

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

IOANNIS IOSIF,

Applicant,

and

THE CYPRUS TELECOMMUNICATIONS AUTHORITY,

Respondent.

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IOSIF
v.
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AUTHORITY

(Case No. 22/71).

Public Officers—Promotions to post of Clerk Supervisor in the Cyprus Telecommunications Authority—Based, inter alia, on recommendations of Head of Department—No material indicating what were these recommendations—And no evaluation as to the confidential reports—Promotions annulled.

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Administrative Law—Collective Organ—Promotions by Board of Cyprus Telecommunications Authority—Inadequate recording of recommendations of Head of Department—Deprives Court of ability to examine how and why it was reasonably open to the Board to act upon the recommendations—Promotions annulled on this ground.

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Head of Department—Recommendations of—Inadequate recording of Confidential reports—Evaluation of, by Appointing Authority.

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The applicant in this case challenges the validity of the decision of the respondent Authority to promote the interested parties to the post of Clerk Supervisor in the Accounts Department.

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The minutes of the meeting of the respondent Authority relating to the *sub judice* decision, so far as relevant, read as follows:

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“ Given that the promotions have been annulled, the members considered all the applications for the post in question, and having taken into consideration the qualifications, the service and the suitability as a whole of all the candidates, as well as the recommendations of the Director-General, they decided to promote, in order to

fill the two vacant posts, Messrs. Dem. Finioti and Andreas Theocharides, with effect from the 14th October, 1970, at a salary of £1,224 per annum on scale '15' ”.

Pursuant to a direction of the Court for the filing of a statement by the respondent setting out the effect of the recommendations made by the Director-General the following statement was filed: 5

“ that the recommendations made by the General Manager to the Board of the respondents at their meeting of the 14th October, 1970, were confined to what actually is described in the 1st paragraph of the relevant minutes filed in Court as *exhibit 1 viz.* he explained the position and that the employees concerned had already been promoted by an old decision of the Board No. 170/67 taken on their meeting held on the 17th November, 1967, at which applicant's position for promotion was considered too, (which decision was annulled by the Court), the reasons of their promotion and the decision's cancellation by the Court (*i.e.* lack of jurisdiction). 10 15

The Board of respondents took everything into consideration and all relevant circumstances including that of the applicant and reached the decision attacked. 20

It is quite natural that the said recommendations contributed to the factors which influenced the respondents in taking the decision attacked by this recourse.” 25

The interested parties were more senior than the applicant, but the qualifications of the applicant were much better than those of the interested parties.

The main contention of counsel on behalf of the applicant was that it was not reasonably open to the respondent to promote the interested parties, having regard to their merits and suitability. 30

Held, (1) The minutes of the Board did not state clearly and lucidly what were the views of the Director-General regarding the interested parties and the applicant and that the situation has not been improved even by the statement which was filed subsequently pursuant to the Directions of the Court. 35

(2) In the absence of sufficient material before this Court, this Court is left in the dark and is seriously handicapped in

5 carrying out effectively its judicial control over the administrative act of an appointing organ, in order to see whether they have exercised their discretionary powers properly and lawfully. (See *Partellides v. The Republic* (1969) 3 C.L.R. 480 at p. 484 where the inadequacy regarding a recommendation was considered as depriving the Court of the ability to examine how and why it was reasonably open to the administrative organ in that case to act upon it).

10 (3) In the absence of material indicating what were the oral recommendations of the Director-General, and in the absence of an evaluation as to the Confidential Reports, I have come to the conclusion that the discretion of the Board was exercised in a defective manner and the decision was taken in abuse or in excess of their powers. The decision of the
15 Board is, therefore, *null and void*.

Sub judice promotions annulled.

Cases referred to:

Iosif v. Cyprus Telecommunications Authority (1970) 3 C.L.R. 225;

20 *Myrriotis v. The Republic* (reported in this Part at p. 58 *ante*, at p. 67);

Partellides v. The Republic (1969) 3 C.L.R. 480, at p. 484.

Recourse.

25 Recourse against the decision of the respondent Cyprus Telecommunications Authority to promote the interested parties to the post of Clerk Supervisor in preference and instead of the applicant.

L. Papaphilippou, for the applicant.

A. Hadjioannou, for the respondent.

30 *Cur. adv. vult.*

The facts sufficiently appear in the judgment of the Court which was delivered by:

35 HADJIANASTASSIOU, J.: By the present recourse, under Article 146, the applicant, a Clerk, 1st Grade, attacks the validity of the decision of the respondent Authority dated October 14,

1970, by which Demetrakis Finiotti and Andreas Theocharides were promoted to the permanent post of Clerk Supervisor in the Accounts Department with effect from October 14, 1970, a promotion post from the immediately lower one of Clerk, 1st Grade.

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The applicant joined the service of the respondent on October 6, 1948 as an Assistant Clerk, and on June 1, 1961, he became a Clerk 2nd Grade. On July 1, 1964, he was promoted to the post of Clerk 1st Grade. The first interested party joined the service on March 29, 1947, as an Assistant Clerk, and on January 1, 1958, he became a Clerk 2nd Grade. On January 1, 1959, he was promoted to the post of Clerk 1st Grade. The second interested party joined the service on May 2, 1938 as an Assistant Clerk, on January 1, 1953 he became a Clerk 2nd Grade, and on January 1, 1961, he was promoted to the post of Clerk 1st Grade.

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I propose dealing first with the facts which led to the first promotion of the interested parties, which, as it will appear in due course, was annulled by the Supreme Court.

On September 6, 1967, the respondent Authority published and invited applications for the filling of two posts of Clerk Supervisor—Accounts. The applicant, on September 12, made an application and was a candidate for this post. The filling of the two vacancies was decided upon by the respondent at its meeting of November 17, 1967, after taking into consideration the Confidential Reports of the candidates and the recommendations made by the General Manager to the Board.

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The applicant, according to the confidential reports for the years 1963 to 1967, is rated as follows:—

Comments of the Section Head of the Department of Overseas Accounts for 1963:— “He has performed his duties very satisfactorily”. Comments of the counter-signing Head of Department: “A very able employee whose upgrading should be favourably considered”.

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In 1964 the comments of the immediate senior are these: “He is good in his work and performs his duties satisfactorily”. The comments of the Section Head: “He is performing his duties satisfactorily”. And then the comments of the Department Head: “In charge of the R/T subsection of the telegraph

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accounts section, he is performing his duties in a satisfactory manner”.

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5 In 1965 the comments of the immediate senior are:- “ He is performing his duties nearly satisfactorily”. The comments of the Section Head Mr. Hjiadamos are:- “ He is an unreliable employee. Most of his important work is done or checked by other employees”. Comments of Department Head: “ He should endeavour to improve his output and standard of work. On the re-organization of the accounts I have in mind to transfer him to the Costings Section where I believe he will be of more use. Therefore, I do not think we should draw his attention in writing for possible improvement, as I believe his drawbacks emanate from the clash of personalities with Mr. Hjiadamos”.

15 I think I am bound to point out that in view of the attack of Mr. Hjiadamos regarding the work of the applicant, the applicant addressed a letter to the General Manager of the Authority (red 144) complaining to him about the behaviour of that officer. See also the observations of Mr. Hjiadamos who apparently was informed of the contents of applicant’s letter. Be that as it may, the comments for 1966 in the Costings Section are these:- “ This employee, in spite of the fact that he is here only 9 months from the time of his transfer to the section of Costings and Statistics, he managed to adapt himself to the work carried out in the department, showing zeal and interest in any duties assigned to him. His behaviour and conduct as well as his co-operation with his juniors and his superior is excellent”. And the comments of the Head are: “ I agree with the above”.

30 For the year 1967, “ the said employee shows great interest and zeal in his work, and he always tries to improve his output. He is fully aware of his responsibilities and his duties as the most senior 1st Grade employee of the Costings Section. Then the Head said:- “ Mr. Iosif has carried out his duties in a satisfactory manner during the past year”.

35 The first interested party, D. Finiotis, in the Financial Department, is rated as follows for the same years:-

Comments of the Section Head for 1963: “ He is performing the duties of the Senior Clerk in the cash books efficiently. Daily banking, payments, and all other cash transactions had been carried out during the last years without any discrepancy,

thus inspiring confidence for the future". Comments of the Head of Department: "He is hardworking, but accounting knowledge very limited".

Comments of the Section Head for 1964: "He is performing the duties of the Senior Clerk in the cash books efficiently, daily banking payments and all other work relating to cash transaction have been carried out satisfactorily". Comments of Department Head: "A satisfactory year's work. Recommended". 5

Comments of Section Head for 1965: "Mr. Finiotis is performing his duties as senior clerk in the cash books efficiently, daily banking, payment and generally all work relating to cash transactions are being carried out satisfactorily". Comments of the Head of Department: "A satisfactory employee in the cash books, but I believe he should endeavour to obtain accounting knowledge as such is of absolute necessity in the financial section where he is employed". 10 15

Comments of the Section Head for 1966: "Mr. Finiotis is performing his duties satisfactorily as a cashier". Comments of the Head of Department: "A good employee, but it is essential to acquire knowledge in book-keeping". 20

Comments of the Section Head for 1967: "His output was quite satisfactory during the past year, and he is performing his duties conscientiously". Comments of the Head of Department: "Agreed". 25

Regarding the second interested party A. Theocharides attached to the Department of Traffic Accounts, the comments of D.C.A. for 1963 are: "A very good employee both in work and behaviour. He lacks initiative as a subsection Head". Comments of the Department Head: "A very steady and methodical employee who is extremely careful in his work. I agree with D.C.A. observations. A satisfactory year's work". 30

For the year 1964 we have only the comments of the Head of the Department to this effect:- "A satisfactory year's work". 35

The comments of the Head of Department for 1965 are: "A very hard-working employee, having long experience in the authority. He should be considered in any future promotions".

The comments of the Section Head for 1966 are:- " Mr. Theocharides is performing his duties satisfactorily". Comments of the Department Head are: " Agreed".

5 Comments of the Department Head for 1967: " A hard-working employee, some of his failings in personality are psychological due to known reasons".

10 The applicant, feeling aggrieved because of the decision of the Board not to promote him, filed Recourse No. 17/68. The Supreme Court, in its interim decision delivered on August 14, 1970, annulled the promotions for the reasons stated therein, (*Ioannis Iosif v. Cyprus Telecommunications Authority* (1970) 3 C.L.R. 225).

15 On September 15, 1970, the counsel of the Authority in question addressed a letter to the General Manager, pointing out that once the promotions of the interested parties were annulled, it was necessary for him to make a submission to the Board of the Authority to re-examine the case and take a decision. However, he pointed out that it was necessary during the examination of the case to take into consideration all other candidates for promotion.

20 On February 10, 1971, the Board of the Authority met in the presence of Messrs. A. N. Stylianides and S. Kokkinides, the General Manager and Secretary respectively of the Authority, in order to fill the two posts of Clerk Supervisor, once their earlier decision was annulled. I, therefore, quote this extract in Greek:-

30 " Δεδομένης τῆς ἀκυρώσεως τῶν προαγωγῶν, τὰ Μέλη ἐμέλησαν ὅλας τὰς ὑποβληθείσας αἰτήσεις διὰ τὰς ὑπὸ ἀναφορὰν θέσεις καὶ λαβόντα ὑπ' ὄψιν τὰ προσόντα, τὴν ὑπηρεσίαν καὶ τὴν καθ' ὅλα καταλληλότητα πάντων τῶν αἰτητῶν ὡς καὶ τὰς συστάσεις τοῦ Γεν. Διευθυντοῦ, ἀπεφάσισαν ὅπως προαγάγουν πρὸς πλήρωσιν τῶν 2 θέσεων τοὺς κ.κ. Δημ. Φοινιώτη καὶ Ἀνδρέαν Θεοχαρίδην ἀπὸ τῆς 14ης Ὀκτωβρίου, 1970 μὲ μισθὸν ἐκ £1,224 ἔτησίως ἐπὶ τῆς κλίμακος '15'.

35 Διηλεκρινίσθη ὅτι καίτοι ἡ ἀρχικὴ προαγωγή τῶν κ.κ. Δημ. Φοινιώτη καὶ Ἀνδρέα Θεοχαρίδη τὴν 17ην Νοεμβρίου, 1967 ἐκρίθη ἄκυρος, ἐν τούτοις οἱ ὑπάλληλοι οὗτοι προσέφερον ὑπηρεσίας εἰς τὴν θέσιν εἰς ἣν προήχθησαν καὶ ὡς ἐκ τούτου ἐδικαιούντο καὶ εἰς τὴν καταβολὴν τῆς σχετικῆς ἀμοιβῆς".

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And in English, it reads:-

“ Given that the promotions have been annulled, the members considered all the applications for the posts in question, and having taken into consideration the qualifications, the service and the suitability as a whole of all the candidates, as well as the recommendations of the Director-General, they decided to promote, in order to fill the two vacant posts, Messrs. Dem. Finiotis and Andreas Theocharides, with effect from the 14th October, 1970, at a salary of £1,224 per annum on scale ‘15’.

It was clarified that though the first promotions of Messrs. Dem. Finiotis and Andreas Theocharides which were made on the 17th November, 1967, have been annulled, these officers have, nevertheless, rendered services to the post to which they had been promoted and they were thus entitled to the relevant remuneration”.

On November 20, 1971, the applicant was informed of the decision of the Board, and, as I said earlier, filed the present recourse, and the application was based in substance on three grounds of law:

- (1) that the respondents, in promoting the interested parties in preference and instead of the applicant have acted in abuse or in excess of their power because they failed to take into consideration the wide experience, qualifications, seniority and/or vested rights of the applicant;
- (2) that the respondents, in taking the decision complained of were acting under a misconception of the real facts, particularly so, because the applicant was replacing the Head of the Branch of Costings when he was away, thus having a priority of promotion over the others; and
- (3) that the interested parties do not possess the requirements and/or the terms of the scheme of service of that post.

On February 10, 1971, the respondents filed the opposition alleging (1) that the said decision was lawful, and therefore, was not taken contrary to the law or in excess of powers, or that the said Board was acting under a misconception of the real facts; and (2) that the said interested parties fulfil the terms of the scheme of service.

On March 2, 1971, the trial Court directed counsel for the respondent to file in Court within one month, a statement signed by a member of the respondent or its Secretary, setting out the effect of the recommendations made by the General Manager regarding the officers of respondent involved in these proceedings, at the meeting of the 14th October, 1970. The case was fixed for hearing on the 21st June, 1971, but in the meantime, on April 29, 1971, the Secretary of the Authority, Mr. Kokkinides, in pursuance of the directions of the Court, filed a statement certifying the following:—

“ that the recommendations made by the General Manager to the Board of the respondents at their meeting of the 14th October, 1970, were confined to what actually is described in the 1st para. of the relevant minutes filed in Court as *exhibit 1 viz.* he explained the position and that the employees concerned had already been promoted by an old decision of the Board No. 170/67 taken on their meeting held on the 17th November, 1967, at which applicant's position for promotion was considered too, (which decision was annulled by the Court), the reasons of their promotion and the decision's cancellation by the Court (*i.e.* lack of jurisdiction).

The Board of respondents took everything into consideration and all relevant circumstances including that of the applicant and reached the decision attacked.

It is quite natural that the said recommendations contributed to the factors which influenced the respondents in taking the decision attacked by this recourse”.

On the date of the hearing, counsel on behalf of the applicant argued all three grounds of law together, and contended that the authority, in taking its decision, acted in excess or in abuse of powers because it disregarded the wide experience, qualifications and the seniority of the applicant, without giving any reasons; and acted under a misconception of the real facts *vis-a-vis* that the applicant had far more experience regarding the post of Costings, as he was replacing the head of the Department and it was, therefore, natural that he ought to have been preferred for that post for obvious reasons, that is to say, that he had more knowledge and experience than the others. Finally, he argued that the interested parties do not bring themselves within the scheme of service of that post.

It appears that the scheme of service for the post of Clerk Supervisor—Accounts, is a promotion post and requires the following qualifications:—

- i. Graduate of a Secondary School.
- ii. High standard of knowledge in Mathematics and Book-keeping. 5
- iii. First class knowledge of the Authority's rules and regulations and Administrative Routines.
- iv. Ten years of experience in accounts work;”

And the duties required are:— 10

- “ 1) To deputize for the appropriate Section Head and assist him in the administration of the Section.
- 2) To perform the duties of Head Clerk in an accounts section.
- 3) To be responsible for the organization of the work in an Accounts Section on the direction of the Section Head. 15
- 4) To supervise and control the execution of the above work.
- 5) To conduct correspondence of routine nature appertaining to the work to be carried out. 20
- 6) To supervise the work of his juniors.
- 7) To initiate and compile final figures of an Accounts Section for presentation to Heads of Section.
- 8) To carry out any additional accounting and other duties as may be assigned to him by the Head of his Section or Department”. 25

I find it convenient to state that the academic and professional qualifications of the applicant which are attached to the application of this recourse, (blue 2) are better than those of the interested parties, and this has been conceded also by counsel on behalf of the respondent. 30

Then, counsel on behalf of the applicant, having argued his case, and because he had information that within a short period of time two more posts would have been filled by the Authority

in question, requested an adjournment and, as counsel for the other side agreed, and once it was in the interest of the applicant, the case was adjourned to October 11, 1971, for mention. Unfortunately, there was a far greater number of adjournments than one would have expected for one reason or another, as it appears from the record.

On January 11, 1973, the hearing of the case was resumed, and after the production of the Confidential Reports of the parties, counsel, quite fairly in my view, mainly contended that the whole case could be decided on the question whether it was reasonably open to the respondent to promote the interested parties, having regard to their merits and suitability. With regard to Mr. Theocharides (the second interested party) counsel argued that he was not qualified to be promoted, both because he lacked the high standard of knowledge in mathematics and book-keeping, and because he did not have ten years experience in accounting work.

On the contrary, counsel on behalf of the respondent argued that both the interested parties were rightly promoted because they came within the requirements of the scheme of service, and were far more senior to the applicant. He further challenged the allegation put forward by counsel that the applicant was replacing the Head of the Costings Department or that he was ever in charge of that section.

Then the case was adjourned to April 9, 1973, once again, at the request of counsel to adduce evidence regarding the issue raised in paragraph 4 of the application, that is to say, whether the applicant was replacing the Head of the Costings Department.

On March 6, 1974, counsel on behalf of the respondent Authority called Mr. Markides, who said that he was the Personnel Officer, and that interested party Mr. Finiotis was working in the Accounts Office since the date he was appointed, and in the special section to which he was promoted since 1957. The second interested party was also working in the same section of Costings from the 7th November, 1952 to 1960, and that the applicant had been transferred to that Department of Costings in 1965.

Then counsel put this question:-

“(Q) Did he at any time replace the person in charge?”

“(A) He never replaced him for any period”.

This witness went on to explain that the Accounts Department is separated into four sections, that is to say, the Overseas Traffic, the Inland Traffic, Costings and Financial. In cross-examination by counsel on behalf of the applicant, he said that he was the General Accountant of CYTA in 1965 and these journal vouchers were prepared after he himself had left the department. He explained that the journal voucher is not the most serious, but a simple process, one puts down on this voucher, from other books what has already taken place. He explained that the purpose that one has to sign the said vouchers is to make him responsible, in case of a mistake, in transferring from one book to the other. Regarding the interested parties, he said that they both have served the Authority for a long time and no doubt their services have been considered as satisfactory. In my view, in view of the fact that the Board, before taking their new decision to promote the interested parties, considered all the applications and have taken into consideration the qualifications, the service and the suitability of the candidates as a whole, I think it is necessary for me to quote once again the comments of both the reporting and counter-signing officers from the confidential reports of the parties for the years 1968, 1969 and 1970:-

Regarding the applicant, the comments of the Section Head for the year 1968 are:- “The said officer shows always great interest and zeal in his duties and he is constantly trying to improve from every point of view. He is fully aware of his position and responsibilities as the most senior 1st Grade officer in the section. I recommend that he may be granted his annual increment”. And the comments of the counter-signing officer: “I agree with the above and I recommend the annual increment”.

In 1969 the comments of the Section Head are: “The officer under reference shows always great interest and zeal in his duties and he is consistently trying to improve his knowledge and a proof of this are his examination results in book-keeping. He is fully aware of his responsibilities as the most senior 1st Grade officer in the section”. And the comments of the counter-signing officer: “I agree with the above. Mr. Iosif is trying to increase his knowledge and he will soon become a very good officer”.

For 1970, the comments of the Section Head are: “Though this officer is at the top scale of the 1st Grade, in the course

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of the past year he again continued to perform his duties with zeal and conscientiousness being fully conscious of his responsibilities as a Clerk 1st Grade". And the comments of the counter-signing officer: "I agree with the above".

5 Regarding the first interested party, D. Finiotis, the comments of the Section Head for the year 1968 are: "Mr. Finiotis, as Clerk-Supervisor of the Section, performs his duties very satisfactorily, helping me in the performance of the work of the whole section in general". And the comments of the
10 counter-signing officer: "He is trying to achieve better results. I agree with the above and I recommend his annual increment".

In the year 1969, the comments of the Section Head are:-
15 "Mr. Finiotis is a diligent and punctual officer who performs his duties very satisfactorily". And the comments of the counter-signing officer: "He has shown great improvement during the year".

For the year 1970, the comments of the Section Head are:-
20 "Mr. Finiotis is a punctual officer who performs his duties very satisfactorily". And the counter-signing officer says:-
"*A satisfactory employee. I wish he would obtain accounting qualifications, the knowledge of which will assist him in his duties*".
(The underlining in mine).

25 With regard to the second interested party, Mr. A. Theocharides, the comments of the Section Head for the year 1968 are:-
"The officer under reference is hard-working and conscientious, who is always trying to cope in a better way with his duties and responsibilities as Clerk Supervisor. He is always trying and he is showing as much zeal as he can in his work. I re-
30 commend that he may be granted his annual increment". And the comments of the counter-signing officer: "Mr. Theocharides is trying to achieve better results. In the course of last year he worked satisfactorily. I recommend the grant of his annual increment".

35 For the year 1969, the comments of the Section Head are:-
"The officer under reference is hard-working and conscientious, and he always tries his best to cope in a better way with his duties and responsibilities. I recommend that he may be granted his annual increment". The comments of the counter-
40 signing officer are:- "I agree with the above and the annual increment is recommended".

For the year 1970, the comments of the Section Head are:—
“ The officer under reference is hardworking and conscientious,
and he always tries to cope in a better way with his duties and
responsibilities as Clerk Supervisor. I recommend that he may
be granted his annual increment”. And the comments of the
counter-signing officer: “ I agree with the above and the
annual increment is recommended”.

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Having dealt with the Confidential Reports of the parties,
which show how they are rated by different signing and counter-
signing officers, the question which is posed is whether the
respondent, in promoting the interested parties in preference
and instead of the applicant, have exercised their discretionary
powers in a valid manner. It has been said judicially in a
number of cases that the paramount duty of an organ in effecting
appointments and promotions, is to select the most suitable
candidate for the particular post, having regard to the totality
of the circumstances pertaining to each one of the candidates,
including the length of service, which though always a factor
to be considered, is not always the exclusive vital criterion for
such appointment or promotion. Whether, of course, a candi-
date is qualified for appointment or promotion, that is to be
determined by the appointing body having regard to the scheme
of service in question, and after scrutinizing the qualifications
required under the said scheme (*Myrtiotis v. The Republic*
(*Educational Service Commission*) (reported in this Part at p. 58,
ante, at p. 67)). Furthermore, it is said that the appointing
organ in their search to select the best candidate for the parti-
cular post, should carefully consider the merits and qualifications
of each candidate, and have in mind that the recommendations
of the Head of a Department or other responsible officer is a
most vital criterion to be considered by such organ or body,
and such recommendations should be not lightly disregarded,
and cogent reasons should be given for not following the said
recommendations.

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In the case in hand, there is no doubt that the interested
parties are more senior than the applicant, but on the other
hand, having regard to the scheme of service which requires a
high standard in mathematics and book-keeping, I think defini-
tely the qualifications of the applicant are much better than
those of the interested parties.

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With this in mind, and particularly having regard to the
Confidential Reports, which no doubt leave to a reader a lot

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to be queried, as I have indicated during the hearing of this case, the minutes of the Board did not state clearly and lucidly what were the views of the General Manager regarding the interested parties and the applicant. Unfortunately, even the statement made by the Secretary of the Authority did not improve at all the situation, because he simply said that the Board took into consideration all the relevant circumstances and that it was quite natural that the recommendations contributed to the factors which influenced the said Board to take their decision. But the question remains what were those factors. We were not told in the minutes of the Board. Although I am sure that the Board has taken into consideration the Confidential Reports, both at the first meeting when the first promotion was made and at the second when the new promotion was made, no evaluation appears to have been made as to whether the interested parties had better Confidential Reports than the applicant. Furthermore, there is this difficulty, which becomes obvious in the light of the Confidential Reports I have read, that nothing is said so as to show that the interested parties qualify under the said scheme of service which, as I said earlier, requires a high standard of mathematics and book-keeping knowledge.

I do not want to sound very critical, and definitely I am not under-estimating the difficulties of the Board which was called to decide for the second time the fate of the promotions, particularly in the light of the Confidential Reports before them, but on the other hand, I would like to make it quite clear that in the absence of sufficient material before this Court, this Court is left in the dark and is seriously handicapped in carrying out effectively its duties which is nothing more than carrying out effectively its judicial control over the administrative act of an appointing organ, in order to see whether they have exercised their discretionary powers properly and lawfully. I would, therefore, adopt and apply what has been said by the Full Bench in *Partellides v. The Republic* (1969) 3 C.L.R. 480 where the inadequacy regarding a recommendation was considered as depriving the Court of the ability to examine how and why it was reasonably open to the administrative organ in that case to act upon it. The Court had this to say at p. 484:-

“ we have indeed, noted a general statement, in the relevant minutes of the respondent, that the decisions as to the promotions concerned, including the *sub judice* one—

were reached bearing in mind, *inter alia*, the 'recommendations' of Mr. Hadjioannou (which were made orally at the particular meeting of the respondent on the 3rd July, 1968); but, in the opinion of the Court, without these recommendations being adequately recorded in the said minutes, so as to enable this Court to examine how and why it was reasonably open to the respondent to act upon them, notwithstanding the greater seniority of the appellant and the equally good confidential reports, such a general statement in the minutes of the respondent, as aforesaid, cannot have the effect of rendering the promotion of interested party Gregoriades one which can be treated as having been properly decided upon in the exercise of the particular powers of the respondent".

In the light of all the material before me, I have come to the conclusion that the decision of the Board, in the absence of material indicating what were the oral recommendations of the General Manager, and in the absence of an evaluation as to the Confidential Reports, to answer the question raised in the affirmative, that is to say that the decision of the Board was exercised in a defective manner and was taken in abuse and in excess of their powers. In these circumstances, and as the case has to be re-examined by the Board in the light of this judgment, I think it is no disrespect to counsel if I will not proceed with the rest of the points raised and argued before me, particularly with regard to whether or not the interested parties qualify under the scheme of service. The Order of the Court is, therefore, that the Decision of the Board is *null and void*, but having regard to the numerous adjournments which no doubt were intended to be to the benefit of the applicant, I propose granting him an amount of £15 only towards his costs.

Decision annulled with £15 costs.

*Sub judice decision annulled.
Order for costs as above.*