hji Vassilis and Panayiotis Petrides, who were not recommended by the Director have also excellent confidential reports.

The Commission took, also, into consideration the qualifications and seniority of the candidates.

30 Bearing in mind all the material before it, the Commission adopted the recommendations of the Director for Ioannides, Michaelides, Polydorou and Papadopoulos and selected them for appointment in the first four posts. For the other two posts the Commission selected Zachariades and Violaris, who
35 were recommended by the Director together with three others for appointment in the sixth post.

As far as Pavlides (whom the Director recommended as fifth) is concerned, the Commission did not adopt the

recommendations of the Director because in its opinion he is inferior in comparison to those who were selected

.....
In conclusion, the Commission, taking into consideration all the material before it, and on the basis of the established criteria (merit, qualifications, seniority) reached the conclusion that the following candidates are superior to the others and decided to promote them as the most suitable to the permanent (Ordinary Budget) post of Senior Health Inspector 2nd Grade in the Medical and Public Health Services as from 15.6.83: Violaris Georghios, Zachariades Zacharias, Ioannides Panayiotis, Michaelides Modestos, Papadopoulos Costakis, Polydorou Agamemnon.)*.

All three applicants challenge the validity of the promotion of Panayiotis Ioannides, Georghios Violaris and Costakis Papadopoulos. Applicants in cases 302/83 and 478/83 challenge, also, the promotion of Zachariades and applicants in 478/83 and 479/83 challenge the promotion of Agamemnon Polydorou.

The grounds on which these recourses are based are:-

That the respondents did not comply with Section 44 of the Public Service Law 1967, (Law No. 33/67); that they failed to carry out a sufficient inquiry; that they laboured under misconception of fact; that the sub judice decision is not duly reasoned, and that they failed in their paramount duty to select the best suitable candidate for the post.

Section 44(2) of the Civil Service Law provides that the claims of officers to promotion shall be considered on the basis of merit, qualifications, and seniority.

Sub-section 3 provides that the Commission in making a promotion shall have due regard to the annual confidential reports on the candidates and to the recommendations made in this respect by the Head of Department in which the vacancy exists.

The respondent Commission has to weigh together the said three criteria in order to find the most suitable candidate. In doing so it may attribute such significance to them as it may deem proper, provided that it exercises correctly, in the course of doing so, its relevant discretionary powers. (*Georghiou v. The Republic* (1976) 3 C.L.R. 74; *The Republic v. Zachariades* (1986) 3 C.L.R. 852.)

In *Georghiou* - Full Bench case - (supra) which was decided in 1976 it was not held that merit carries the most weight. In a number of cases decided by single Judges of this Court it was said that merit should carry the most weight, because the functions of a public office are better performed, in the general interest of the public, by a public officer better in merit than seniority or qualifications. This promotion was adopted in *The Republic v. Haris* (1985) 3 C.L.R., 106, another Full Bench case. *Zachariades*, decided a year later did not adopt this statement but followed *Georghiou*.

Promotion has two objects: the service of the public and the elevation of the civil servant. The Commission in filling promotion posts has to take into consideration that the functions of a public officer are better performed in the general interest of the public by a public officer better in merit. At the same time it has to apply the statutory provision that the claims of the civil servants for promotion are based on the three criteria set out in the Law. Merit is a most weighty consideration but it is neither the sole nor it can override the other criteria.

With regard to seniority I repeat what I said in *Soteriadou* case (1983) 3 C.L.R. 921 at p. 939:-

«The existence of the institution of promotion posts restricted to members of the service, safeguards adequately the interests of those in the service. Long service is rewarded by promotion as it entails acquisition of experience and qualities. It is rightly, however, well settled that seniority is not the decisive factor which governs promotions but one that should be duly taken into consideration and it should prevail if all other things are more or less equal. (*Koussoulides v. The Republic*, (1967) 3 C.L.R. 438; *Partellides v. The Republic*, (1969) 3 C.L.R. 480; *Nicos Smyrnios v. The Republic*, (1983) 3 C.L.R. 124).»

It is well settled that the Public Service Commission has to give cogent reasons, if they decide to disregard the recommendations of the Head of the Department. He is in the position to appreciate the demands of the post and the suitability of the candidates to discharge the duties of the post. (*The Republic v. Haris* (supra); *Lardis v. The Republic*, (1967) 3 C.L.R. 64; *HjiConstantinou v. The Republic* (1973) 3 C.L.R. 65; *Petrides v. Public Service Commission* (1975) 3 C.L.R. 284; *Mytides and Another v. The Republic*, (1983) 3 C.L.R. 1096).

When the recommendations of the Head of the Department are inconsistent with the overall picture presented by the confidential reports, they should be either disregarded or be given limited weight, depending on the extent of the inconsistency. (*Georghiou v. The Republic* (supra); *The Republic v. Koufettas* (1985) 3 C.L.R. 1950). 5

In deciding on the merits of candidates, it is necessary to look at the past annual confidential reports and especially at the most recent ones in order to evaluate the performance of the candidates during their career as a whole. (*Georghiou v. Republic* (1975) 3 C.L.R. 477; *Larkos v. The Republic* (1982) 3 C.L.R. 513). 10

It was submitted by counsel for applicant in case 302/83 that the Commission laboured under a misconception of fact, as it was not before them that this applicant attended for one year the School of Medicine of the University of Prague. There is, however, a certificate to that effect in his personal file. 15

Documentation about scholarships and the courses attended by the other candidates/applicants and their achievements, whether a diploma was awarded to them or not, were also in their respective files. It cannot be validly said that the Commission laboured under a misconception as on the principle of the presumption of regularity and the wording of the sub judice decision they took into consideration all the material before them. 20

It was further submitted by learned counsel for applicant in Case No. 302/83 that interested parties Zachariades and Violaris lacked the required qualification of «three years service» in the immediate lower posts because they were not performing the duties of Health Inspector, having been seconded to other duties. 25

The scheme of service provides that a candidate must have the qualification «of at least three years service in the post of Health Inspector A and/or the previous post of Health Inspector 2nd Grade/Health Inspector 3rd Grade». 30

It is undisputed that these two interested parties were holding the posts mentioned in the scheme of service for over three years.

In the recent case *Georghios Papaleontiou v. Andreas Karageorgis and Another*, R.A. 350 unreported*, the scheme of service required at least «two years satisfactory service». The 35

* Reported in (1987) 3 C.L.R. 211.

appellant was a holder of the post of Inspector for the prescribed period, but for most of it he was on scholarship abroad. It was submitted by counsel for the respondents that service and particularly «satisfactory service» means «actual service» that
5 entails actual performance of the duties of Inspector. The Court decided that «service» and «satisfactory service» in this scheme of service could not be limited to actual service and exclude a person who is on scholarship abroad to enhance his knowledge in order to render better services to the education of the country.

10 The assignment of duties to a civil servant other than the duties of his post cannot be lawfully used adversely against him and exclude him from promotion. (See Conclusions of the Council of State (1929-1959) pp. 341-357).

15 It would have been contrary to every notion or principle of good administration and justice, if an officer, who is directed by the Head of his Department to perform duties other than those of his post, were to be found at a disadvantageous position vis-a-vis his colleagues regarding promotion.

20 The aforesaid interested parties were rightly considered both by the Departmental Board and by the Public Service Commission to possess the service qualification.

Counsel in all three cases made an extremely meticulous and detailed comparison of the marks of the applicants and the interested parties for almost a decade and, also, of the
25 qualifications of the applicants and the interested parties. As a result of this very praise-worthy and conscientious work, they argued that the Commission failed to carry out reasonably sufficient inquiry and that the recommendations of the Head of the Department were not consistent with the record.

30 The applicants, and the interested parties were rated excellent. Only applicant Stergides for one year was very good. One mark higher or one mark lower is not indicative that one candidate is superior to another, provided that the candidates are rated generally excellent. It is not the task either of the Commission or
35 the Court to carry out a microscopic examination of the marks of the candidates.

40 Having gone through the recommendations of the Directors and the files exhibits, I have not been persuaded that the recommendations of the Director were inconsistent with the overall picture presented by the records.

Concerning due inquiry, it is clear from the relevant minutes that the respondent Commission took into consideration the qualifications, seniority, the confidential reports and all the material before it. The personal files and the files of the confidential reports of the candidates were at all relevant times before the respondent Commission; on the presumption of regularity, in the absence of evidence to the contrary, it should be accepted that sufficient inquiry was carried out. (*Savva v. Republic* (1985) 3 C.L.R., 694 at pp. 708-709). 5

It is well said that the onus of establishing abuse or excess of powers rests with applicant in a recourse of this nature. See *Neophytou v. The Republic*, 1964 C.L.R. 280. 10

It was further argued that the applicants possess qualifications additional to those required by the scheme of service. Qualifications additional to those provided by the scheme of service should not weigh greatly in the mind of the Commission, who should decide in selecting the best candidate on the totality of the circumstances before them. 15

I need not deal with the seniority of the parties as with the exception of applicant in Case No. 478/83 who has some seniority over interested parties Violaris and Zachariades, and applicant in 479/83 Tsangaris who is by few months senior to Zachariades, all interested parties are senior to the applicant. The seniority of the above mentioned applicants is not such as to tip the scales in their favour. 20 25

Reasoning:

According to well established principles of administrative law, administrative acts have to be sufficiently reasoned; and that the lack of sufficient reasoning renders them contrary to law and as taken in excess or abuse of power. Further the need for due reasoning has to be observed more strictly in cases of decisions of administrative organs which are adverse to the citizens. (See *Pancyprian Federation of Labour (PEO) v. Board of Cinematograph Films Censors* (1965) 3 C.L.R. 27; *Constantinides v. Republic* (1967) 3 C.L.R. 7 at p. 14; *Georgiades & Others v. Republic* (1967) 3 C.L.R. 653; *Papazachariou v. Republic* (1972) 3 C.L.R. 486 at p. 504; *Eleftheriou v. Central Bank of Cyprus* (1980) 3 C.L.R. 85; *Mikellidou v. Republic* (1981) 3 C.L.R. 461 at p. 471; *Papageorghiou v. Republic* (1984) 3 C.L.R. 1348. 30 35

The reasoning of an administrative act may be supplemented from the material in the files. (See *Leontios Papaleontiou v. Republic* (1967) 3 C.L.R. 624; *Mavromatis v. Educational Service Committee* (1974) 3 C.L.R. 226 at p. 236; *HadjiCleanthous v. Republic* (1983) 3 C.L.R. 810; *Petrides v. Republic* (1983) 3 C.L.R. 216; *Orictaco v. Republic* (1985) 3 C.L.R. 1327; *Strata Tours Ltd. v. Republic* (1985) 3 C.L.R. 2560; *Christou v. Republic* (1986) 3 C.L.R. 89; *Alona Co-Operative Society v. Republic* (1986) 3 C.L.R. 222 at p. 229.

- 10 Unless the circumstances of the case specifically call for it, it is not necessary for all factors that have been taken into consideration and weighed by the administration to be mentioned in the reasoning of the decision. (See *Mouzouris v. Republic* (1972) 3 C.L.R. 43 at p. 48; *Vassiliou v. Republic* (1982) 3 C.L.R. 220 at p. 228).

In the instant case taking into consideration the wording of the sub judice decision in its entirety as well as the material in the file I cannot conclude that the sub judice decision lacks due reasoning.

- 20 The last ground canvassed is that the respondent Commission failed to select the best suitable candidates for the post. This Court will not interfere with the decision of the Commission when it appears that it is reasonably open to it to select a particular officer, instead of another, for promotion. The administrative Court cannot intervene in order to set aside the decision regarding such
- 25 selection unless it is satisfied, by an applicant in a recourse before it, that he was an eligible candidate who was strikingly superior to the one who was selected, because only in such a case the organ which has made the selection for the purpose of an appointment or promotion is deemed to have exceeded the outer limits of its
- 30 discretion and, therefore, to have acted in excess or abuse of its powers; also, in such a situation the complained of decision of the organ concerned is to be regarded as either lacking due reasoning or as based on unlawful or erroneous or otherwise invalid reasoning. The onus of establishing striking superiority lies
- 35 always on the applicant in a recourse. «Striking superiority» was defined in *Hadjiioannou v. The Republic* (1983) 3 C.L.R. 1041 in which the analysis of the term in *Hadjisavva v. The Republic* (1982) 3 C.L.R. 76 was adopted.

- 40 In my opinion the applicants failed to establish that they are strikingly superior to the interested parties.

The choice of the most suitable candidate for promotion rests on the competent organ and this Court does not annul a decision of an appointing authority, which, in all the circumstances of the case, it was reasonably open to it. The sub judice decision was reasonably open to the respondent Commission.

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For the reasons given above, the recourses are dismissed and the promotions of all interested parties are confirmed.

Let there be no order as to costs.

Recourses dismissed.

No order as to costs. 10