1965
Feb. 26,
Mar. 19,
Sept. 10
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ANTONIS MOZORAS
and
THE REPUBLIC OF CYPRUS, THROUGH THE PUBLIC SERVICE COMMISSION

[TRIANTAFYLLIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

ANTONIS MOZORAS,

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH THE PUBLIC SERVICE COMMISSION,

Respondent.

(Case No. 93/64)

Administrative Law—Public Officers—Dismissals—Recourse against dismissal of a public officer on account of his conviction by a criminal court on charges of official corruption—Enquiry by the Public Service Commission into the facts relating to the guilt or innocence of such officer—Enquiry not pursued to its necessary and proper conclusion—Dismissal annulled as having been decided in a defective manner.

Public Service Commission—Enquiry by into the facts relating to the guilt or innocence of a public officer convicted by a criminal court on charges of corruption—Properly and reasonably open to the Commission, in the circumstances of this case, to decide to examine itself the facts and circumstances which led to applicant's conviction.

On the 22nd August, 1963, charges of official corruption were filed against Applicant before the District Court of Nicosia.

Applicant pleaded not guilty and, his case having been duly tried by a District Judge, he was found guilty only on one of such charges, namely the one contrary to section 100*(a)* of the Criminal Code, Cap. 154.

Applicant was sentenced to pay a fine of £50; he appealed against his conviction and the Republic, on its part, appealed against the sentence imposed on Applicant.

The members of the Court which heard the appeal were

Editorial Note: There has been an appeal and cross-appeal from the decision in this Case; The Court of Appeal being equally divided the appeal was dismissed, and the cross-appeal was not dealt with in view of such dismissal; vide *Republic* v. *Mozoras,* (1966) 4 J.S.C. 504.

evenly divided concerning the conviction. Its then President, Mr. Justice Wilson, together with Mr. Justice Josephides, were of the opinion that the conviction should be upheld, whereas Mr. Justice Zekia and Mr. Vassiliades were of the opinion that the conviction should be set aside. The conviction was upheld in view of the second vote of the President. The appeal against sentence was allowed without dissent and the Applicant was sentenced to one year's imprisonment as from the 12th December, 1963.

On the 4th January, 1964, the Public Service Commission informed Applicant that it had decided that he should be asked to show cause why he should not be dismissed from the service on account of his conviction and he was requested to show such cause not later than the 18th January, 1964.

On the 11th January, 1964, counsel, instructed by Applicant, sought an extension of the period for showing cause and it was granted by the Commission with effect up to the 31st January, 1964. On the 30th January, 1964, counsel for Applicant submitted to the Commission a document setting out at length the reasons why Applicant should not be dismissed and stating that he was at the disposal of the Commission for any additional explanation or clarification and ready also to appear before the Commission.

The main theme of the above representations of counsel for Applicant was that the conviction of Applicant was wrong; it was further stated that in view of *Morsis and The Republic,* (4 R.S.C.C. p. 133) the Public Service Commission was entitled to come to its own conclusions concerning the guilt or innocence of Applicant.

On the 11th May, 1964, the Attorney-General of the Republic recommended to the President of the Republic that the sentence of imprisonment be remitted and that Applicant be released as from the 15th May, 1964; his recommendation was accepted and Applicant was released.

On the 10th June, 1964, the Commission considered the representations made in January, 1964, by counsel for Applicant and decided to inform Applicant that his dismissal was contemplated and that he should be asked to appear on the 19th June, 1964, before it in order to give reasons why he should not be dismissed.

Applicant appeared before the Commission on the 19th June, 1964, and the Chairman explained to him why he was before the Commission and asked him to give his reasons why he should not be dismissed. Applicant made a long statement setting out his version. Questions were put to him by members of the Commission concerning certain aspects of his statement.

The Commission took the view that the recommendation of the Attorney-General and subsequent remission of the sentence of Applicant could not affect his disciplinary liability in the matter, and decided to dismiss Applicant as from the date of his conviction, that is the 15th October, 1963

Held, I. On whether the Public Service Commission considered only the punishment to be imposed on Applicant or whether it has, also, gone into the question of guilt or innocence of Applicant.

(a) In this Case the Commission accepted as correct the facts, as found in the criminal proceedings, after considering on its own such facts, in view of the nature of the case.

(b) Moreover, it was properly and reasonably open to the Commission in the circumstances of this Case, to decide to examine itself the facts and circumstances which led to Applicant's conviction.

II. On whether or not the enquiry was carried out properly by the Commission.

The enquiry embarked upon by the Commission has not been pursued to its necessary and proper conclusion and, therefore, the resulting administrative decision to dismiss Applicant is defective in that one of the essential steps necessary for its validity i.e. the *proper* ascertainment of the correct facts, and consequently of the question concerning the guilt or innocence of Applicant, has not been properly taken. In effect, the Commission has omitted, in reaching its decision, to pay due regard to a very relevant consideration and, therefore, the exercise of its discretion in the matter has been fatally vitiated thereby *(Photiades and the Republic* 1964 C.L.R. 102, *Saruhan and the Reblic* 2 R.S.C.C. p. 136 and *Constantinou and the Republic* (reported in this Part at p. 96 *ante*) followed.

III. On whether or not the Public Service Commission was competent to act at the material time.

Since the sub judice decision of the Commission has already been annulled, on grounds peculiar to itself, I have not found it necessary to decide this general issue of the competence of the Commission, especially as my decision would not be conclusive for the purpose of determining the competence of the Commission when dealing once more with the case of Applicant in future, in view of the fact that if it were to be held now—and I am not expressing any view one way or the other—that exceptional circumstances did enable the Commission to act competently, such decision would not be necessarily applicable to the position existing when the Commission comes to deal in future with the case of Applicant, because it would be the circumstances to be found prevailing then and not those which prevailed in July, 1964, which would have to be examined as being material, if at all relevant.

IV. As regards costs.

Applicant is entitled to part of his costs which I assess at £25.—

Order: There shall be a declaration that the dismissal of Applicant is *null* and *void* as having been decided in a defective manner and without due regard having been paid to a material consideration and under a misdirection as to the onus of proof; it is, thus, also a decision reached contrary to law i.e. the properly applicable principles of administrative law, and in abuse of powers of the Commission.

Theodossiou and The Republic, 2 R.S.C.C., p. 44 at p. p. 48, *Marcoullides and The Republic,* 3 R.S.C.C. p. 30 at p. 35 and *Morsis and The Republic* No. 2 (reported in this Part at p. 1 *ante*) followed.

Observation: Such declaration leaves the matter open for reconsideration by the Commission and does not at all affect the suspension of Applicant ordered in view of a disciplinary matter pending against him.

Decision complained of declared null and void.

Cases referred to:

Morsis and The Republic, 4 R.S.C.C. p. 133 p. 137;

Photiades and The Republic 1964 C.L.R. 102;

Saruhan and The Republic 2 R.S.C.C. p. 136;

Constantinou and The Republic (reported in this Part at p. 96 *ante*);

Haros and The Republic 4 R.S.C.C. p. 44;

Pantelidou and The Republic 4 R.S.C.C. at p. 106;

Decision of the Greek Council of State 1486/60, *referred in Kyriacopoulos on Greek Administrative Law 4th edition, volume II p.* 20-21;

Theodossiou and The Republic, 2 R.S.C.C., p. 44 at p. 48;

Marcoullides and The Republic, 3 R.S.C.C. p. 30 at p. 35;

Morsis and The Republic (No. 2) (reported in this Part at p. 1 *ante*).

Recourse.

Recorse against the decision of the Respondents to dismiss applicant from the Public Service of the Republic.

A. Triantafyllides for the applicant.

K.C. Talarides, Counsel of the Republic, for the respondent.

Cur. adv. vult.

The facts of the case sufficiently appear in the following judgment delivered by:—

TRIANTAFYLLIDES, J.: In this Case Applicant is seeking a declaration that the decision of the Respondent, the Public Service Commission, to dismiss him from the public service as from the 15th October, 1963, is *null* and *void.*

The said decision was communicated to Applicant by letter dated the 10th July, 1964, and it was taken at a meeting of the Commission on the 7th July, 1964.

The history of this Case is as follows:—

On the 22nd August, 1963, charges of official corruption were filed against Applicant before the District Court of Nicosia (*see exhibit* 8).

Applicant pleaded not guilty and, his case having been duly tried by a District Judge, he was found guilty only on one of such charges, namely that contrary to section 100(*a*) of the Criminal Code, Cap. 154, "on the 10th August, 1963, at Nicosia, in the District of Nicosia being employed in the public service and being charged with the performance of the duty of the driving examiner, by virtue of such employment, did corruptly receive from one Stelios Keravnos the sum of £8 on account of the fact that he the accused in the discharge of his duties of office had passed" three therein named persons "in their driving test who were students of the said Stelios Keravnos".

A perusal of the record of the trial Court, which has been put in evidence in the present proceedings, shows that the learned District Judge, when faced with the conflicting versions of the Applicant and of the said Keravnos, decided to accept the version of the latter while rejecting the version of the former; such decision was the foundation on which Applicant's conviction was based.

Applicant was sentenced to pay a fine of £50 and among the reasons which the learned Judge took into account in favour of a lenient sentence was the bad character of Keravnos and the good character of Applicant; he observed that it could be said that Keravnos led Applicant into committing the offence.

The Applicant appealed against his conviction and the Republic, on its part, appealed against the sentence imposed on Applicant.

The members of the Court which heard the appeal were evenly divided concerning the conviction. Its then President, Mr. Justice Wilson, together with Mr. Justice Josephides, were of the opinion that the conviction should be upheld, whereas Mr. Justice Zekia and Mr. Justice Vassiliades were of the opinion that the conviction should be set aside. The conviction was upheld in view of the second vote of the President. The appeal against sentence was allowed without dissent and the Applicant was sentenced to one year's imprisonment as from the 12th December, 1963.

A perusal of the judgments of the two Judges who dissented concerning the conviction shows that they felt that because of the manner in which the contradictory evidence in the Case had been approached by the trial Court it was not safe or proper to uphold the conviction of Applicant (*see exhibit* 9).

On the 4th January, 1964, the Public Service Commission informed Applicant in writing that it had decided that he should be asked to show cause why he should not be dismissed from the service on account of his conviction and he was requested to show such cause not later than the 18th January, 1964 (*see exhibit* 1).

On the 11th January, 1964, counsel, instructed by Applicant, sought an extension of the period for showing cause and it was granted by the Commission with effect up to the 31st January, 1964. On the 30th January, 1964, counsel for Applicant submitted to the Commission a document setting out at length the reasons why Applicant should not be dismissed and stating that he was at the disposal of the Commission for any additional explanation or clarification and ready also to appear before the Commission (*exhibit* 4).

The main theme of the above representations of counsel for Applicant was that the conviction of Applicant was wrong and that the trial Court should not have based itself on the evidence of Keravnos; it was further stated that in view of *Morsis and The Republic*, (4 R.S.C.C. p.133) the Public Service Commission was entitled to come to its own conclusions concerning the guilt or innocence of Applicant.

On the 11th May, 1964, the Attorney-General of the Republic recommended to the President of the Republic that the sentence of imprisonment be remitted and that Applicant be released as from the 15th May, 1964; his recommendation was accepted and Applicant was released. In his said recommendation the Attorney-General stressed that Keravnos was an accomplice and that there had been judicial disagreement in the matter. He also referred to the fact that the conviction would entail consequences in connection with the career of the Applicant (*see exhibit* 12).

On the 10th June, 1964, the Commission considered the representations made in January, 1964, as above, by counsel for Applicant and decided to inform Applicant that his dismissal was contemplated and that he should be asked to

appear on the 19th June, 1964, before it in order to give reasons why he should not be dismissed (*see exhibits* 11 *and* 6).

Applicant appeared before the Commission on the 19th June, 1964, and, as it appears from the relevant minutes, the Chairman explained to him why he was before the Commission and asked him to give his reasons why he should not be dismissed. Applicant made a long statement setting out his version. Questions were put to him by members of the Commission concerning certain aspects of his statement. He stated that he did not intend to call any witnesses (*see exhibit* 10).

On the 7th July, 1964, "The Commission, after considering carefully the statement of Mr. Mozoras"—the Applicant—"made before the Commission on the 19.6.64 and the decision of the trial Court and that of the Court of Appeal, decided to accept these decisions as proper and correct decisions". It took the view that the recommendation of the Attorney-General and subsequent remission of the sentence of Applicant could not affect his disciplinary liability in the matter. The Commission decided to dismiss Applicant as from the date of his conviction, that is the 15th October, 1963 (*see exhibit* 13).

In this judgment it has become necessary to consider first the exact nature of the Commission's action in the matter; in particular, whether the Commission considered only the punishment to be imposed on Applicant or whether it has, also, gone itself into the question of the guilt or innocence of Applicant.

In the case of *Morsis and The Republic* (*supra*, at p. 137) it was held that, in similar circumstances, "the Commission was entitled, though not also bound, to accept as correct the relevant facts as established to the satisfaction of the criminal court concerned".

In some judicial systems the organs administering discipline in the public service are held to be bound, as a rule, by findings of fact made by judicial organs in criminal proceedings arising out of the same set of circumstances and do not have the possibility of inquiring themselves into the correctness of such facts.

In Cyprus, as already stated, the Commission has been held (in *Morsis* case, above) to have a rather greater latitude,

and, in my opinion, quite rightly so in view, especially, of the particular position of the Commission, as an independent organ, in the structure of the State; it must be borne in mind that in countries where no such latitude exists disciplinary measures may be taken, to a large extent, by the hierarchically superiors of the officer concerned and that such superiors do not possess the independent status possessed by the Commission. Moreover, such latitude is not inconsistent, either, with the analogous judicial concepts prevailing in Cyprus by virtue of which facts found by a criminal court are not accepted without fresh proof in civil proceedings arising out of the same set of circumstances.

I am of the opinion that in this Case the Commission accepted as correct the facts, as found in the criminal proceedings, after considering on its own such facts, in view of the nature of the case. This view is borne out, *inter alia*, by the following considerations constituting together the overall picture of the action of the Commission:—

On the 10th June, 1964, as it appears from the relevant minutes (*exhibit* 11), the Commission decided to call upon Applicant to give reasons why he should not be dismissed "after examining carefully the explanations given by this officer's advocate". The said explanations dealt at length with the question of guilt or innocence of Applicant. On the 19th June, 1964, (*see exhibit* 10), the Commission heard Applicant on the issue of his guilt or innocence and also put questions to him relevant to such issue. On the 7th July, 1964, the Commission decided to accept as "proper and correct decisions" the judicial determinations of the question of Applicant's guilt, "after considering carefully" the statement of Applicant made, as above, before the Commission on the 19th June, 1964, as well as the said judicial decisions (*see exhibit* 13). By the letter of the 10th July, 1964, (*exhibit* 7), by which the Commission's decision to dismiss Applicant was communicated to him, Applicant was informed that "after considering the facts and circumstances which led to your conviction and also your own statement made before the Commission on the 19th June, 1964, the Commission decided to accept the facts of the case as found by the trial Court and the Court of Appeal as correct".

In my opinion, moreover, it was properly and reasonably open to the Commission in the circumstances of this Case

to decide to examine itself the facts and circumstances which led to Applicant's conviction. In this respect it must be borne in mind that the Commission had before it a letter by counsel for Applicant containing full argumentation why he should not have been convicted and mentioning, also, a new factor (vide paragraph 7 of *exhibit* 4) which was not before the trial Court at the material time. It had also before it the even division on appeal concerning the validity of the conviction, as well as the subsequent remission of the sentence of Applicant; such remission could not have been, and was not, indeed, recommended by the Attorney-General because he had considered that the sentence was excessive—especially since such sentence had been increased as a result of an appeal made by him against the original sentence imposed by the trial Court—but it was recommended because of factors relating to the conviction of the Applicant.

Having come to the conclusion that the Commission was, in effect, conducting an inquiry of its own into the facts relating to the guilt or innocence of Applicant, I have next to consider whether or not such inquiry was carried out properly.

I find no substance in the allegation of counsel for Applicant that the Commission was bound to inform Applicant of his right to be represented by counsel before it on the 19th June, 1964. Applicant had decided to consult counsel, when first asked to show cause why he should not be dismissed, without having been told then by the Commission that he had the right to do so. The Commission accepted his counsel's letter of the 30th January, 1964, as representations duly made on behalf of Applicant and it duly considered them. I see no reason for holding that the Commission, in a matter in which Applicant was already having the benefit of counsel's advice was bound to tell Applicant expressly that he was entitled to have his counsel representing him further in the matter, once Applicant chose to appear before it without counsel and without requesting to have his counsel in attendance. I have no doubt that had Applicant requested to be represented by counsel before the Commission it would have duly considered the matter and decided on the proper course to be adopted.

What has given me difficulty in dealing in this Case with the propriety of the Commission's inquiry has been the question

of the due completion of such inquiry.

There is no doubt that the Commission heard Applicant in his own defence without preventing him in any way from putting his case in full, as he chose to do. It had also before it the record of the criminal proceedings right up to their determination on appeal, as well as the opinion of the Attorney-General regarding the remission of the sentence. The representations of counsel for the Applicant were also before the Commission, since the 30th January, 1964.

Was there anything lacking and was it of such nature as to vitiate the validity of Applicant's dismissal?

The question of guilt or innocence of Applicant was primarily one of credibility:— Whether to accept Applicant's word or that of the aforesaid Keravnos. Since the Commission was conducting an inquiry into the matter the Commission had to decide for itself whether Applicant or Keravnos was telling the truth. In my opinion this decision could not be validly reached without seeing both Applicant and the said Keravnos tell their version. It was a matter in which demeanour ought to be of vital weight in determining credibility. Even assuming that Applicant when appearing first before the Commission did not make a good impression it is still not possible to exclude reasonably the probability that had the Commission seen Keravnos it might have felt that in choosing between the credibility of him and Applicant there was such room for doubt as to warrant a finding in favour of Applicant; moreover, there could be things in what Keravnos might have told the Commission which could have led the Commission to see in a different light certain parts of Applicant's statement.

It cannot, in my opinion, be validly argued that the Commission, for the purpose of deciding the matter itself and deciding whether or not to agree with the findings made by the criminal Court, could rely on the opinion of such Court concerning the credibility of Keravnos, having seen and heard itself the Applicant. It would amount to both begging the question to be determined and also applying unequal criteria to it.

I am of the opinion, in view of all the foregoing, that the inquiry embarked upon by the Commission has not been pursued to its necessary and proper conclusion and, there-

fore, that the resulting administrative decision to dismiss Applicant is defective in that one of the essential steps necessary for its validity i.e. the *proper* ascertainment of the correct facts, and consequently of the question concerning the guilt or innocence of Applicant, has not been properly taken (vide *Photiades and the Republic* 1964 C.L.R. 102) In effect, the Commission has omitted, in reaching its decision, to pay due regard to a very relevant consideration viz. to see the demeanour of the said Keravnos and, therefore, the exercise of its discretion in the matter has been fatally vitiated thereby (vide *Saruhan and the Republic* 2 R.S.C.C. p. 136 and *Constantinou and the Republic* (reported in this Part at p. 96 *ante*)). There shall, therefore, be an order of this Court annulling the dismissal of Applicant as decided upon by the Commission on the 7th July, 1964.

I think that the reason for which the Commission has not proceeded to call Keravnos to give evidence before it may be the fact that it acted under the impression that it was up to Applicant "to give his reasons why he should not be dismissed"—as it was put to Applicant on the 19th June, 1964 by the Chairman of the Commission—and having possibly not been sufficiently impressed by the statement made before it by Applicant on the said date the Commission felt that it was entitled to dismiss him without further inquiry. It is useful in this respect to note the significantly similar phraseology of the letters of the Commission of the 4th January and 11th June, 1964 to Applicant (*exhibits* 1 and 6).

So long as such phraseology—which appears to have been taken over from the procedure under the Colonial Regulations in force before Independence—is only a formality and does not correspond to the actual approach of the Commission to a disciplinary matter then it might possibly be said that it does not amount to an element vitiating the proceedings. But when it is indicative of the actual approach of the Commission to a disciplinary matter then it amounts to an element leading to the annulment of the relevant decision on the ground that the relevant discretion has been exercised under a serious misconception and misdirection as to the onus of proof involved.

It must be remembered that the Colonial Regulations are no longer in force, having not been continued in force under Article 188. They may be applied in matters of practice

but always subject to the relevant principles of public law not being contravened. (Vide *The Republic and Morsis, supra* at p. 137).

In applying nowadays practice existing under the Colonial Regulations in disciplinary matters due regard must always be had to the fact that public officers have ceased to be employed during the pleasure of the British Sovereign (as it was the practice under the ex-colonial regime) but they are persons enjoying a definite legal relationship with the State which can be interrupted only on certain grounds.

Moreover, though Articles 12 and 30 are not made expressly applicable to disciplinary proceedings, they indicate a pattern to be adopted as far as possible, *mutatis mutandis*, in disciplinary proceedings, in view of the need to conform with the requirements of fair trial and due process.

Also as held in *Haros and The Republic* (4 R.S.C.C. p. 44) the rules of natural justice should be adhered to in all cases of disciplinary control in the domain of public law.

The Public Service Commission, in the present Case, appears to have conducted its examination of the guilt or innocence of Applicant, a public officer, under the misconception, due to past practice, that unless he could exonerate himself he ought to be dismissed and so, since it was not apparently satisfied that he had done so on the 19th June, 1964, it proceeded on the 7th July, 1964 to dismiss him. This misdirection, in my opinion, constitutes in itself an additional ground for annulling the dismissal in question.

No matter how serious a charge and notwithstanding the fact that the reasons for dismissing a public officer may sometimes be *prima facie* so overwhelming as to render it impossible that anything will be forthcoming which would render his dismissal unnecessary the Commission must not only give him a chance to be heard (vide *Pantelidou and The Republic* 4 R.S.C.C. at p.106) but must also approach the matter with an open mind and should not make up its mind until and unless the matter has been fully heard by it, especially if conducting an inquiry into guilt or innocence and not considering only the question of punishment to be imposed.

Having found that the dismissal of Applicant has to be annulled, on the grounds dealt with already, I have not found

it necessary to deal with other alleged flaws of the relevant decision of the Commission, such as the fact that it was made retrospective, because such decision has ceased being of any effect and the matter will have to be reconsidered afresh by the Commission in every respect. On this issue of retrospectivity there exists already a jurisprudence of this Court and I need only refer the Commission to it for its guidance when it comes to deal with the matter again (vide *Morsis and The Republic* (No. 2) (reported in this Part at p. 1 *ante*)).

In relation to retrospectivity counsel for Respondent has submitted that because of the nature of the offence of which Applicant was convicted the decision of the Commission was merely declaratory of the situation which had thereby arisen, Applicant having put himself outside the service by his own act. This is a matter which is regulated by specific legislative provision in other countries and in the absence of such provision in Cyprus I do not think this line of thought could be adopted as a principle of administrative law because it is a matter for the legislator to specify what convictions have the effect of determining the relationship between the public officer and the State. The Court cannot substitute its own discretion and start deciding in each case whether the offence is of such nature as to warrant this conclusion.

During the hearing of this Case much argument has been devoted to the issue of whether or not the Commission was properly constituted at the material time.

It has been argued, and apparently rightly in principle, that a vacancy in a collective organ due to the death of a member prevents it from functioning competently (vide Kyriakopoulos on Greek Administrative Law 4th edition volume II p.20-21 and particularly the decision of the Greek Council of State 1486/1960 referred to therein). It is not in dispute that in the Commission at the material time there existed two vacancies, one because a member of the Commission Mr. Michaelides had died and one due to the resignation of another, Mr. Chr. Tryfonides. I might add that the non-participation of Turkish members is not, in my opinion, at all relevant, as not carrying the matter any further.

It has been argued on the other hand on behalf of Respondent that the Commission should be deemed as being competent to act at the material time, notwithstanding such vacancies as existed in view, *inter alia*, of the exceptional

circumstances prevailing at the time.

Since the *sub judice* decision of the Commission has already been annulled, on grounds peculiar to itself, I have not found it necessary to decide this general issue of the competence of the Commission, especially as my decision would not be conclusive for the purpose of determining the competence of the Commission when dealing once more with the case of Applicant in future, in view of the fact that if it were to be held now—and I am not expressing any view one way or the other—that exceptional circumstances did enable the Commission to act competently, such decision would not be necessarily applicable to the position existing when the Commission comes to deal in future with the case of Applicant, because it would be the circumstances to be found prevailing then, and not those which prevailed in July, 1964, which would have to be examined as being material, if at all relevant.

There shall be therefore, on the grounds set out in this Judgment, a declaration that the dismissal of Applicant is *null* and *void* as having been decided in a defective manner and without due regard having been paid to a material consideration and under a misdirection as to the onus of proof; it is, thus, also a decision reached contrary to law i.e. the properly applicable principles of administrative law, and in abuse of powers of the Commission. (See *Theodossiou and The Republic*, 2 R.S.C.C., p.44 at p.48, *Marcoullides and The Republic*, 3 R.S.C.C. p. 30 at p. 35 and *Morsis and The Republic*, (No. 2) (reported in this Part at p. 1 *ante*)). Such declaration leaves the matter open for reconsideration by the Commission and does not at all affect the suspension of Applicant ordered in view of a disciplinary matter pending against him.

On the question of costs I think that Applicant is entitled to part of his costs which I assess at £25.-

Decision complained of declared null and void. Order as to costs as aforesaid.