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[TRIANTAFYLLIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

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DEMETRA  
PAPANTONIOU  
v.  
REPUBLIC  
(PUBLIC SERVICE  
COMMISSION)

DEMETRA PAPANTONIOU,

*Applicant,*

*and*

THE REPUBLIC OF CYPRUS, THROUGH  
THE PUBLIC SERVICE COMMISSION,

*Respondent.*

(Case No. 291/69).

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*Public Service and Public Officers—Transfer—In the interests of the service—Relevant information including that pertaining to the family circumstances of the officer (Applicant) placed before the Respondent Public Service Commission—And duly considered—Together with Applicant's objection to such transfer—No duty cast on Respondent Commission to hear Applicant thereon as there was already sufficient material before them for the purpose and as said transfer was not a disciplinary one—See, also, herebelow passim.*

*Transfer—Disciplinary transfer of a public officer as distinct from a transfer in the interests of the service—See above—See, also, herebelow passim.*

*Administrative act or decision—Decision relating to the transfer of a public officer—Reasons therefor fully set out in the relevant official records—Decision therefore duly reasoned—Papaleontiou v. The Republic (1967) 3 C.L.R. 624 followed.*

*Reasoning of an administrative decision—Reasons therefor appearing in the relevant official records—Decision duly reasoned.*

*Discretionary powers—Vested by legislation in the Respondent Public Service Commission—Transfer of a public officer—Recommendation of the Head of Department regarding transfer—Treated as proposal—There is nothing preventing the Respondent Commission from accepting in the exercise of its discretionary powers a proposal made by a Head of Department regarding the transfer of one of his subordinates.*

*Transfer—Proposal of the Head of Department regarding transfer of one of his subordinates—Properly accepted by the Respondent Public Service Commission in the proper exercise of the discretionary powers vested in them by legislation.*

*Trade-Union—Public Officer—Transfer—Status of Secretary of one's professional Association, which is not a public officers' trade-union cannot effect sub judice decision relating to the transfer of the Applicant who is a public officer and the Secretary as aforesaid—Position not governed by the case of Iordanou v. The Republic (1967) 3 C.L.R. 245.*

*Transfers of Public Officers—See hereabove, passim.*

The Applicant, who is a female Welfare Officer in the service of the Department of Social Welfare Services, complains by her present recourse against her transfer from Nicosia to Limassol. The Applicant was informed by letter of the Director of her Department, dated May 6, 1969 that she was liable to be transferred from Nicosia to another town. She replied by letter of May 22, 1969 stating her objections against such transfer. Then a proposal for the transfer of the Applicant to Limassol was forwarded on July 21, 1969 to the Respondent Public Service Commission by the Head of Department of the Applicant. In such proposal the aforementioned objections of the Applicant against her transfer from Nicosia were set out and the views of her Head of Department, regarding such objections were also, stated. The Respondent considered the said proposal on July 28, 1969 and decided to make the transfer as proposed. Its decision was duly communicated to the Applicant on July 29, 1969.

It was submitted on behalf of the Applicant that the aforesaid decision of the Respondent Commission should be annulled because (a) there has been no sufficient inquiry on the part of the Respondent (b) the decision was not duly reasoned and (c) the Respondent did not hear in the matter the Applicant public officer.

Dismissing the recourse the Court:

*Held*, (1). It cannot be disputed that the transfer was proposed and decided in the interests of the service. All relevant information, including that pertaining to the family circumstances of the Applicant was placed before the Respondent Commission; and there is, indeed, nothing to show that it was not duly considered.

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(2) Furthermore, I cannot agree with the counsel's contention that the Respondent should have heard the Applicant in order to be able to go fully into her objections against transfer; in my view there was, already, before the Respondent sufficient material for the purpose, and as this was not a disciplinary transfer there was no duty cast on the Respondent to hear the Applicant.

(3) It has been contended that the decision in question is not duly reasoned. I do not find any substance in this submission because, when one reads together the proposal for the transfer of the Applicant and the decision of the Respondent, it is quite clear that the relevant official records fully set out the reasons for such transfer (see, *inter alia*, *Papaleontiou v. The Republic* (1967) 3 C.L.R. 624).

(4) Nor do I find any merit in the argument that in the present instance it was the Head of Department of the Applicant, and not the Respondent Commission, who in effect, decided the matter; in other words that the relevant discretionary powers were not exercised by the Respondent Commission in which they are vested under the relevant legislation. In my judgment the recommendation of the Head of Department was treated as a proposal—as it ought to have been treated—and it was the Respondent which “decided” upon the matter of the transfer in question; and, of course, there is nothing to prevent the Respondent from accepting, in the proper exercise of its discretionary powers, a proposal made to it by a Head of Department regarding the transfer of one of his subordinates.

(5) It has been contended, too, that the transfer of the Applicant should not have been made because as she is the Secretary-General of the Social Workers' Association such transfer will make the functioning of the Association very difficult. The said Association is not a public officers' trade union and, therefore, what was stated in this respect in the case of *Iordanou v. The Republic* (1967) 3 C.L.R. 245 cannot be regarded as governing the position in the present case. Moreover the Applicant has never put this fact forward as a reason why she should not be transferred.

(6) The recourse therefore fails; but in view of the inconvenience which such transfer will entail for the Applicant, I make no order as to costs.

*Recourse dismissed.*  
*No order as to costs.*

Cases referred to:

*Papaleontiou v. The Republic* (1967) 3 C.L.R. 624;

*Jordanou v. The Republic* (1967) 3 C.L.R. 245.

**Recourse.**

Recourse against the decision of the Respondent Public Service Commission to transfer Applicant, a female Welfare Officer in the service of the Department of Social Welfare Services, from Nicosia to Limassol.

*E. Lemonaris*, for the Applicant.

*L. Loucaides*, Senior Counsel of the Republic, for the Respondent.

*Cur. adv. vult.*

The following judgment was delivered by:-

TRIANTAFYLIDES, J.: The Applicant, who is a female Welfare Officer in the service of the Department of Social Welfare Services, complains by this recourse against her transfer from Nicosia to Limassol, with effect as from the 1st September, 1969.

The Applicant was informed by letter of the Director of her Department, dated the 6th May, 1969 (*exhibit 6*), that she was liable to be transferred from Nicosia to another town.

She replied by letter dated the 22nd May, 1969 (*exhibit 5*) stating her objections against such transfer.

Then, a proposal for the transfer of the Applicant to Limassol was forwarded, on the 21st July, 1969—together with other similar proposals—to the Respondent, by the Head of Department of the Applicant (*exhibit 3*). In such proposal the aforementioned objections of the Applicant against her transfer from Nicosia were set out and the views of her Head of Department, regarding such objections, were, also, stated.

The Respondent considered the said proposal on the 28th July, 1969 (see its minutes *exhibit 2*) and decided to make the transfer as proposed.

Its decision was communicated to the Applicant by letter dated the 29th July, 1969 (*exhibit 1*).

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It cannot be disputed that the transfer was proposed and made in the interests of the service.

All relevant information, including that pertaining to the family circumstances of the Applicant, was placed before the Respondent; and there is, indeed, nothing to show that it was not duly considered. Furthermore, I cannot agree with the Applicant's contention that the Respondent should have heard the Applicant in order to be able to go fully into her objections against a transfer; in my view there was, already, before the Respondent sufficient material for the purpose, and as this was not a disciplinary transfer there was no duty cast on the Respondent to hear the Applicant.

It has been contended that the relevant decision is not duly reasoned: I do not find any substance in this submission because, when one reads together the proposal for the transfer of the Applicant and the decision of the Respondent (*exhibits 3 and 2*), it is quite clear that the relevant official records set out fully the reasons for such transfer (see, *inter alia*, *Papa-leontiou v. The Republic* (1967) 3 C.L.R. 624).

Nor do I find any merit in the argument that in the present instance it was the Head of Department of the Applicant, and not the Respondent, who, in effect, decided the matter of her transfer; in other words, that the discretionary powers were exercised by the said Head of Department and not by the Respondent, in which they are vested by the relevant legislation. From the relevant minutes of the Respondent (*exhibit 3*) it is clear that the recommendation of the Head of Department of the Applicant was treated as a proposal—as it ought to have been treated—and that it was the Respondent which “decided” regarding the transfer of the Applicant; and, of course, there is nothing to prevent the Respondent from accepting, in the proper exercise of its discretionary powers, a proposal made to it by a Head of Department regarding the transfer of one of his subordinates.

Counsel for the Applicant—who has tried very conscientiously and very hard to persuade the Court that I should interfere with this transfer—has laid stress on the fact that, in the meantime, the family reasons (which the Applicant had put forward as a ground against her transfer from Nicosia) have become more serious because her husband was, on the 2nd October, 1969, appointed as a schoolmaster at a secondary

school in Nicosia; and that, therefore, the Applicant and her husband are now posted apart from each other, in different towns.

But this factor did not exist, in its present state of affairs, at the material time when the transfer of the Applicant was proposed and decided upon (in July, 1969); and, thus, such factor cannot be relied upon by the Applicant in challenging the *sub judice* decision.

It is, no doubt, open to the Applicant, in view of the said factor, to apply to the Respondent requesting to be transferred, if possible, back to Nicosia; and it is up to the Respondent to decide whether or not to accede to such request. On the other hand, it is, also, open to the husband of the Applicant to apply to the appropriate organ in the education services requesting to be posted at a secondary school in Limassol, so as to be near his wife. As for myself, I express no opinion, either way, regarding what the competent authorities should or should not do in the circumstances.

It has been contended, too, that the transfer of the Applicant should not have been made because as she is the Secretary-General of the Social Workers' Association such transfer will make the functioning of the Association very difficult: The said Association is not a public officers' trade union, and, therefore, what was stated in this respect in *Iordanou v. The Republic* (1967) 3 C.L.R. 245, cannot be regarded as governing the position in the present case. Moreover, though the Applicant was the Secretary-General of the aforementioned Association at all times material to these proceedings, she never put this fact forward as a reason for which she should not be transferred from Nicosia; I have no doubt that she would have done so if, in fact, this was a factor which could be regarded, even by herself, as being weighty enough to avert her transfer.

Another of the complaints of counsel for the Applicant has been that the Applicant's Head of Department did not grant her an interview in relation to her proposed transfer—as allegedly requested orally by the Applicant. Yet, it is perfectly clear from the letter addressed by the Applicant to her Head of Department on the 22nd May, 1969, in relation to her objections against her impending transfer (*exhibit 5*), that she had had, already, a personal meeting with him in the

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past regarding this matter and that she considered it to be quite sufficient to summarize in writing her said objections; nowhere in such letter is to be found a request for a further meeting with her Head of Department.

For the foregoing reasons, and in the light of all the circumstances of this case, I have reached the conclusion that there does not exist any reason for interference with the *sub judice* decision of the Respondent, even though it does entail inconvenience for the Applicant. Thus, this recourse fails and it is dismissed accordingly; but in view of the said inconvenience I am not going to make any order as to costs in this case.

*Application dismissed;  
no order as to costs.*