[HADJIANASTASSIOU, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

CHRISTAKIS L. VARNAVA,

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH

1. THE DISTRICT OFFICER AS CHAIRMAN OF THE IMPROVEMENT BOARDS OF NICOSIA,

2. THE MINISTRY OF INTERIOR,

Respondents.

(Case No. 196/67).

Recourse under Article 146 of Constitution—Time within which a recourse may be filed—Article 146.3—Provisions as to time are mandatory and have to be given effect to in the public interest—Confirmatory act or decision as distinct from an executory act or decision—An act or decision merely confirmatory of a previous one is not an executory act or decision—Consequently it cannot be made the subject of a recourse under Article 146—Otherwise in cases where a confirmatory act or decision is done or taken after a new inquiry—What does a new inquiry amount to—Omission—In the absence of legislation regulating a given matter, there can be no question of an omission where the administration has no duty to discharge, once it has long before taken a decision in the matter.

Administrative and Constitutional Law—Recourse under Article 146 of the Constitution—Time—Article 146.3.—Administrative act or decision—Executory act or decision—Confirmatory act or decision—Omission—Article 146.1—New inquiry—See above.

Confirmatory act or decision—See above.

Executory act or decision—See above.

Omission—See above.

Time—Article 146.3 of the Constitution—See above.

New inquiry—When does a new inquiry exist—See above.

The Applicant was a clerk in the service of the Improvement Boards of Nicosia. By letters addressed to the Respondent District Officer, dated June, 9, 1966 and September 24, 1966, respectively, he submitted his resignation from that post, requesting to be paid a gratuity benefit. On October 6, 1966, the Respondent District Officer who under the relevant Law, is the Chairman of all the Improvement Boards of Nicosia District, replied to the Applicant's said two letters, whereby he informed the Applicant that his resignation was accepted, but that his request for gratuity could not be acceded to in view of the Regulations in force. The Applicant reverted to the matter through the Trade Unions, SEK and PEO, by their letter of October 21, 1966. On November 22, 1966, the District Officer replied to the Secretaries of the said Trade Unions, informing them that the Applicant resigned his post voluntarily and that in accordance with the existing Regulations he was not entitled to the payment of any gratuity. Almost a year later, on September, 4, 1967, Applicant's counsel wrote to the District Officer a letter requesting, *inter alia*, (a) re-examination of the question of gratuity of the Applicant; (b) to be given a duly reasoned reply under which Regulation or Regulations the Applicant was precluded from receiving the gratuity prayed for; and (c) to be informed on what basis in four other cases such a gratuity had been paid. On October 5, 1967, counsel for the Respondents replied to Applicant's counsel, referring him to the previous correspondence of the District Officer, namely to the latter's aforesaid two letters of October 6 and 21, 1966, addressed to Applicant and the Trade Unions Secretaries, respectively *(supra)*.

The Applicant feeling aggrieved filed the present recourse on October 21, 1967, seeking a declaration (a) that the decision of the Respondents or either of them communicated to Applicant's counsel by the aforesaid letter of October 5, 1967 of Respondents' counsel, is null and void; and (b) that the ommission of Respondents or either of them to examine Applicant's complaint as embodied in the said letter of his counsel dated September 4, 1967 *(supra)*, ought not to have been made.

In their opposition, the Respondents raised three preliminary objections: (a) the recourse is out of time; (b) Respondents' counsel's letter of October 5, 1967 *(supra)* does not contain any decision of the Respondents and therefore,

no recourse lies against such a letter; (c) Respondents' omission to examine Applicant's complaint embodied in the said letter of his counsel dated September 4, 1967 *(supra)* amounts to a merely confirmatory act of the previous acts or decisions and, therefore no recourse lies against such an omission.

The Court tried first the legal issues referred to; and dismissing the recourse:-

Held, (1) *(a)*. It is obvious, in my view, that the letter dated October 5, 1967, of Respondents' counsel is a mere repetition or confirmation of previous letters which the District Officer wrote in 1966 in the same matter (*viz.* the said letters dated October 6, 1966, and October 21, 1966, *supra*).

(b) It is a well settled principle of Administrative Law that confirmatory acts or decisions, unless done or taken after a new inquiry—which is not the case herein—are not executory acts or decisions; and, therefore, they cannot be the subject of a recourse under Article 146 of the Constitution (See *Kolokassides* and *The Republic* (1965) 3 C.L.R. 549; and (on appeal) (1965) 3 C.L.R. 542; *Ktenas and Another (No. 1)* and *The Republic* (1966) 3 C.L.R. 64, at p. 73. See, also conclusions from the Jurisprudence of the Greek Council of State 1929–1959 at p. 240).

(2) Consequently, in so far as the present recourse is aimed at the decision communicated to the Applicant by the District Officer's aforesaid letters of October 1966, then, obviously, the recourse is out of time in view of the provisions of paragraph 3 of Article 146 of the Constitution regarding the prescribed period of 75 days, which are mandatory and have to be given effect to in the public interest (See *Moran* and *The Republic*, 1 R.S.C.C. 10; *Holy See of Kitium* and *The Municipal Council of Limassol* 1 R.S.C.C. 15; *Joyce Markoullides* and *The Greek Communal Chamber*, 4 R.S.C.C. 7).

(3) *(a)* But it was argued by counsel for Applicant that the recourse is not out of time because there has been an omission on the part of Respondents to re-examine the Applicant's case consequent upon his (counsel's) demand in his said letter of September 4, 1967.

(b) In my view there can be no question in this case of an omission within Article 146.1 for the very simple reason that in the circumstances the administration had no duty

to discharge because it had decided long before that the Applicant was not entitled to a gratuity benefit.

(c) Furthermore, the refusal of the administration to re-examine the case of the Applicant with a view to revoking or withdrawing their previous decision, is not an act or decision of an executory nature, but only a confirmatory act; consequently, it cannot become the subject of a recourse under Article 146 of the Constitution.

(d) Of course, it would have been a different matter, if the Administration before replying to the letter of Applicant's said letter dated September 4, 1967, had embarked on a new inquiry into the case. Such act or decision although of a confirmatory nature could be considered as being of an executory nature. (See *Stassinopoulos,* on the Law of Administrative Disputes 4th edition, at p. 175).

Per curiam: For the guidance of the Administration, I would like to pose the question: When does a new inquiry exist? On this point I would like to quote, from Stassinopoulos op. cit. p. 176 *(Editor's* Note: this passage, both in Greek and in English translation, is quoted in the Judgment *post).*

Cases referred to:

Kolokassides and *The Republic* (1965) 3 C.L.R. 549; and (on appeal) (1965) 3 C.L.R. 542;

John Moran and *The Republic* 1 R.S.C.C. 10;

Holy See of Kitium and *The Municipal Council of Limassol* 1 R.S.C.C. 15;

Joyce Marcoullides and *The Greek Communal Chamber,* 4 R.S.C.C. 7;

Ktenas and Another (No. 1) and *The Republic* (1966) 3 C.L.R. 64 at p. 73;

Decisions of the Greek Council of State: No. 37/1937, in the *Decisions of the Greek Council of State* 1937, Vol. A 1. 814, at p. 815 No. 758/1938.

Recourse.

Recourse against the decision of the Respondents concern-

ing the payment of gratuity to Applicant upon his resignation from the service of Respondent 1.

L. Clerides, for the Applicant.

K. Michaelides, for the Respondents.

Cur. adv. vult.

The following Judgment was delivered by:–

HADJIANASTASSIOU, J.: In this recourse, the short question between the parties, being a preliminary point of law, is whether this Application has been filed in the court within time *i.e.* before the lapse of 75 days as provided for in paragraph 3 of Article 146.

The undisputed facts are in brief as follows:

The Applicant was appointed on July 1, 1959, as a clerk of certain Improvement Boards; but later on, on October 1, 1963, he was re-appointed to serve all the Improvement Boards of Nicosia District, at a salary scale of £308-596, plus cost of living allowance, payable by monthly instalments. The period of appointment was renewed from year to year, unless either party terminated the contract of service by giving two months notice in advance, prior to the expiration of the period of service. Although the post to which Applicant was appointed was permanent but not pensionable, on March 18, 1966, he was informed in writing by the District Officer that the said post was made pensionable.

On June 9, 1966, the Applicant addressed a letter to the District Officer, *exhibit* 7, in which he says:

«Λαμβάνω τὴν τιμὴν νὰ σᾶς πληροφορήσω ὅτι προσφάτως ἀπεδέχθην διορισμὸν παρὰ τῇ Ἑταιρείᾳ «ΧΙΑΤΟΝ» εἰς θέσιν τὴν ὁποίαν κρίνω σημαντικῶς συμφερωτέραν δι' ἐμέ, θὰ κληθῶ δὲ ὅπως ἀναλάβω τὰ νέα μου καθήκοντα περὶ ἢ κατὰ τὴν 1ην Σεπτεμβρίου, 1966.

"Οθεν παρακαλῶ ὅπως δεχθῆτε τὴν παραίτησίν μου ἐκ τῆς θέσεως τοῦ Γραμματέως τῶν Συμβουλίων Βελτιώσεως τῆς Ἐπαρχίας Λευκωσίας ἀπὸ τῆς ὡς ἄνω ἡμερομηνίας, θέσιν τὴν ὁποίαν κατέχω ἀπὸ τῆς 1ης Ἰουλίου, 1959.

Δράττομαι τῆς εὐκαιρίας ταύτης νὰ ἐκφράσω ἐγκαρδίως τὰς εὐχαριστίας μου πρὸς Ὑμᾶς διὰ τὴν μεγίστην βοήθειαν, πατρικὴν καθοδήγησιν καὶ πλήρη κατανόησιν τὴν ὁποίαν ἐπεδείξατε πρὸς ἐμὲ κατὰ τὴν διάρκειαν τῆς ὑπηρεσίας

μου εἰς τὸ Ὑμέτερον γραφεῖον. Παρακαλῶ ὅπως διαβιβάσητε καὶ πρὸς πάντας τοὺς ὑφισταμένους Ὑμῶν τὰ αἰσθήματά μου καὶ τὰς εὐχαριστίας μου διὰ τὴν εὐγένειαν, βοήθειαν καὶ κατανόησιν τὴν ὁποίαν ἐπεδείξαντο ὡσαύτως πρὸς ἐμέ. Διαβεβαιῶ δὲ Ὑμᾶς ὅτι ἡ παρὰ τῷ Ὑμετέρῳ γραφεῖον ὑπηρεσία μου θὰ παραμείνῃ εἰς ἐμὲ ἀλησμόνητος.

Περαιτέρω ἐπιθυμῶ ὅπως ὑποβάλω πρὸς Ὑμᾶς τὴν ὑστάτην μου παράκλησιν ἵνα μεριμνήσητε ὥστε νὰ μοῦ καταβληθῇ τὸ σχετικὸν φιλοδώρημα, ὡς ἠθέλατε κρίνη συμφερώτερον δι' ἐμέ.»

On September 24, 1966, the Applicant before receiving a reply, wrote another letter to the District Officer informing him, that he was definitely retiring from his post on October 31, 1966; and that he requested his leave before his retirement.

It would be observed, that in both these letters the Applicant had never raised a point or in any way made a reservation that his resignation was conditional on receiving his gratuity. On the contrary one reading his first letter would be inclined to take the view, that his resignation was due to the fact that the Applicant had secured a much better job.

On October 6, 1966, the District Officer, who under the law is the Chairman of all the Improvement Boards of Nicosia District, replied to the Applicant by letter *exhibit* 1. It reads:

«Ἐπιθυμῶ νὰ ἀναφερθῶ εἰς τὰς ἐπιστολάς σας ἡμερομηνίας 9ης Ἰουνίου καὶ 24ης Σεπτεμβρίου, 1966, διὰ τῶν ὁποίων ὑποβάλλετε παραίτησιν ἐκ τῆς θέσεως σας, ὡς Γραφέως τῶν Συμβουλίων Βελτιώσεως Λευκωσίας, καὶ νὰ σᾶς πληροφορήσω ὅτι τὰ Συμβούλια Βελτιώσεως Λευκωσίας ἐνέκριναν τὴν παραίτησίν σας ἀπὸ τῆς 1ης Νοεμβρίου, 1966.

2. Παραχωρεῖται εἰς ὑμᾶς ἄδεια ἀπουσίας ἀπὸ τῆς 8ης Ὀκτωβρίου, 1966, μέχρι τῆς 31ης Ὀκτωβρίου, 1966.

3. Ὅσον ἀφορᾶ τὴν παροχὴν φιλοδωρήματος μετὰ λύπης μου σᾶς πληροφορῶ ὅτι κατόπιν ἐξετάσεως ἀπεδείχθη ὅτι συμφώνως τῶν ὑφισταμένων Κανονισμῶν τῶν Συμβουλίων δὲν δικαιοῦσθε εἰς τὴν παροχὴν οἱουδήποτε φιλοδωρήματος.

4. Ἐν τέλει ἐπιθυμῶ νὰ σᾶς εὐχαριστήσω, τόσον ἐκ μέρους τῶν Συμβουλίων ὅσον καὶ ἐμοῦ προσωπικῶς διὰ τὸν ζῆλον καὶ ἐνδιαφέρον τὸ ὁποῖον ἐπεδείξατε κατὰ τὴν

ὑπὲρ 7ετῆ ὑπηρεσίαν σας εἰς τὰ Συμβούλια βελτιώσεως, καὶ νὰ σᾶς εὐχηθῶ τὰ βέλτιστα εἰς τὴν νέαν σας σταδιοδρομίαν.»

As a result of this letter the Applicant invoked the support of the Trade Unions, SEK and PEO, who jointly addressed a letter, *exhibit* 2, to the District Officer, dated October 21, 1966. It reads:

«Δι' ἐπιστολῆς σας ἡμερομηνίας 6/10/1966 ἀπευθυνομένης πρὸς τὸν ὑπάλληλον τῶν Συμβουλίων Βελτιώσεως κ. Χριστάκην Βαρνάβαν ὅστις ἀπεχώρησε οἰκειοθελῶς ἐκ τῆς ὑπηρεσίας τὸν πληροφορεῖτε ὅτι δὲν δικαιοῦται τὴν πλη,ρωμὴ φιλοδωρήματος ἀφυπηρετήσεως.

Λαμβανομένου ὑπ' ὄψιν τῶν ὑφισταμένων κανονισμῶν ἐπὶ τοῦ προκειμένου, καθὼς καὶ τὴν γνωμάτευσιν τοῦ νομικοῦ τῶν Συμβουλίων, ὡς ἐπίσης προηγουμένων παρομοίων περιπτώσεων ὅπου πληρώθη φιλοδώρημα ἀφυπηρετήσεως, ἔχουμε τὴν γνώμη ὅπως χορηγήσετε στὸν ἐν λόγῳ ὑπάλληλον τὸ ὑπὸ τῶν κανονισμῶν προνοούμενο ποσό.»

It is clear that in this letter, *exhibit* 2, the Applicant through the Unions, put forward the issue of discrimination, because as it has been alleged in other similar circumstances gratuity had been paid by the Impovement Boards to four other persons on the date of their retirement. It is pertinent, I think to remark that once again the Applicant has never alleged that he has accepted to resign—as his counsel put it—on condition that he will get a gratuity benefit.

On November 22, 1966, the District Officer replied to the Secretaries of the Trade Unions, informing them that the Applicant resigned his post voluntarily and that in accordance with the existing Regulations of the Improvement Boards he was not entitled to the payment of any gratuity.

Nothing more was done or heard from the Applicant to show that the decision of the Improvement Board not to pay him a gratuity was not considered by him as an act of a final nature; however, on September 4. 1967, nearly one year later, his counsel wrote to the District Officer a letter, *exhibit* 4, requesting, *inter alia,* (a) re-examination of the question of gratuity of the Applicant; (b) to be given a duly reasoned reply stating under which Regulation or

Regulations he was precluded from receiving the gratuity prayed for; and (c) to be informed on what basis in four other cases such a gratuity had been paid.

Furthermore Applicant's counsel had alleged that the Applicant accepted to resign because he was aware of the decision of the Improvement Boards to pay him a gratuity benefit.

It is not in dispute that the Improvement Boards of Nicosia District had accepted the resignation of the Applicant at their separate meetings in July, 1966; furthermore they had reached a decision to pay the Applicant a gratuity after receiving the opinion of their legal adviser that the Applicant was entitled to such gratuity. Although the opinion of the legal adviser was in the affirmative, the decision of the Boards relating to the payment of gratuity was never communicated to the Applicant. It is a well-established principle of administrative law, that only through communication lawful results of an act are created and, it follows, that the administration can frustrate the act or decision before it reaches the person to whom it is addressed. See Kyriakopoulos on Greek Administrative Law vol. B at p. 398; see also the Decision of the Greek Council of State 452/1933. See further Stassinopoulos on Lessons of Administrative Law at pp. 249 and 250 and the cases cited at note 4 at p. 249.

On October 5, 1967, counsel for the Respondents replied to Applicant's counsel, referring them to the previous correspondence of the District Officer addressed to his client on October 6, 1966, and to the Trade Unions of PEO and SEK. The Applicant feeling aggrieved, filed a recourse on October 21, 1967, seeking a declaration (a) that the decision of the Respondents and/or either of them communicated to Applicant's counsel on October 5, 1967, is null and void and of no effect whatsoever; and (b) that the omission of Respondents and/or either of them to examine Applicant's complaint as embodied in the letter of his counsel dated September 4, 1967, ought not to have been made.

In the Opposition dated December 12, 1967, counsel for the Respondents raised three preliminary objections (a) that the recourse is out of time and, therefore, in view of paragraph 3 of Article 146 of the Constitution it cannot be entertained by this Court; (b) Respondents' counsel's letter of 5.10.1967

does not contain any decision of the Respondents and, therefore, no recourse lies against such a letter; (c) Respondents omission to examine Applicant's complaint embodied in Applicant's counsel's letter of 4.9.1967 is not an executory administrative act but a confirmatory act and, therefore, no recourse lies against such an omission.

On the first date of the hearing the case against Respondent 2 was withdrawn and dismissed; and counsel agreed that these legal issues be tried first by the court. I find it convenient to deal first with the second preliminary point of law argued by counsel before me.

Counsel for the Respondent has contended that the letter dated October 5, 1967, *exhibit* 5, does not contain an executory administrative act or decision and, therefore, it cannot be made the subject of a recourse in this court. I am in agreement with the submission of counsel for the Respondent on this point. It is obvious, in my view, that the said letter is a mere repetition or confirmation of a previous letter of the District Officer in the same matter. It is a well-settled principle of administrative law, and according to Stassinopoulos on the Law of Administrative Disputes, 4th ed., at p. 17 a confirmatory act is one which repeats the contents of a previous executory act and signifies the adherence of the administration to a course already adopted; but when the administration confirms a previous executory act after a new inqui y, then the resulting new act or decision is itself executory, too. Confirmatory acts or decisions are further dealt with, *inter alia,* in the Conclusions from the Jurisprudence of the Greek Council of State 1929–1959 at p. 240. From these decisions it is clear that a confirmatory act is not executory; and, therefore, it cannot be the subject of an administrative recourse in Greece. Furthermore it becomes clear from the decisions of our Court that a non-executory act cannot be made the subject of a similar administrative recourse in Cyprus, under Article 146, and this is clearly laid down in the case of *Kolokassides* and *The Republic,* (1965) 3 C.L.R. 549 and on appeal (1965) 3 C.L.R. 542. See also *Ktenas and Another* (*No.* 1) and *The Republic,* (1966) 3 C.L.R. 64 at p. 73.

However, even counsel for the Applicant has conceded, during the hearing of this preliminary point of law, that the said letter, *exhibit* 5, did not contain a decision of an executory

nature, and made it quite clear that the recourse was based only on omission.

Now, with regard to the first point raised by counsel for the Respondent, that the Application is out of time, it is evident in my view, that this recourse was made long after the lapse of 75 days; and as the decision of the Respondent complained of, was communicated to the Applicant by a letter dated October 6, 1966, I find myself in agreement with counsel for the Respondent that this Application is out of time; and it has to be dismissed, because of the provisions of para. 3 of Article 146 of the Constitution, which are mandatory and have to be given effect to in the public interest in all cases. See *John Moran* and *The Republic* (*Attorney-General and Minister of Interior*), 1 R.S.C.C., 10. Also the *Holy See of Kitium* and *The Municipal Council of Limassol,* 1 R.S.C.C. 15; and *Joyce Marcoullides* and *The Greek Communal Chamber* (*Director of Greek Education*), 4 R.S.C.C., 7. But counsel for the Applicant has argued that because there has been an omission on the part of the Respondent to re-examine Applicant's case, the recourse he submitted, is not out of time.

The question, therefore, is: Is there an omission on the part of the Respondent to re-examine the case of the Applicant?

In my view, in the absence of legislation regulating such matter, there can be no question of an omission on the part of the Respondent, because the administration had no duty to discharge; and because it has decided long ago that the Applicant was not entitled to a gratuity benefit. Furthermore, the refusal of the administration to re-examine the case of the Applicant, with a view to revoking or withdrawing their previous administrative decision or act, is not an act or decision of an executory nature, but only a confirmatory one and, therefore, it cannot become the subject of a recourse under Article 146 of the Constitution. See Kyriakopoulos on Greek Administrative Law vol. Γ at p. 96. See also the case No. 347/1937 reported in the Decisions of the Greek Council of State in 1937, vol. A. 1, p. 814 at p. 815. See further the Conclusions from the Jurisprudence of the Greek Council of State at p. 240, and the cases cited under note '9'.

Of course, it would have been a different matter, if the

administration before replying to the letter of Applicant's counsel, had embarked on a new inquiry into the case of the Applicant. That act or decision although of a confirmatory nature, it can be considered as being of an executory nature. See Stassinopoulos on the Law of Administrative Disputes at p. 175.

Although, of course, this is not the case, I would like to pose this question for the guidance of the Administration: When does exist a new inquiry? On this point, I would like to quote, from the same textbook of Stassinopoulos from p. 176. It reads:

> «Πότε ὑπάρχει νέα ἔρευνα, εἶναι ζήτημα πραγματικόν. Θεωρεῖται ὅμως γενικῶς νέα ἔρευνα ἡ λῆψις ὑπ' ὄψιν νέων οὐσιωδῶν νομικῶν ἢ πραγματικῶν στοιχείων, κρίνεται δὲ αὐστηρῶς τὸ χρησιμοποιηθὲν νέον ὑλικόν, διότι δὲν πρέπει ὁ ἀπολέσας τὴν προθεσμίαν διὰ τὴν προσβολὴν μιᾶς ἐκτελεστῆς πράξεως, νὰ δύναται νὰ καταστρατηγῇ τὴν προθεσμίαν ταύτην διὰ τῆς δημιουργίας νέας πράξεως, ἡ ὁποία ἐξεδόθη κατ' ἐπίφασιν μὲν κατόπιν νέας ἐρεύνης, κατ' οὐσίαν ὅμως ἐπὶ τῇ βάσει τῶν αὐτῶν στοιχείων.
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> Νέα ἔρευνα ὑπάρχει ἰδίως ἐάν, πρὸ τῆς ἐκδόσεως τῆς νεωτέρας πράξεως, λαμβάνῃ χώραν ἐξέτασις στοιχείων κρίσεως νεωστὶ προκυπτόντων ἢ προϋπαρχόντων μὲν ἀλλὰ τέως ἀγνώστων, ἅτινα νῦν λαμβάνονται προσθέτως διὰ πρώτην φορὰν ὑπ' ὄψιν. Ὁμοίως, νέαν ἔρευναν συνιστᾷ ἡ διενέργεια αὐτοψίας ἢ ἡ συλλογὴ συμπληρωματικῶν ἐπὶ τῆς ὑποθέσεως πληροφοριῶν.»

See also the Conclusions from the Jurisprudence of the Greek Council of State p. 241 and the case No. 758/1938.

See also the English translation prepared by the Registry of this Court:

> "When does a new inquiry exist, is a question of fact: In general, it is considered to be a new inquiry the taking into consideration of new substantive legal or real material, and the new material is meticulously considered, for he who has been out of time in attacking an ixecutory act, should not circumvent such a time limit by the creation of a new act, which it was issued nominally after a new inquiry, but in substance on the basis of the same material.

Especially there does exist a new inquiry where, before the issue of the subsequent act, there takes place consideration of newly produced material or pre-existing but unknown, which are now taken into consideration in addition, but for the first time. Similarly, it constitutes a new inquiry the carrying out of a local inspection or the collection of additional information in the matter under consideration."

I would further add that no new material was placed before the Respondent, because the question of discrimination was already before them and from the tenor of the whole correspondence written by the Applicant and on his behalf by the trade unions—as I said earlier—it became clear that the Applicant tendered his resignation because he found a better job.

In the circumstances and in view of the reasons I have advanced, I would dismiss the Application.

Application dismissed.