

1986 February 12

[TRIANTAFYLIDIS, P.]

**IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION**

**CHARITINI SCOUFARI,**

*Applicant,*

v.

**THE REPUBLIC OF CYPRUS, THROUGH  
THE PUBLIC SERVICE COMMISSION,**

*Respondent.*

*(Case No. 228/81).*

*Administrative act — Composite administrative action — Defect in a decision forming part of the whole process — May lead to invalidity of the final decision.*

5 *Public Officers — Appointments — First entry specialised post — Advisory Committee (Section 34 of the Public Service Law 33/67) — Report of — Part of the whole composite administrative action — Defect in its decision may lead to the invalidity of the final appointment.*

10 *Public Officers — Appointments — First entry specialised post. — Vacancies created after first advertisement, but before final act — Complaint of the failure to advertise such vacancies — As applicant was not among those recommended by the Advisory Committee, his complaint is irrelevant to these proceedings.*

The applicant impugns the validity of the appointment of the interested parties to the post of Assistant Welfare Officer, a first entry specialised post.

15 The applicant was not among the candidates who had been recommended by the Advisory Committee set up pursuant to section 34 of the Public Service Law 33/67.

20 The applicant contended that the report of the Committee was not duly reasoned, that the Committee failed to carry out a due inquiry and that the minutes of its meetings are such, as to render judicial control impossible.

The applicant, also, contended that the process was vitiated by the fact that there had not been any advertisement of vacancies created after the first advertisement, but before the final selection.

Held, dismissing the recourse: (1) The list prepared by the Advisory Committee is part of the composite administrative action leading up to the final decision. It follows, that a defect in the decision of the Advisory Committee leads to the invalidity of the final act

2) The decision of the Advisory Committee is duly reasoned. The Committee did carry out a due inquiry. The minutes of its meetings are adequate. 5

3) As the applicant had not been included in the list recommended by the Advisory Committee, his last complaint is irrelevant to these proceedings.

*Recourse dismissed.*

*No order as to costs.*

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*Cases referred to:*

*Michaeloudes v. The Republic* (1979) 3 C.L.R. 56;

*Ioannou v. E.A.C.* (1981) 3 C.L.R. 280.

**Recourse.**

Recourse against the decision of the respondent to promote the interested parties to the post of Assistant Welfare Officer in preference and instead of the applicant. 15

*A. S. Angelides with M. Pierides*, for the applicant.

*G. Erotocritou (Mrs.)*, Senior Counsel of the Republic, for the respondent. 20

*Cur. adv. vult.*

TRIANAFYLLIDES P. read the following judgment. By means of the present recourse the applicant challenges the decision of the respondent Public Service Commission to appoint to the post of Assistant Welfare Officer the interested parties whose names appear in appendix «A» attached to the recourse. 25

As the post of Assistant Welfare Officer is a first entry post vacancies in such post were advertised in the Official Gazette of the Republic and two hundred and one applications for appointment thereto were received. 30

As the post of Assistant Welfare Officer had been declared by the Council of Ministers to be a specialized post an Advisory Committee, under the chairmanship of the Acting Director-General of the Ministry of Labour and Social Insurance, was set up

as provided by section 34 of the Public Service Law, 1967 (Law 33/67).

5 The Advisory Committee met and considered, in accordance with section 35(3) of Law 33/67, the applications for appointment to the post in question and decided on the list of those to be recommended as suitable, but the applicant was not one of them.

Eventually the Public Service Commission appointed the interested parties and their appointments were published in the Official Gazette of the Republic on 23 April 1981.

10 As the said appointments were effected by the Public Service Commission from the list of the candidates which was submitted to it by the Advisory Committee the applicant is complaining against the decision of the Advisory Committee not to include her in such list.

15 In the light of case-law such as *Michaeloudes v. The Republic*, (1979) 3 C.L.R. 56, 71, and *Ioannou v. The Electricity Authority of Cyprus*, (1981) 3 C.L.R. 280, 298, 299, there is no doubt that the list prepared by the Advisory Committee, on the basis of which the respondent Commission effected the sub judge appointments,  
20 forms part of the composite administrative process leading up to the final decision of the commission to appoint the interested parties and merged in the said final decision which is being challenged by means of the present recourse. It follows that a defect of the decision of the Advisory Committee may lead to the  
25 invalidity of the sub judge appointments of the interested parties.

Counsel for the applicant has contended that the report of the Advisory Committee is not duly reasoned, that the Committee failed to carry out a due inquiry and that the lack of adequate minutes of its meetings renders judicial control, in the present  
30 case, impossible.

From the material before the Court it is clear that the Advisory Committee had before it the applications of all the candidates, the personal and confidential reports files of all the candidates who had been serving in temporary posts, and had also the opportunity  
35 to interview the candidates who presented themselves for interview; and it is not alleged that the applicant was not called to be interviewed.

Having taken into account all relevant factors I am of the view that the Advisory Committee has carried out a due inquiry before

reaching its decision as regards whom to recommend for appointment, that in its minutes there appear sufficiently the considerations which had led it to its decision and that the necessary reasoning is to be sufficiently derived therefrom.

Counsel for the applicant had submitted further that the respondent Commission was labouring under a misconception of fact as it did not know all the facts leading up to the decision of the Advisory Committee. 5

The contents, however, of the relevant minutes of the Commission, dated 12 September 1980, and of the report of the Advisory Committee, leave no room for doubt that the Public Service Commission was fully aware of all the material factors which were taken into account by the Advisory Committee. 10

It has, also, been argued that the failure of the Commission to advertise new vacancies, which were created after the first advertisement and before the final selection of the candidates to be appointed, has vitiated the process leading up to the appointment of the interested parties. 15

As, however, the applicant was not included in the list of the candidates who were recommended to the respondent Commission by the Advisory Committee it follows, in the particular circumstances of the present case, that it is irrelevant for the outcome of the present recourse whether any later vacancies were advertised, even assuming, without so deciding, that they had to be advertised. 20  
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In the result this recourse fails and is dismissed accordingly; but with no order as to its costs.

*Recourse dismissed.  
No order as to costs.*