

1981 July 10

[MALACHTOS, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

ANDREAS IACOVIDES,

Applicant,

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondent.

(Case No. 385/78).

Natural justice—Rules of—Public Officers—Promotions—Applicant not promoted, though suitable for promotion, because of Central Information Service report that he is “not loyal and does not respect the law”—No reasons given in support of such allegations—And applicant not prosecuted criminally or disciplinarily and not given a chance to be heard—Rules of natural justice violated—Sub judge promotions annulled—Koudounas v. Republic (1981) 3 C.L.R. 46 adopted and followed.

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This recourse was directed against the validity of the decision of the respondent Public Service Commission concerning the promotion or secondment of the interested parties to the post of Agricultural Officer class II in preference and instead of the applicant. The facts which gave rise to this recourse are the same as those in *Koudounas v. Republic* (1981) 3 C.L.R. 46 namely, that though both applicant and Koudounas were selected for promotion and/or secondment to the above post they were not finally promoted and/or seconded because of the contents of a report from the Central Information Service (KYP) to the effect that they were not loyal and they did not respect the law.

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Counsel for both parties adopted the facts of *Koudounas* case and supported the judgment of the Court in that case by means of which the decision of the Commission was declared null and void.

The Court fully adopting the reasoning in the *Koudounas* case (*supra*) declared the *sub judice* decision null and void.

Sub judice decision annulled.

Cases referred to:

Koudounas v. Republic (1981) 3 C.L.R. 46; 5

Tzavellas v. Republic (1975) 3 C.L.R. 490;

Tsangarides and Others v. Republic (1981) 3 C.L.R. 117.

Recourse.

Recourse against the decision of the respondent to promote and/or second the interested parties to the post of Agricultural Officer Class II. 10

M. Christofides, for the applicant.

G. Constantinou (Miss), Counsel of the Republic, for the Respondent.

Cur. adv. vult. 15

MALACHTOS J. read the following judgment. The applicant in this recourse claims a declaration of the Court that the decision and/or act of the respondent Commission which was published in the Official Gazette of the Republic of the 14th July, 1978, under Notifications Nos. 1377 and 1378 by which the interested party Charalambos G. Ipsarides was promoted to the permanent post of Agricultural Officer Class II, and interested parties Georghios Kleanthous Charis, Iacovos Michael Yiakoumettis, Georghios S. Xystouris, Kleanthis A. Pratsos, Christos N. Motides, Loizos N. Markides, and Phoebus L. Lyssandritis, were seconded to the temporary post of Agricultural Officer Class II, is null and void and of no effect whatsoever. 20 25

The present applicant, who was first appointed on 4.1.1965 as an agricultural assistant on daily wages and was promoted to the permanent post of Assistant Agricultural Officer on 1.6.1969, and the applicant in Recourse No. 397/78 namely, Christos Koudounas, together with the interested parties in this recourse, were selected for promotion and/or secondment to fill up eight vacancies, i.e. one permanent and seven temporary posts of Agricultural Officer Class II, as being on the whole the best candidates. 30 35

All the other relevant facts of this recourse are sufficiently stated in the *Koudounas* case (Recourse No. 397/78) which is reported in (1981) 3 C.L.R. page 46.

5 The legal point involved in this recourse, as well as in the *Koudounas* case, is that when the respondent Commission asked the Central Information Service (KYP), as to the loyalty of the candidates, the applicant in this recourse, as well as Koudounas, were reported that they are not loyal and they do not respect the law. On this ground only neither the present
10 applicant nor Koudounas were promoted.

In addressing the Court today counsel for applicant adopted the facts of Koudounas case with the modifications applicable to the present applicant, and supported the judgment of the Court in that case as a result of which the decision of the respon-
15 dent Commission was declared null and void. He further referred to the case of *Tzavellas v. The Republic* (1975) 3 C.L.R. 490 and the case of *Tsangarides and Others v. The Republic* (1981) 3 C.L.R. 117.

20 Counsel for the respondent Commission, very rightly in my view, did not support the opposition where it is stated that the decision complained of was rightly and legally taken and she adopted the reasoning in the *Koudounas* case and the cases referred to therein.

25 In the *Koudounas* case the promotion of all the eight interested parties was attacked but the promotion of only four of them was declared by the Court as null and void, namely, that of Kleanthis A. Pratsos, Christos N. Motides, Loizos N. Markides and Phoebus L. Lyssandritis.

30 Counsel for applicant stated that in view of the fact that the promotion of these four interested parties was declared null and void in the *Koudounas* case, it is not necessary to declare in this recourse their promotion as being null and void.

35 In view of the admitted facts in this recourse and what has been stated by both counsel and the reasoning in the *Koudounas* case, which I fully adopt, having expressed the same views in *Tsangarides* case (*supra*), I declare the decision of the respondent Commission promoting interested party Charalambos G. Ipsarides to the permanent (Dev.) Post of Agricultural Officer,

Class II, as well as the secondment of interested parties
Georghios K. Charis, Iacovos M. Yiakoumettis and Georghios
S. Xystouris to the Temporary (Dev.) Post of Agricultural
Officer Class II, as null and void.

The respondent to pay £25.- against the costs of the applicant. 5

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