

1980 August 11

{A Loizou, J}

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

ANNA SAVVA PIPERI AND OTHERS,

Applicants,

v

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondent

(Case Nos 75/79 and 83/79)

5 *Public Officers—Appointments and promotions—Head of Department—Presence at meeting of Public Service Commission—Director-General of Ministry—Whether he can be represented by another Senior Officer of the Ministry—Section 44(3) of the Public Service Law, 1967 (Law 33/1967)*

10 *Public Officers—Appointments and promotions—Public Service Commission—Participation of member of at earlier meeting when decision as to candidates to be interviewed was taken and absence at final meeting when the selection of the candidates to be promoted was made—Whether irregular*

Public Officers—Appointments and promotions—Several vacant posts—Filling of by stages—Whether irregular

15 *Public Officers—Appointments and promotions—First entry and promotion post—Labour Officer 2nd Grade—Reasonably open to the respondent Commission to decide as it did on the material before it including the confidential reports and the recommendations of the Head of Department*

20 The applicants in these recourses, all Assistant Labour Officers, were candidates for promotion to the vacant post of Labour Officer 2nd Grade in the Ministry of Labour and Social Insurance, a first entry and promotion post

The respondent Commission at first decided that the vacancies

in the post be advertised and in a subsequent meeting decided that 84 candidates, including the applicants and the interested parties, be invited for interview. At its final meeting on the 22nd June, 1980, it first dealt with the filling of eleven vacancies and then proceeded with the filling of the remaining vacancies. In taking its decision regarding the filling of the above post the Commission* took into consideration all the facts appertaining to each one of the candidates interviewed and gave proper weight to their merits, qualifications, abilities and experience. The Senior Employment Officer who was present at the meeting of the Commission, as representative of the Ministry of Labour and Social Insurance stated that all the interested parties “were serving in the post of Assistant Labour Officer, their services had been very satisfactory and that he considered them suitable for the post of Labour Officer, 2nd Grade”.

Upon a recourse against the promotion and/or secondment of the interested parties to the above post in preference and instead of the applicants, counsel for the applicants contended:

- (a) That the absence of the Director-General of the Ministry of Labour and Social Insurance from the meeting of the respondent Commission of the 22nd June, when the *sub judice* promotions and secondments were decided, vitiates such decision in that there is no provision in the Public Service Law, 1967 (Law 33/1967) empowering the delegation to any other person of the right and or duty of the Director-General to appear and give his recommendations to the respondent Commission.
- (b) Alternatively, that the presence of the Senior Employment Officer, on behalf of the Director-General and as representative of the Ministry of Labour and Social Insurance contravenes section 44(3)** of Law 33/1967 and hence the decision taken by the respondent Commission is a nullity.

* See its relevant minutes at pp. 382-83 *post*.

** Section 44(3) provides:

“In making a promotion, the Commission shall have due regard to the annual confidential reports on the candidates and to the recommendations made in this respect by the Head of Department in which the vacancy exists”.

(c) That a member of the respondent Commission, namely, Mr. Louca, appears to have taken part in some of the earlier meetings of the respondent Commission at which a crucial decision, namely, which of the candidates were to be interviewed, was taken and withdrew at the final meeting of the 22nd June, a fact that vitiates the *sub judice* decision.

(d) That the respondent Commission considered the promotions by stages and therefore its decision is invalid.

Held, (1) that once the Senior Employment Officer is stated to be the Head of the Department and there is nothing to the contrary, there is no contravention of the law on account of his presence there, both at the interviews where he put several questions, along with the Commission to all the candidates on matters of general knowledge and on matters connected with the duties of the post as shown in the relevant scheme of service and also when the *sub judice* was taken, where he made a statement, *inter alia*, that the services of the candidates selected for promotion had been very satisfactory and that he considered them suitable for the post of Labour Officer, 2nd Grade; and that, accordingly, contentions (a) and (b) must fail.

(2) That there is no merit in the ground of law, regarding the participation of a member of the Commission at earlier meetings only and his absence at the final one, as nothing adverse to the applicants was decided, being themselves among those invited for interview, and there does not appear to have taken place anything that has materially affected the *sub judice* decision: and that, accordingly, contention (c) must fail.

(3) That there was nothing irregular in the course of considering the promotions by stages, which was followed by the Commission, as in all such stages the Commission considered all the facts appertaining to each one of the candidates; and that, accordingly, contention (d) must fail.

(4) (*After considering the career and the confidential reports of applicants and the interested parties—vide pp. 386-395 post*).

That looking at the material before the respondent Commission as a whole, including all relevant factors that under section 44(3) of Law 33/67 had to be taken into consideration, this Court has come to the conclusion that the *sub judice* decision was reasonably

open to it and there has been no wrong exercise of discretion or abuse or excess of power, nor any misconception of fact in any respect; and that, accordingly, the recourses must be dismissed.

Applications dismissed.

Cases referred to:

Ioannou v. The Republic (1976) 3 C.L.R. 431 at p. 437;

Hadjigregoriou v. The Republic (1975) 3 C.L.R. 477;

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

Recourses.

Recourses against the decision of the respondent whereby the interested parties were promoted or seconded to the post of Labour Officer, 2nd Grade in preference and instead of the applicants.

Ph. Valiantis for *L. Papaphilippou*, for applicant in recourse No. 75/79.

L. N. Clerides, for applicants in recourse No. 83/79.

G. Constantinou (Miss), for the respondents.

Cur. adv. vult.

A. LOIZOU J. read the following judgment. By these two recourses which have been heard together as they present common questions of law and fact, the applicants challenge the validity of the act and/or decision of the respondents by which the interested parties, hereinafter mentioned, were promoted or seconded to the post of Labour Officer, 2nd Grade, with effect from the 1st November, 1978.

The applicant in recourse No. 75/79, challenges the promotion of interested party Antonis I. Christophi to the aforesaid post and the secondment to such post of interested parties Georghia L. Sitarou, Andreas S. Vassiliou, Demetrios St. Mytides, and Michael Christou.

The three applicants in recourse No. 83/79 challenge the secondment to the permanent post of Labour Officer 2nd Grade of Maria Gregoriou, Andrea Vassiliou, Michael Christou, and the secondment to the temporary development post of Labour Officer, 2nd Grade of interested parties Michael Antoniou, Andreas N. Morphitis, Ioannis Michaelides and Yiannakis Demosthenous.

The post of Labour Officer, 2nd Grade is, according to the relevant scheme of service, a first entry and promotion post. As it appears from the statement of facts the respondent Commission decided that vacancies in the said post be advertised allowing two weeks for the submission of applications. The relevant advertisement was published in the Official Gazette of 25th November, 1977, under Notification No. 1401 and in response to it 101 applications were submitted. However, due to an oversight in the above-mentioned advertisement, the respondent Commission at its meeting of the 28th January, 1978, (enclosure No. 5), *decided that the vacancies in question be re-advertised*, allowing two weeks for the submission of fresh applications. All persons, who had already applied for appointment, were informed that they should submit new applications if they were still interested for appointment to this post. The new advertisement was published in the Official Gazette of 10th February, 1978 under Notification No. 231 and in response to it 116 applications including the applicants and interested parties, were submitted.

The respondent Commission, at its meetings of 8th April, 1978 (enclosure No. 6), of 17th May, 1978 (enclosure No. 7) and of 16th June, 1978 (enclosure No. 8), decided that 84 candidates, including the applicants and the interested parties, be invited for interview on the 20th, 21st and 22nd June, 1978, and that the Director-General of the Ministry of Labour and Social Insurance should be requested to be present.

At its meetings of the 20th June, 1978 (enclosure No. 9), of 21st June, 1978 (enclosure No. 10), of 22nd June, 1978, (enclosure No. 11) and of 22nd June, 1978, (enclosure No. 12) and in the presence of the Representative of the Ministry of Labour and Social Insurance, the Commission interviewed 59 candidates including the applicants and the interested parties.

The respondent Commission at first dealt with the filling of eleven vacancies, eight permanent and three permanent on secondment or on an unestablished basis, and promoted to the said post officers that were serving on secondment to the said post already. The respondent Commission then proceeded with the filling of the remaining two vacancies to the permanent post of Labour Officer 2nd Grade, four vacancies on secondment or on an unestablished basis in the same post as well as with

the filling of five consequential vacancies in the temporary post of Labour Officer 2nd Grade which were created as a result of the promotion to the corresponding permanent post of six officers.

The relevant minute of the respondent Commission reads as follows: 5

“From the candidates interviewed, the Commission observed that Antonis Ioannou Christofi, Savvas Antoniadis, Andreas Socratous Vasiliou, Demetrios Mytides, Michael Christou, Georghia Leandrou Sitarou, Maria Gregoriou, Yiannakis Demosthenous, Michael Antoniou, Ioannis Michaelides and Andreas N. Morphitis gave very satisfactory replies to questions put to them and generally they proved to be the best candidates for appointment, promotion or secondment to the post of Labour Officer, 2nd Grade. 10 15

The Representative of the Ministry of Labour and Social Insurance stated that all the officers referred to in the preceding paragraph were serving in the post of Assistant Labour Officer, their services had been very satisfactory and that he considered them suitable for the post of Labour Officer, 2nd Grade. 20

After considering all the above and after taking into consideration all the facts appertaining to each one of the candidates interviewed and after giving proper weight to the merits, qualifications, abilities and experience of these candidates, the Commission came to the conclusion that the following candidates were on the whole the best. The Commission accordingly decided that the candidates in question be promoted or seconded to the post of Labour Officer, 2nd Grade, w.e.f. 1.11.78, as shown opposite their names: 25 30

Antonis Ioannou Christofi	— to be promoted to the permanent post.	
Savvas Antoniadis	— —do—	35
Andreas Socratous Vassiliou	— to be seconded to the permanent post.	
Demetrios Mytides	— —do—	
Michael Christou	— —do—	
Georghia Leandrou Sitarou	— —do—	40

	Maria Gregoriou	—	to be seconded to the temporary (Dev.) post.
	Yiannakis Demosthenou	—	—do—
	Michael Antoniou	—	—do—
5	Ioannis Michaelides	—	—do—
	Andreas N. Morphitis	—	—do—.”

I find it convenient at this stage to deal with a number of grounds raised in these recourses before referring further to the factual aspects of the case relating to the careers of the applicants and the interested parties and the other grounds of law relevant thereto.

It has been contended on behalf of applicant Piperi that the absence of the Director-General from the meeting of the respondent Commission of the 22nd June, when the *sub judice* promotions and secondments were decided, vitiates such decision in that there is no provision in the Public Service Law 1967, (Law No. 33 of 1967, hereinafter referred to as the Law), empowering the delegation to any other person of the right and/or duty of the Director-General to appear and give his recommendations to the respondent Commission.

Alternatively, it was contended that the presence of Mr. Protopapas, the Senior Employment Officer, on behalf of the Director-General and as representative of the Ministry of Labour and Social Insurance contravenes section 44(3) of the Law and hence the decision taken by the respondent Commission is a nullity.

Section 44(3) of the Law reads as follows:

“(3) In making a promotion, the Commission shall have due regard to the annual confidential reports on the candidates and to the recommendations made in this respect by the Head of Department in which the vacancy exists”.

Counsel for the respondent Commission argued that in section 2 of the Law, “Head of Department” is defined as meaning the officer in charge of a department and that in the present case the officer in charge of the department was Mr. Protopapas, Senior Employment Officer and not the Director-General of the Ministry who is the “appropriate authority”, but he is not the Head of the Department.

It was further argued that it is possible that the Director-General may not have had personal knowledge of the candidates and in such a case by his recommendations he might have been considered as having misled the respondent Commission and so rendered any decision void. In fact it was pointed out this was the attitude of this Court in the case of *Anna Piperi and Another v. The Republic* (1968) 3 C.L.R., p. 366, where at p. 372, it is stated:—

“It is clear, therefore, that Mr. Sparsis, did not, really, have thorough—direct or indirect—knowledge of ‘the abilities and general behaviour’ of the Applicants and the Interested Party ‘as observed in actual practice in the execution of their duties’, when making his recommendations to the Commission, in January 1967; the Commission, thus, acted under a material misconception—no doubt bona fide on both sides—as to the effect and decisiveness of the recommendations of Mr. Sparsis”.

Once Mr. Protopapas is stated to be the Head of the Department and there is nothing to the contrary, I find that there is no contravention of the law on account of his presence there, both at the interviews where he put several questions, along with the Commission, to all the candidates on matters of general knowledge and on matters connected with the duties of the post as shown in the relevant scheme of service and also when the *sub judice* decision was taken, where he made a statement, *inter alia*, that the services of the candidates selected for promotion had been very satisfactory and that he considered them suitable for the post of Labour Officer, 2nd Grade.

The second ground of law raised on behalf of the same applicant is that a member of the respondent Commission, namely, Mr. Louca, appears to have taken part in some of the earlier meetings (8th April, 17th May and 16th June) of the respondent Commission at which a crucial decision, namely, which of the candidates were to be interviewed, was taken and withdrew at the final meeting of the 22nd June, a fact that vitiates the *sub judice* decision. As seen from the relevant minutes, Mr. Louca appears to have taken part in some of the preliminary meetings of the respondent Commission (enclosures Nos. 4–8) when the request of the Director-General of the Ministry of Labour and Social Insurance for the filling of the

vacancies was considered by the Commission and decided that such vacancies be advertised; also at the meeting when the re-advertisement of the vacancies was thought necessary because of a technical omission in the earlier advertisement and at the meetings when the respondent Commission decided whom to interview and when. Mr. Louca, however, withdrew from the meeting of the 20th June (enclosure No. 9) after informing the respondent Commission that he was related to one of the candidates. It was after that that the interviews of the candidates took place up to the final meeting when the *sub judice* decision was taken.

I find no merit in this ground of law either as nothing adverse to the applicants was decided being themselves among those invited for interview, nor there appears to have taken place anything that has materially affected the *sub judice* decision.

The third ground in this group is that the respondent Commission considered the promotions by stages and therefore the decision is invalid.

As it appears from the relevant meetings of the respondent Commission, it considered the filling of all the vacancies at that meeting and started selecting and proceeded at first with the filling of eight vacancies in the permanent post of Labour Officer, 2nd Grade, and it chose Phaedias I. Panayides who was serving on secondment in a permanent post of that grade, as suitable for promotion and decided so accordingly; but it did not examine in that respect all the facts appertaining to each one of all the candidates as it says in its relevant minute (enclosure 12, page 3) and it then went on to examine the seven remaining vacancies in the permanent post of Labour Officer, 2nd Grade, three vacancies on secondment or on an unestablished basis in the same post, as well as of one consequential vacancy in the same post created as a result of the promotion of Phaedias Panayides. The respondent Commission once more considered all the facts appertaining to each one of the remaining candidates and decided as to whom to appoint or promote to the permanent post and then went on to examine the two remaining vacancies in the permanent post, the four vacancies on secondment or on an unestablished basis in the same post as well as with the filling of five consequential vacancies in the temporary employment post of Labour Officer, 2nd Grade, which were created as a result of the promotion, to the corresponding permanent post

of the six officers referred to earlier in their minutes. It was then that the promotions and secondments challenged by these recourses were decided upon by the respondent Commission and there was nothing, in my view, irregular in that course being followed by it. 5

Having answered these three grounds, I find it now necessary for the purpose of examining the remaining grounds to refer to the careers, qualifications and the confidential reports of the applicants and the interested parties.

Applicant Anna Piperi (recourse No. 75/79) first entered 10
the Government service on daily wages as a Labour Assistant
in 1956. She was appointed permanently to that post on the
1st October, 1961, and promoted to the post of Assistant Labour
Officer permanently on 15.6.1968.

In the confidential report for the year 1975 she is rated as 15
above average in six out of ten ratable items and excellent in
the other four. These is a comment by the reporting officer
that she is keen and interested in her work which she carries out
with zeal and efficiency and that she is most capable in the type
of work she is doing. 20

For the year 1976 she is rated as above average on all ratable
items and there is a comment that she is hard-working with a
high sense of responsibility but with limitations as to adaptability,
imagination and creativity and that she needs further
training and guidance. 25

For the year 1977 she is also described as above average on all
ratable items and there is the comment that she is hard-working
with a high sense of responsibility and that "with more reading
and initiative she can improve her standard". It may be
observed that each confidential report was prepared by a different 30
reporting officer and that the countersigning officer of the first
report was different from the one of the last two reports who is
Mr. Antonis Protopapas, the Senior Employment Officer, we
already referred to.

With regard to the three applicants in Recourse No. 83/79, 35
applicant Christos Vasiliou entered the Government service as a
clerk on daily wages on the 24th October, 1966. He became a
Labour Assistant at first on an unestablished basis and as from

the 1st March, 1969, permanently and then Assistant Labour Officer on the 15th November, 1969.

5 In the confidential report for the year 1975 he is rated as above average in six ratable items and excellent on reliability, initiative and courtesy in dealing with people. The comments of the reporting officer are as follows: "He carries out inspections under the Social Insurance Laws, Termination of Employment Law and the Holidays with Pay Law. He carries out such duties very efficiently. He is well acquainted with the provisions of
10 the above-mentioned laws and has a good knowledge of all the work carried out in this office. He is a reliable and hard-working officer".

15 Needless to say that they come from the same reporting officer. The countersigning officer is again the same, who agrees, but he says that his initiative, however, has been overestimated.

For the year 1976 he is rated in the same way as in 1975 and the reporting officer says that he has nothing more to add to that year's report for this officer and the counter-signing officer agrees to that.

20 For the year 1977 he is again reported in the same way except with general intelligence given as excellent and the comments of the reporting officer are as follows:

25 "He carries out the duties of an Inspector under the Social Insurance Law, the Termination of Employment Law and the Holidays with Pay Law to my best satisfaction. He is well acquainted with the provisions of above-mentioned Laws and has a good knowledge of all the work carried out in this office. Mr. Vassiliou is strongly recommended for promotion to the post of Labour Officer II Grade".

30 The countersigning officer says for him: "Efficient of above average ability".

35 Applicant Gregoris Thalassinou, started as a Labour Assistant (unestablished) on the 1st December, 1956, and on a permanent basis on 1st October, 1961. He was placed as Assistant Labour Officer on secondment on 1st August, 1966, and then on a permanent basis on 1st May, 1968.

In the confidential report for the year 1975 he is rated as

average on seven ratable items and above average on another three. The comments on him include that he avoids to undertake responsibilities, that he prefers to carry out work of written nature and not dealing directly with the public and as being most suitable for clerical or administrative work. The countersigning officer also agrees to this assessment. 5

A similar assessment is to be found for the year 1976 by a different reporting officer and a different countersigning officer and he is described that he presents problems in dealing with the public and that due to psychological reasons he lacks imagination and creativity and his work occasionally needs checking. Under supervision and proper guidance he may be relieved of these constraints and be able to work to his full capacity. 10

For the year 1977 he is described as above average on six ratable items, excellent on two and average on another two. 15

Applicant Pantelis Miltiadous started as a Clerical Assistant on the 17th July, 1957, he became a Labour Assistant on 1st June, 1968, and Assistant Labour Officer, first as unestablished and then permanently as from 1st March, 1969.

In the confidential report for the year 1975 he is described as above average and the comment of the reporting officer is that he is capable of carrying out the work of several sections at an acceptable performance usually on written matter. Countersigning officer finds that in dealing with the public is higher than the above average level. 20
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For the year 1976 he is rated on six ratable items as above average and on four as excellent and the reporting officer made the following comment for him: "He is an efficient employee, punctual, shows drive, initiative and imagination. A pleasant personality. Develops easily friendly relations with the public and his colleagues. He has in the past undertaken with success the duties of Labour Officer 2nd Grade in the Industrial Training and Industrial Relations Section. His knowledge, varied experience, maturity and adaptability render him ready for promotion". 30
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For the year 1977 on six ratable items he is rated as above average and on four ratable items as excellent. The comments of his reporting officer are: "He is an efficient employee, shows

high sense of responsibility and devotion to duty. Cooperative and develops easily friendly relations with the public and the staff. Willing to learn and undertake initiative. I consider him to be fit for promotion”.

5 Interested party Antonis Christofi entered the service as an Insurance Clerk on daily wages in 1957, became an Insurance Clerk on an unestablished basis and permanent in that post on the 1st October, 1961. He was promoted to the post of Assistant Labour Officer on the 15th March, 1969.

10 In the confidential report for the year 1975 he is rated as above average on all ratable items and there are the following comments from his reporting officer: “He is an intelligent officer, carrying out his work in a quick and accurate manner. He is capable to undertake and perform new duties with higher
15 responsibilities. The performance and output of his work depends on the way his supervisor is directing him”. And then the countersigning officer had this to say: “He is an intelligent officer, whose performance is not always consistent”.

20 For the year 1976 he is rated as very good on seven ratable items and as excellent on three and the comment of the reporting officer is this: “This officer was transferred to this Section as from the 1st October. He was given the difficult task of collecting data on the number of Cypriots temporarily employed abroad. He has done this job well and quickly. He is very
25 strong in mathematics”.

For the year 1977 he is given on nine ratable items excellent and on one as above average with the following comments from his reporting officer: “He is an active officer with much
30 initiative. He can be entrusted with responsibilities and is not afraid to take decisions; he is able to work with the least supervision. He is particularly good with labour statistics and it is thanks to his efforts that we have built an effective source of informations on the temporary employment of Cypriots abroad. He is fit for promotion”.

35 Interested party Georghia Sitarou started also as a temporary Insurance Clerk, became permanent on the 1st April, 1963, and an Assistant Labour Officer on a permanent basis on 15th March, 1968.

In the confidential report for the year 1975 she is described

as above average with the following comments of the reporting officer: "Mrs. Sitarou is a conscientious and hardworking officer carrying out her duties in an efficient manner and requiring minimum supervision. She is polite and obedient and very co-operative with her colleagues". And then of the countersigning officer: "A matured officer capable of undertaking higher responsibilities". 5

For the year 1976 she is reported on eight items as above average and on two as excellent. The comments of the reporting officer are: "Mrs. Sitarou is a hardworking, obedient and efficient officer. She is polite and performs her duties with minimum supervision". And then of the countersigning officer: "Suitable for promotion". 10

Similar report is to be found for the year 1977.

Interested party Andreas Vassiliou was appointed as a Labour Assistant on an unestablished basis on the 1st September, 1966, and became an Assistant Labour Officer on a permanent basis on the 15th March, 1969. 15

In the confidential report for the year 1975 he is described as above average on nine out of ten ratable items and as average on one. The comments of the reporting officer are: "Mr. Vassiliou is in charge of the Employment and Industrial Training Section. He acts as secretary to the various Apprenticeship Committee and the Advisory Committee Employment Exchange Paphos. He is a reliable and efficient officer". And then of the countersigning officer: "Mr. Vassiliou is devoted to his duties and shows great interest in his work". 20 25

For the year 1976 he is rated on nine items as above average and on one as excellent and there appears the following comment of the reporting officer: "Mr. Vassiliou, Assistant Labour Officer, during the period under review has performed his duties of Employment Officer, Industrial Training Officer in a satisfactory manner. He displayed capabilities of shouldering additional responsibilities and has developed good relations with Employers' and Workers' Organizations. He has every possibility towards ensuring the smooth functioning of the Apprenticeship Schemes and in general he is suitable for promotion". 30 35

For the year 1977 he is rated as above average on seven ratable

items, three as excellent and there are the following comments of the reporting officer: "Mr. Andreas Vassiliou in his capacity as Employment and Industrial Training Officer has developed good relations with Employers' and Trade Unions representatives, has promoted the scopes and objectives of Apprenticeship Training Schemes and he is generally well conversant with labour problems. He is suitable for promotion".

Interested party Demetrios Mytides started as a Clerical Assistant on daily wages in 1967 and after serving on an unestablished permanent basis in that post, became Assistant Labour Officer on a permanent basis as from 15th November, 1969. In addition to the usual qualifications connected with secondary education, he attended the University of Athens during the years 1963-1965 and he became a Bachelor of Law at the Lasalle Extension University in 1976.

In the confidential report for the year 1975 he is rated on seven ratable items as above average and on three as excellent. The comment of the reporting officer is as follows: "He carries out his duties as an Inspector under the Social Insurance Law, the Termination of Employment Law and the Holidays with Pay Law, to my best satisfaction". To this assessment the countersigning officer also agrees.

For the year 1976 he is rated as excellent on six ratable items and above average on four. The comment of the reporting officer is that there is nothing more to add to last year's report for this officer and the countersigning officer states that he can be considered for promotion.

For the year 1977 he is given a similar report and described that the work he carries is to the best of the reporting officer's satisfaction.

Interested party Michael Christou was first engaged as a clerk on daily wages in 1966, he became an Insurance Clerk on an unestablished basis and then as from the 1st March, 1969, on a permanent basis, and an Assistant Labour Officer on secondment on the 15th November, 1969, and on a permanent basis as from the 1st May, 1970.

In the confidential report for the year 1975 he is rated as excellent on five ratable items and above average with the

remaining five and the comment of the reporting officer is: "Mr. Christou is a reliable, conscientious and hardworking officer, performing his duties in an efficient manner. He is showing interest and willingness to learn and undertake new duties which he carries out with minimum supervision. He is polite, obedient and very co-operative with his colleagues". And the countersigning officer states: "An excellent officer in all respects. I strongly recommend him for promotion". 5

The same report is to be found for the years 1976 and 1977 where he is still found to deserve promotion by his countersigning officer. 10

Interested party Michael Antoniou started as a clerk on daily wages on the 25th October, 1966, he then became an Insurance Clerk on a permanent basis as from the 1st March, 1969, and Assistant Labour Officer on the 15th March, 1969, on a temporary basis on secondment and as such on a permanent basis on 1st January, 1973. In addition to his secondary education and Government examinations, he obtained in 1978 a diploma in Management Studies of the College of Arts and Sciences in Cyprus. 15 20

In the confidential report for the year 1975 he is rated as excellent on six ratable items and as above average on four, and the comments of the reporting officer are as follows: "Mr. Antoniou has carried out his duties as officer-in-charge of the Unified Section to my best satisfaction. He proved to be a polite officer and a very good impressed officer. He is loyal and obedient". To which the countersigning officer agrees. 25

For the year 1976 he is rated on seven ratable items as excellent and on three as above average. The comments of the reporting officer are as follows: "He is the cashier and he is supervising the work in the Unified System. He is also preparing monthly and quarterly reports for payment of contributions by self-employed and employed persons. He is carrying out such duties to my best satisfaction". And the countersigning officer says that his abilities are overestimated. 30 35

For the year 1977 he is also reported in the same way and there is more or less a similar comment by his reporting officer and the reservation of his countersigning officer.

Interested party Andreas Morphitis started as a Clerical Assistant on the 28th September, 1970, he became Labour Assistant on the 1st April, 1971, and an Assistant Labour Officer on a permanent basis on the 15th June, 1973. He has a Diploma
5 in Political Sciences of the Pantios Highest School, Athens, since 1976.

In the confidential report for the year 1975 he is rated on four items as an officer of above average ability and as excellent on the remaining six. The comments of his reporting officer
10 are: "He carries out the duties of an Inspector under the Social Insurance Law, the Termination of Employment Law and the Holidays with Pay Law to my best satisfaction". The countersigning officer is of the view that in general he is an officer of average abilities.

For the year 1976 he is rated as above average on four ratable items and on six as excellent with the same comment by the countersigning officer and for the year 1977 he is again rated in the same way with the same comment by the countersigning officer.
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Interested party Maria Gregoriou started as a clerk on daily wages on the 1st November, 1967, then served as a Clerical Assistant until the 15th November, 1969, when she became an Assistant Labour Officer on secondment and an Assistant Labour Officer on permanent basis on the 1st May, 1970.
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In the confidential report for the year 1975 she is rated as above average on four items and as average on the remaining and the comment from the reporting officer is that she has shown improvement as regards ability to co-operate with her superiors and colleagues.
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For the year 1976 she is rated as above average on seven ratable items and as average on the rest. The comments of the reporting officer are: "No change in her performance. A few problems have arisen in her relations with her immediate supervisor but these have now been discussed and settled".
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For the year 1977 she is rated as excellent on one, above average on seven and average on one. This reporting officer does not make an assessment on general intelligence in any of the reports he has prepared since 1974.
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Interested party Ioannis Michaelides started as a Clerical Assistant on the 18th January, 1966, he became a Labour Assistant, unestablished, on the 1st September, 1966, then Assistant Labour Officer in 1968 and on a permanent basis to that post since the 1st March, 1969.

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In the confidential report for the year 1975 he is rated as excellent on three ratable items and as above average on the remaining. He is described as keen and interested in his work which he carries out with zeal. He is suitable in this type of work and he is willing to undertake any type of work in the office and carry out equally well. The countersigning officer says that his abilities are slightly overestimated.

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For the year 1976 he is rated as excellent on five ratable items and above average on the remaining. The comment is as follows: "An experienced Social Insurance Inspector. Shows high sense of responsibility and devotion to initiative, self-motivation and imagination. Friendly relations with his colleagues and good relations with the public". And the countersigning officer finds the assessment as rather overestimated by the reporting officer.

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For the year 1977 he is found of above average ability and there is the following comment to which the countersigning officer agrees: "He is an experienced Social Insurance Inspector and reliable. He has initiative and is devoted to his duties. He has good organising and leadership abilities which can be improved considerably with more reading".

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Interested party Yiannakis Demosthenous started as an Assistant Labour Officer on daily wages on 1st May, 1973, and he became an Assistant Labour Officer on a permanent basis on the 15th February, 1974. He has a diploma in Law of the Karl Marx University of Leipzig.

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In the confidential report for the year 1975 he is rated as above average on all ratable items and that he is relatively new in the department, and that he has so far shown that he is an average officer.

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For the year 1976 he is rated as very good and there is the following comment: "Mr. Demosthenous, an Assistant Labour

Officer, was seconded for duty in my office on 1st April, 1976. He is an invalid of the 1963 struggle and Secretary General of the Pancyprian Organization for Rehabilitation of Victims and in view of his experience and contacts he has been placed in charge of a section dealing with general assistance to the victims. His services are very satisfactory”.

For the year 1977 he is rated as very good on six ratable items and as excellent on four and the following comment appears on behalf of the reporting officer: “Seconded to my office since 1st April, 1976, to assist in connection with applications for general assistance from various sufferers. In this respect Government has created a new Service in my office called ‘Idiki Ipiresia Exypiretiseos Pathonton’. He is clever, conscientious and very efficient in performing duties entrusted to him in the new service”.

I have set out extensively the contents of the relevant confidential reports and especially of the most recent ones in order to see how the performance of the candidates was evaluated during their careers as a whole, a fact relevant to the merit of each candidate. This is consistent with ample authority (see *Niki Ioannou v. The Republic* (1976) 3 C.L.R.; p. 431, at p. 437, adopting *HadjiGregoriou v. The Republic* (1975) 3 C.L.R., 477, at p. 483). Moreover, this was thought essential in view of the question of seniority that exists among the candidates. So it had to be examined whether all other elements were more or less equal in order that the applicants’ seniority where it exists ought to prevail (see *Costas Partellides v. The Republic*, (1969) 3 C.L.R., p. 480, at p. 484). The merit of the candidates has also to be viewed as against the back-ground of the duties and responsibilities and the qualifications required under the relevant scheme of service. In addition to the above, there exists in this case the benefit of the interviews and the views of the Head of the Department.

Looking at the material before the respondent Commission as a whole, including all relevant factors that under section 44(3) of the Law had to be taken into consideration, I have come to the conclusion that the *sub judice* decision was reasonably open to it and there has been no wrong exercise of discretion or abuse or excess of power, nor any misconception of fact in any respect.

For all the above reasons these present recourses are dismissed but in the circumstances I make no order as to costs.

Applications dismissed. No order as to costs.