

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

CHARALAMBOS MICHAEL IERIDES,

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondent.

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(Case No. 103/74).

- Public Officers—Promotions—Post of Secretary Council of Ministers—Scheme of Service—Interpretation—Qualifications of candidates—Duly taken into consideration—Seniority—Not mentioned specifically in the relevant minute of the respondent Public Service Commission—Reference to the “experience” of candidates instead—An all embracing mode of expression which inevitably includes the factor of seniority—From the whole reasoning it cannot be deducted that seniority was not duly taken into consideration—Kousoulides v. Republic (1967) 3 C.L.R. 438 at p. 447 followed—Presumption of regularity—Sub judice decision reasonably open to the Commission—No ground entitling or requiring the Court to interfere established.
- Public Officers—Confidential reports—Irregularity of form—Effect—Superior Officer competent for the preparation and countersigning of the report a brother of the officer concerned—Preparation of report by Minister—A possible situation in which the Minister found it necessary to communicate with the Public Service Commission—Section 45(3) of the Public Service Law, 1967 (Law 33 of 1967).
- Public Officers—Promotions—Chairman of respondent Public Service Commission relying to a certain extent on his personal knowledge of a candidate—Such course a correct one—Necessary limitations to this principle—Frangos v. Republic (1970) 3 C.L.R. 312 at pp. 334–38 followed.
- Public Officers—Promotions—Post of Secretary Council of Ministers—High Office—Appointing Authority vested with wide discretionary powers.

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Administrative Law—Administrative decision—Reasoning—Not necessary to mention therein specifically every factor required by law that was taken into consideration, provided this can be deducted from the whole reasoning.

The applicant together with 12 other candidates was on the 5
11th December, 1973, interviewed by the Public Service Commission for the purpose of promotion to the post of Secretary Council of Ministers, a first entry and promotion post. After the interview the Chairman of the respondent Commission stated* that he considered the interested party as the most suitable officer for the post in question; and that in arriving at this 10
conclusion, he “took into consideration the fact that, according to the note appended at the end of the relevant scheme of service**, the possession of a University Degree is not a requirement for the first filling of the above vacancy”. The Chairman 15
also stated that most of the candidates were more or less known to him (their character, abilities and suitability) “either from personal contact as members of his office, or from oral information obtained from their Heads of Department when filling various vacancies or from previous interviews in connection with 20
the filling of other vacancies, or from general personal knowledge”.

In the end the Commission decided by majority of 3 votes to 1 (one member of the Commission dissenting) that the interested party was on the whole the best and they promoted him to the 25
post in question.

For the period 1. 1. 1972—20. 8. 1972 the confidential report on the interested party was prepared by the Minister of Interior;

* See the relevant minutes at pp. 14-15 *post*.

** The Schemes of Service so far as relevant read as follows:

“Required qualifications

- (a) University Diploma or degree in an appropriate subject, that is, Law, Political Sciences, Economics etc. or equivalent qualification and adequate knowledge of the Government machinery.
- (b) Perfect knowledge of the Greek and very good knowledge of the English language.
- (c) The candidates should be reliable, trustworthy, they must have integrity and possess a high degree of common sense and judgment.
- (d) To be able to assume responsibility and supervise staff.

Note: For the first filling of the post, after the approval of the present scheme of service, a University Diploma shall not be required as stated under (a) above, provided that the candidates shall have a very good education of a level not lower than that of a Secondary School Education, successful service in the Public Service of at least 15 years, including administrative experience and perfect knowledge of the Government machinery”.

and the reason given by respondent for the action taken by the Minister was because the only superior officer that could prepare a confidential report, in the circumstances and countersign same, was the Director-General of the Ministry who happened to be the brother of the interested party.

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Counsel for the applicant in challenging the validity of the above promotion contended:

- (a) That when the chairman said that he took into consideration the fact that according to the note appended at the end of the relevant scheme of service, the possession of a University Diploma or Degree is not a requirement for the first filling of the above vacancy those possessing academic qualifications were discriminated upon as against those who did not possess such qualifications, and so, by this interpretation the respondents were precluded from taking into consideration the academic qualifications of the applicant.
- (b) That the seniority of the applicant was not taken into consideration.
- (c) That the Minister of Interior was not empowered to prepare the confidential reports in respect of the interested party for the period 1. 1. 1972—20. 8. 1972 when the latter was performing the duties of District Officer, Nicosia.
- (d) That the personal knowledge of the candidates by the Chairman of the respondent Commission was not a proper factor to be taken into consideration.

Held, (1) that there has been no misinterpretation of the note in the scheme of service regarding the qualifications; that a distinction had to be drawn between a University Degree as part of the issue of merit, as against a University Degree constituting part of the minimum required qualifications under the scheme of service; that the interpretation of the note in the scheme of service by the Chairman did not exclude those qualified and there is nothing to suggest that the qualifications of the candidates were not duly taken into consideration by the respondent Commission. This is borne out from the fact that the personal files and the confidential reports on the candidates already in the service, as stated in the relevant minute, were also taken into consideration (pp. 18—19 *post*).

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2(a) That the reference in the relevant minutes of the respondent Commission to the “experience” of the candidates was an all embracing mode of expression which inevitably includes the factor of seniority and must have been used because of the reference to the requirement of administrative experience in the public service. 5

2(b) That in any event, from the whole reasoning of the *sub judice* decision, it cannot be deducted that seniority was not duly taken into consideration; that, furthermore, it is not necessary in the reasoning of an administrative decision to mention specifically every factor required by Law that was taken into consideration, provided this can be deducted from the whole reasoning (see Tsatsos on the Recourse for Annulment, 3rd ed. p. 240 and *Kousoulides v. Republic* (1967) 3 C.L.R. 438 at p. 447); and that in the absence of any concrete evidence to that effect and because of the presumption of regularity of administrative acts an inquiry was presumed to have been carried out (see *Lordos and Others v. The Republic* (1974) 3 C.L.R. 447 at p. 457 and *The Republic v. Ekkeshis* (1975) 3 C.L.R. 548). 10 15

(3) That as there is no provision in the Law or the General Orders, as to who prepares confidential reports in respect of officers who have no Head of Department above them or when, for some reason or other, it is not advisable for the Head of the Department to prepare confidential reports, the preparation of the confidential reports by the Minister of Interior may be considered as a communication made under section 45(3) of the Public Service Law, 1967 (Law 33/67) (pp. 20–22 *post*). 20 25

(4) That in the absence of any provision of Law to the contrary effect the course, adopted by the members of the Commission, of taking into account their personal knowledge of the candidates, does not amount to a sufficient reason for annulling the appointment of the interested party (principles laid down in *Frangos v. The Republic* (1970) 3 C.L.R. p. 312 at pp. 334–338 adopted and followed; see also Conclusions of the Jurisprudence of the Greek Council of State (1929–1959) p. 356 and Decisions Nos. 923/55 and 1809/58 of the Greek Council of State). 30 35

(5) That bearing in mind that there is a fully reasoned decision concerning the filling of one of the most senior posts in the service; and that the appointing authority is vested with quite wide discretionary powers in selecting the most suitable candidate for appointment to a high office in the administrative structure (see 40

Frangos, supra, at p. 343) the *sub judice* decision was reasonably open to the respondent Commission and no ground entitling or requiring the Court to interfere with such decision has been established.

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Application dismissed.

Cases referred to:

Kousoulides v. Republic (1967) 3 C.L.R. 438 at p. 447;

Lordos & Others v. Republic (1974) 3 C.L.R. 447 at p. 457;

Republic v. Ekkeshis (1975) 3 C.L.R. 548;

10 *Frangoulides (No. 2) v. Republic* (1966) 3 C.L.R. 676 at pp. 682, 683, 686;

HjiSavva & Another v. Republic (1967) 3 C.L.R. 155;

Frangides v. Republic (1968) 3 C.L.R. 90 at p. 103;

Ellinas v. The Republic (1975) 3 C.L.R. 248;

15 *Frangos v. The Republic* (1970) 3 C.L.R. 312 at pp. 334-338 and 343;

Decisions Nos. 923/55, 1809/58 and 2338/64 of the Greek Council of State.

Recourse.

20 Recourse against the decision of the respondent to promote the interested party to the post of Secretary Council of Ministers in preference and instead of the applicant.

A. *Angelides*, for the applicant.

25 N. *Charalambous*, Counsel of the Republic, for the respondent.

K. *Talarides*, for the interested party.

Cur. adv. vult.

The following judgment* was delivered by:-

30 A. LOIZOU, J.: The applicant, by the present recourse, seeks the annulment of the promotion by the respondent Commission, of Costas Cleanthous, (hereinafter referred to as "the interested party") to the post of Secretary, Council of Ministers.

35 This post is a first entry and promotion post, and as such, it was advertised in the official Gazette of the Republic, in accordance with the provisions of section 31(1) of the Public Service Law, 1967 (Law No. 33/67). There were 19 applicants

* An appeal has been lodged against this judgment which is still pending.

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for the post, but the respondent Commission invited for interview, 13, among whom, the applicant and the interested party; the filling of the vacancy was considered at its meeting of the 11th December, 1973, the relevant minute of which reads as follows:

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“
The Commission considered the merits, qualifications and experience of the candidates interviewed on 2.11.73 and 5.11.73 as well as their performance during the interview (personality, alertness of mind, general intelligence and the correctness of answers to questions put to them, etc.). The Personal Files and the Annual Confidential Reports of the candidates already in the service were also taken into consideration.

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The Commission observed that four of the candidates interviewed (namely Messrs. C. N. Nicolaides, E. Constantinides, K. G. Spatharis and N. E. Metaxas) were serving in the Government and were holding posts with higher salary scales than the remaining candidates. However, none of them appeared to the Commission during the interview to stand out as a strong candidate for appointment to the post of Secretary, Council of Ministers. Furthermore, the Commission observed that one of these candidates (namely Mr. N. E. Metaxas) was holding the post of Senior Land Officer and specialised in land matters; in addition, Mr. E. Constantinides was holding the post of Senior Industrial Relations Officer, in the Ministry of Labour and Social Insurance, and received special training in Labour Administration and Industrial Relations.

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After considering the above and after taking into consideration all the facts appertaining to each one of the candidates and after giving proper weight to the merits, qualifications, abilities and experience of these candidates, as well as to their suitability for appointment to the above post as shown at the interview, the Chairman and the Members of the Commission came to the following conclusion:

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Chairman: He considered Mr. C. Cleanthous as the most suitable officer for the above post. In arriving at this conclusion, the Chairman took into consideration the fact that, according to the note appended at the end of the relevant scheme of service, the possession of a University

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5 Degree is not a requirement for the first filling of the above
vacancy, after the approval of the scheme of service by
the Council of Ministers. It is a fact that a number of
other candidates have satisfactory service in the Public
Service, including administrative experience and thorough
10 knowledge of Government machinery, but they should be
reliable, trustworthy, they must have integrity, they must
possess a high degree of common sense and judgment and
also be able to assume responsibility and supervise staff.
The Chairman took also into consideration the fact that
15 the vacant post to be filled was only one. Most of the
candidates were more or less known to the Chairman
(their character, abilities and suitability) either from per-
sonal contact as members of his office, or from oral infor-
mation obtained from their Heads of Department when
filling various vacancies or from previous interviews in
connection with the filling of other vacancies, or from
20 general personal knowledge. In addition to the above, the
Chairman took into consideration the long and satisfactory
service of Mr. Cleanthous in the Government, particularly
his service as Acting District Officer Kyrenia and later on
as Assistant District Officer, Nicosia. Having all the
above in mind, the Chairman came to the above conclusion
25 that Mr. C. Cleanthous was the best and most suitable
officer for the post of Secretary, Council of Ministers.

30 M. Economopoulos and Y. Louca: They held the view
that the long experience of Mr. C. Cleanthous in the
Government service as well as his experience as an Assistant
District Officer together with his experience as an Acting
District Officer, render the officer in question as the most
suitable officer for promotion to the post of Secretary,
Council of Ministers.

35 D. Protestos: He considered Mr. Ch. Ierides as the most
suitable officer for the post of Secretary, Council of Mini-
sters.

40 Bearing in mind the above, the Commission decided by
majority of 3 votes to 1 (Mr. D. Protestos dissenting) that
Mr. C. Cleanthous was on the whole the best and that he
be promoted to the permanent post of Secretary, Council
of Ministers, w.e.f. 1.1.74."

It will be helpful to refer, also, to the scheme of service for

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the post, to the extent that its contents are relevant to the present case. It reads:

“ Required qualifications:

- (a) University Diploma or degree in an appropriate subject, that is, Law, Political Sciences, Economics etc. or equivalent qualification and adequate knowledge of the Government machinery. 5
- (b) Perfect knowledge of the Greek and very good knowledge of the English language.
- (c) The candidates should be reliable, trustworthy, they must have integrity and possess a high degree of common sense and judgment. 10
- (d) To be able to assume responsibility and supervise staff.

Note: For the first filling of the post, after the approval of the present scheme of service, a University Diploma shall not be required as stated under (a) above, provided that the candidates shall have a very good education of a level not lower than that of a Secretary School Education, successful service in the Public Service of at least 15 years, including administrative experience and perfect knowledge of the Government machinery.” 15
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The applicant entered the Government service as a clerk in the Supplies Department, on the 8th February, 1943. He, eventually, became administrative officer 1st Grade in the General Administrative Staff on the 1st April, 1962 and Senior Administrative Officer, on the 15th July, 1971. He is a graduate of the Greek Gymnasium of Famagusta, passed the various Government examinations including the Turkish Lower. He became an Associate Member of the Chartered Institute of Secretaries of U.K. in 1970; since 1971 he is the holder of an L.L.B. (Honours) Degree of the London University. He also passed the Cyprus Bar examinations in 1973. 25
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The interested party, apart from a spell as temporary clerk in 1940–1941, joined the Government Service as a temporary clerk 4th Grade on the 1st November, 1942. On the 1st October, 1967, he became Administrative Officer 1st Grade and on the 15th July, 1971 he was promoted to the post of Senior Administrative Officer. Between the years 1968–1973 he acted or 35

performed the duties, at first, of Assistant District Officer, Kyrenia and later, as District Officer, Kyrenia and Nicosia.

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5 He attended the Pancyprian Gymnasium and the Samuel School, as well as the St. George's Institution. He passed the various Government examinations, including Turkish preliminary and ordinary. He enrolled as a member of Lincoln's Inn, London and passed Part I of the Bar Exams and successfully completed at the Victoria University of Manchester, a course in public administration in the Department of Overseas Administrative studies during the session 1967-1968 (see *exhibit* 4).

10 The applicant has been favourably reported upon throughout his career. The first special confidential report is in respect of the first six months of 1958, to be followed by one for the remaining of 1958, until May, 1959 and then, a special confidential report for 1.1.1963 to 30.3.1965 and 1.4.1965 to 31.8.1966, whereby, in view of the assessment made in the said two reports, the action recommended was that he should be earmarked for early promotion to any post in the Public Service for which he is suitable. The remaining confidential reports are special ones, but no recommendation is made for any action to be taken in view of the assessment made therein, nor is there any reason given for submitting a special confidential report, with the exception of the 1968 report where the reason given was that the officer was highly qualified and merited promotion to a higher post and that the action recommended, in view of the assessment made therein, was consideration for promoting him to a higher post.

20 The interested party has, likewise, been favourably reported upon. The first confidential report on him was for the first six months of the year 1959, after six months service in the Lands and Surveys Department, and in view of the assessment made therein, the action recommended was that the officer be considered for accelerated promotion to the 2nd grade. Then, there follows a special confidential report for 1959-1960, and one for the year 1960-1961 from the Director-General of the Ministry of Interior, who happened to be his brother. Then, for the year 1969 he is reported upon by the District Officer of Nicosia and Kyrenia, very favourably, and in 1970, the observations made are that he merited promotion to the post of Senior Administrative Officer. The 1971 report is again prepared by the Director-General of the Ministry of Interior who notes therein that he is his brother, and there is a special

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confidential report for the period 1.1.1972 by the then Minister of Interior, who gives as reasons for submitting a special confidential report on the officer, the excellent work and great zeal shown by him in the execution of his duties as Assistant District Officer for several years and as Ag. District Officer for a period of nine months. This period coincides with the period the interested party performed the duties of District Officer, Kyrenia and the period of 1.1.1972 to 20.8.1972 when he performed the duties of District Officer, Nicosia. The action recommended, in view of the assessment made therein, was promotion at the first available opportunity. Subsequent to that report, in fact the last one before the *sub judice* decision was taken, is again a special confidential report, this time prepared by the District Officer, Nicosia, Mr. Kythreotis, for the period 1.8.1972–28.2.1973, where is to be found “the following observations which may assist in arriving at a fair and balanced evaluation of this officer: This officer has an excellent knowledge of Greek and English. He has done excellent work as Registrar for the Electoral Rolls for Nicosia District for the Presidential elections...”. The action recommended, in view of the assessment made therein, was that the interested party’s claims for promotion to the post of District Officer, be favourably considered, having in mind his long and fruitful experience both in Secretariat and District Administration work.

Having dealt with the factual aspect of the case, I turn now to the first ground of law relied upon in support of this application, namely, that the principle of equality safeguarded by Article 28 of the Constitution, has been violated.

It has been argued, in this respect that when the Chairman said that he took into consideration “the fact that according to the note appended at the end of the relevant scheme of service, the possession of a University Diploma or Degree is not a requirement for the first filling of the above vacancy” those possessing the academic qualifications were discriminated upon as against those who did not possess such qualifications, and so, by this interpretation, the respondents were precluded from taking into consideration the academic qualification of the applicant.

The meaning that this passage conveys to me, as I read it, is that the possession of a University Diploma or Degree or other equivalent qualification was not an indispensable qualification for the first filling of the post, provided of course, the candidates

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had, (a) very good education of a level not lower than that of a secondary school of education, (b) successful service in the Public Service of at least 15 years, including administrative experience, and (c) perfect knowledge of the Government machinery.

- 5 There has been no misinterpretation of the note in the scheme of service regarding the qualifications. A distinction had to be drawn between a University Degree, etc. as part of the issue of merit, as against a University Degree constituting part of the minimum required qualifications under the scheme of service.
- 10 What the Chairman said, was that a University Degree was not part of the minimum requirements for candidates at the first filling of the post in question. The interpretation of the note in the scheme of service by the Chairman did not exclude those qualified, and there is nothing to suggest that the qualifications
- 15 of the candidates were not duly taken into consideration by the respondent Commission. This is borne out from the fact that the personal files and the confidential reports on the candidates already in the Service, as stated in the relevant minute, were also taken into consideration, where it is also stated, "After taking
- 20 into consideration all the facts appertaining to each one of the candidates and after giving proper weight to the merits, qualifications, abilities and experience of those candidates, etc.....".

- The aforesaid extract from the minute, leads me, also, to the conclusion that their seniority and their career, including the
- 25 posts held before the *sub judice* decision was taken, were before them as they constituted a conspicuous part of their personal files and confidential reports. It should be presumed that all material in the file was taken into consideration.

- The reference to the experience of these candidates to be found
- 30 in the minute which has been invoked by learned counsel for the applicant in support of his argument that seniority was not taken into consideration, was an all embracing mode of expression, which inevitably includes the factor of seniority and must have been used because of the reference to the requirement of administrative experience in the Government Service. In any event,
- 35 from the whole reasoning, it cannot be deducted that seniority was not duly taken into consideration. Furthermore, it is not necessary in the reasoning of an administrative decision to mention specifically every factor required by law that was taken into
- 40 consideration, provided this can be deducted from the whole reasoning. (See Tsatsos Application for Annulment, 3rd ed.

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p. 240). In the case of *Andreas Kousoulides v. The Republic* (1967) 3 C.L.R. 438 at 447, where “seniority” was not mentioned specifically in the relevant minutes of the Commission and because of that, it was argued that the seniority of the applicant in that case was not taken into account duly, or at all, it was said by Triantafyllides, J., 5

“Seniority was a matter which could clearly be seen on the face of the data set out in the Confidential Reports files and it could not have escaped the notice of the Commission. It is clear from the minutes of the 29th June, 1961, that right down to the very end the ‘qualifications and merit’ of the candidates were being considered and the said terms are, indeed, generic and wide enough to cover ‘seniority’ as well”. 10

No reasons for dismissing this ground of law would be complete, if no reference was made to the case of *Paraskevas Lordos and Others v. The Republic* (1974) 3 C.L.R. 447 at p. 457, where it was held, that in the absence of any concrete evidence to that effect and because of the presumption of regularity—*Omnia preasumuntur rite esse acta* (all acts are presumed to have been done rightly) an inquiry was presumed to have been carried out. This is a principle referred to with approval by the Full Bench in the case of *The Republic v. Nicolas Ekkeshis* (1975) 3 C.L.R. 548. 15 20

The next ground of law relied upon by the applicant, relates to the confidential report on the interested party prepared by the then Minister of Interior, for the period 1. 1. 1972–20. 8. 1972, when the interested party was performing the duties of District Officer, Nicosia. 25

The explanation given by learned counsel for the respondent for the preparation of that confidential report by the Minister, is because the only superior officer that could prepare a confidential report, in the circumstances, and countersign same, was the *Director-General of the Ministry*, who happened to be the brother of the interested party. On previous occasions, however, when the interested party was serving in the Ministry itself, confidential reports were indeed prepared by the said *Director-General*, but a record was made on each one of them with regard to their relationship. 30 35

The question of confidential reports and recommendations emanating from Ministers, came up for consideration in the case 40

of *Frangoulides (No. 2) v. The Republic* (1966) 3 C.L.R. 676, *HjiSavva and Another v. The Republic* (1967) 3 C.L.R. 155, *Frangides v. The Republic* (1968) 3 C.L.R. 90 and *Ellinas v. The Republic*, (1975) 3 C.L.R. 248. As stated in the *Frangoulides* case (*supra*) at p. 683-

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“ ... in certain circumstances a Minister could, perhaps, place his views regarding the candidates for a post in a Department of the Ministry in his charge, before the Public Service Commission (which we do not purport to decide in these proceedings) there is no doubt in our mind that he cannot do so in substitution of the views of the Head of Department, (or the Officer acting for him) as reflected in the annual confidential reports concerning a subordinate officer.”

Furthermore, section 45(3) of the Public Service Law, provides that -

“ Where in any special case the appropriate authority concerned (and appropriate authority is defined in section 2 of the Law as meaning, *inter alia*, a Minister usually acting through the Director-General of his Ministry) considers that its own views on an officer should be brought to the notice of the Commission, nothing in this Law shall preclude such authority from requiring that the confidential report on such officer be transmitted through it for the expression therein of its own views or from sending to the Commission such views, and in any such case the views of the appropriate authority shall form part of the confidential report on the officer.”

On the other hand, there is no provision in the Law or the General Orders, as to who prepares confidential reports in respect of officers who have no Head of Department above them or when, for some reason or other, it is not advisable for the Head of the Department to prepare confidential reports. Should officers who find themselves in such situations be left without any confidential reports or is it not one of the possible situations in which a Minister may find it necessary to communicate with the Commission? It appears that in such circumstances the communication of the Minister may be considered as having been made under section 45(3) of the Public Service Law. In the case of *Frangides v. The Republic* (1968) 3 C.L.R. p. 90 at p. 103, a case where the effect of a letter addressed by a

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Minister to the Public Service Commission was considered, it was stated,

“ He had apparently in mind the judgment given in *Frangoulides (No. 2)* and *The Republic (1966)* 3 C.L.R. 676; that case has primarily decided that a Minister cannot act in the place of a Head of Department for the purpose of preparing Confidential Reports on officers of such Department; it has not laid down any hard and fast rule for all possible situations in which a Minister may find it necessary to communicate with the Commission; but it does indicate the need to keep matters, pertaining to the competence of the Commission, on the public service level and avoid, as far as possible, the Ministerial *i.e.* political level.”

As already stated, this, in my view, was one of the possible situations in which the Minister found it necessary to communicate with the Commission. If, however, this confidential report was to be treated as an irregularity of form, then, it had to be shown that this confidential report exercised decisive influence on the Commission or created doubts or be capable of creating doubts, if it has not exercised such an influence and that it was a substantial irregularity. (See *Frangoulides case (supra)* pp. 682, 683 and 686, where the decision was annulled because, it was a common ground that it had materially affected the decision). Furthermore, inspite of the existence of that report, the applicant was not promoted to the post of District Officer which was considered sometime after the preparation of that report and in respect of which post he was a candidate. There follows another special confidential report, this time by Mr. Kythreotis, the then District Officer of Nicosia, to which we have already referred hereinabove, and which is in not less favourable terms than the one prepared by the Minister which added nothing to the overall picture of the interested party gathered from the totality of the confidential reports and in respect of which no particular reference is made by the respondent Commission.

The next ground of law is that the personal knowledge of the Chairman of the respondent Commission was not a proper factor to be taken into consideration. In this respect, I have been referred to the principle enunciated by the Greek Council of State in a number of decisions summed up in the Conclusions of the Greek Council of State (1929-1959) at p. 356, and the case of *Frangos v. The Republic (1970)* 3 C.L.R. p. 312 at pp.

334–338, where the whole position was reviewed and with the approach of which I am in full agreement; it was held there that in the absence of any provision of law to the contrary effect, the course adopted by the members of the Commission was properly open to them, and it did not amount to a sufficient reason for annulling the appointment of the interested party. In Decision No. 923/55 of the Greek Council of State, it is stated:—

“ It is erroneous to contend that contrary to law there were taken into account the personal views of the members of the Board, since it is not prohibited by any legislative provision to take into account personal views in conjunction with the material and formal qualifications of the persons who are being evaluated, which, as it is to be derived from the records in the file, are not inconsistent with such views.”

The only limitations that are necessary regarding the application of this principle being, *inter alia*, those to be found in the Case No. 1809/58 of the Greek Council of State, where it was stated:—

“ And though the personal views of, or information possessed by, members of the board, about a person who is being considered, constitute factors to be lawfully taken into account for the purpose of reaching a decision, nevertheless, if such factors are not taken into account in order merely to strengthen the view formed on the basis of the contents of the personal file of the person under consideration, but as independent factors not being in accord with the contents of the personal file of a public officer, then they should be recorded in detail, in the sense that there should be mentioned in the decision the specific facts on the basis of which a personal view was formed, or in case of information the specific facts constituting the contents thereof.”

Both decisions were cited with approval in the *Frangos* case (*supra*) and I respectfully agree with this approach.

In our case, there was nothing adverse said about any of the candidates, and in particular, the applicant, as it was the case in Decision No. 1809/58, where, in respect of the applicant therein, it was stated that there were reservations regarding his self-respect, not borne out by the material in the file and no reference was made to the particular circumstances from which that personal view was formed.

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It is obvious, that those factors were taken into account, merely to strengthen the view formed on the basis of the contents of the personal file of the person under consideration and not as an independent factor not being in accord with the contents of the personal file of the applicant. It was also recorded that the Chairman took into consideration the long and satisfactory service of Mr. Cleanthous in the Government, particularly his service as Acting District Officer, Kyrenia and later, as Assistant District Officer, Nicosia, facts borne out from the material in the file. It is also apparent that this view was not, as such, of a decisive importance, but it was weighed together with other and more weighty considerations. In the circumstances, this ground of law also fails.

Having reached the aforesaid conclusions and bearing in mind that we have here a fully reasoned decision concerning the filling of one of the most senior posts in the Service and that the appointing authority is vested with quite wide discretionary powers in selecting the most suitable candidate for appointment to a high office in the administrative structure (see *Frangos (supra)* p. 343 and Decision No. 2338/64 of the Greek Council of State), I hold that the *sub judice* decision was reasonably open to the respondent Commission and that no ground entitling or requiring me to interfere with the *sub judice* decision has been established.

In the result, this recourse is dismissed with no order as to costs.

*Application dismissed.
No order as to costs.*