

1984 May 18

[STYLIANIDES. J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

THEODOROS STYLIANOU AND OTHERS,

*Applicants.*

v.

- 1. THE EDUCATIONAL SERVICE COMMISSION,
- 2. THE MINISTRY OF EDUCATION,

*Respondents.*

(Cases Nos. 288/82, 352/82, 397/82, 410/82, 413/82).

*Res judicata—Annulling decision of administrative Court—Effect—Administration estopped from issuing an identical act on the same grounds and the same reasoning which were declared invalid by the administrative Court—New decision not based on the grounds that caused the annulment of the first act—Doctrine of res judicata not applicable—Article 146.5 of the Constitution.* 5

*Educational Officers—Promotions—Recommendations of appropriate Department—Under section 35(3) of the Public Educational Service Law, 1969 (Law 10/69 as amended by s. 5(c) of Law 53/79)—They can be made by the Head of such Department.* 10

*Educational Officers—Promotions—Additional qualifications under the schemes of service—Special reasoning required for selecting a candidate not possessing such qualifications in preference to one possessing them—But recommendations of Head of Department constitute a very good reason for not preferring a candidate in spite of these postgraduate qualifications.* 15

*Educational Officers—Promotions—Interview of candidates in 1980—And sub judice decision taken in 1982—Performance of candidates at the interview recorded in the sub judice decision—Course followed not faulty.* 20

*Educational officers—Promotions—Judicial control—Principles appli-*

5 *cable—“Striking superiority”—Notion of—Seniority—It only prevails if all other factors are equal—Three of the applicants having better marks than one of the interested parties and an additional qualification under the schemes of service which such interested party was lacking—None of them recommended for promotion by the appropriate Department—These applicants strikingly superior to the said interested party whose promotion is annulled.*

10 The applicants in these recourses challenged the validity of the promotions of the interested parties to the post of Headmaster in Secondary Education, which were effected by the respondent Commission on 21.6.1982.

15 The respondent Commission on June 7, 1980, and August 30, 1980, filled the said posts by promotion of a number of educationalists. Those promotions were attacked by recourses and on 12.5.1982, the Supreme Court annulled the said promotions and left it to the Commission to reconsider the filling, in the proper manner, of the posts concerned, in accordance with the relevant legislation and principles of Administrative Law.

20 The ground of annulment was that the personal knowledge and information of the members of the Commission about the candidates was one of the criteria which were taken into account in the course of the exercise of the discretionary powers in connection with the decisions; and that such personal knowledge or information possessed by members of the respondent—Commission, a collective organ, about the candidates was not recorded in detail so as to render feasible judicial control.

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30 At the meeting of the Commission of 21.6.1982 the Heads of the Department of Secondary and Technical Education were present; and they repeated the recommendations made by them for their departments in June and August, 1980, when the annulled decisions for promotion were taken. None of the applicants was recommended by the Head of his Department.

35 The relevant schemes of service provided that a postgraduate education abroad would be considered as an additional qualification. Five of the applicants possessed this additional qualification whereas interested parties Stassini Demetriou, Andreas Manolis, Lella Panaouri, Frosso Mourouzi and Loucas Kakoullis did not possess additional qualifications. Moreover

interested party Stassin Demetriou had no recommendations by the Department and her marks were slightly below of most of the applicants. No new interviews of the candidates were held in 1982 and the Commission relied on the impression they formed from the interviews of 1980. Applicant Sofocleous was senior to all the interested parties with the exception of one of them. 5

Applicant Stylianou was senior to the interested parties except Ellinas, Papadopoullos, Louloupis, Christoforou, Panouris and Agathocleous. The other applicants were senior to Stassopoulos and Kontopoulos and all applicants were senior to Georghios Michaelides. Some of the interested parties were better rated than the applicants but applicants Stylianou and Kinanis had better marks than some of the interested parties, that is to say Stylianou was rated for the last two years 37-38 and Kinanis 37-37, whereas the marks of interested parties Michaelides and Christoforou were 35-36. 10 15

Counsel for the applicants mainly contended:

(1) That the Commission was precluded from reaching the sub judice decision by the judgment of the Supreme Court which annulled the previous decision for promotion of the same persons and operated as *res judicata*; 20

(2) That the recommendations were made by the Head of the Department whereas s.35(3) of Law 10/69, as amended by s.5(c) of Law 53/79, provides for recommendations of the appropriate department; 25

(3) That there was no reasoning for preferring candidates who did not have the advantage of the additional qualification whereas five of the applicants had the additional qualification provided in the scheme of service; 30

(4) That interviews were held in 1982 and the impression of the members of the Commission from the 1980 interviews, though not recorded in the annulled decisions, were recorded in the sub judice decision.

*Held*, (1) that the annulling decision of the Court binds both the applicant and the administration (see Article 146.5 of the Constitution); that the Administration has a duty, however, thereafter to examine the matter afresh under the factual and 35

5 legal regime obtaining at the time the first act was issued and is  
estopped from issuing an identical act on the same grounds  
and the same reasoning which were declared invalid by the  
administrative Court; that it is not contrary to the doctrine of  
10 res judicata the issue of a new administrative act on the same  
subject and with the same content as the annulled one provided  
that the new act is not based on the grounds that caused the  
annulment of the first act by the Court; that since in the present  
15 case the promotions were annulled by the Court because they  
were vitiated by non-recording the personal knowledge or  
information of members of the Commission about the candidates  
and since the new sub judice decision is not based on that ground  
the Commission was not precluded from taking an identical  
one; accordingly the doctrine of res judicata is not applicable.

15 (2) That the best possible representative and spokesma  
of a department is no other than the head thereof; that he re  
presents his department and his recommendations, unless th  
contrary is proved or a doubt is created by the applicant, ar  
not his personal but the recommendations of the department  
20 and it is presumed that he conveys to the Commission the re  
commendations of the department; and that, therefore, ther  
was no contravention of s. 35(3) of Law 10/69 (as amended b  
s.5(c) of Law 53/79).

25 (3) That though where a certain additional qualification i  
required under the scheme of service, special reasoning mus  
be given in cases where a person not possessing such qualificatio  
was selected in preference to another possessing one, as to why  
such qualification was disregarded the recommendation of the  
Head of the Department constitutes a very good reason fo  
30 not preferring a candidate in spite of his postgraduate qualifi  
cation; that since none of the applicants who possess the addi  
tional qualifications was recommended whereas the interestec  
parties who did not possess the required qualifications, with  
the exception of interested party Stassini Demetriou, were  
35 recommended by the appropriate department of education the  
contention of absence of special reasoning must fail, as against  
all interested parties except interested party Stassini Demetriou

(4) That in the 1980 decision, which was annulled, the impres  
sion of the Commission from the interviews was not recorded

that in the sub judge decision, however, the Commission thought proper to record the performance of the candidates and the view formed by them at the interview; and that accordingly there was no fault on the issue of the interview (*Demetriades & Others v. Republic* (1983) 3 C.L.R. 842 distinguished).

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(5) That seniority counts only if all other things are equal and considering the material in the files, the recommendations of the department and all other relevant factors taken into consideration, the seniority of the applicants could not tip the scale in their favour.

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(6) After dealing with the principles governing judicial control of promotions and with the notion of "striking superiority—vide p. 789–790 post:

That applicants Stylianou, Kinanis and T. Nicolaides were strikingly superior to interested party Stassini Demetriou in the sense that with the exception of the performance at the interview they had better marks, they had the additional qualification—which Stassini Demetriou was lacking—and none of them was recommended for promotion by the appropriate department; that with regard to all other interested parties this Court was not persuaded by the applicants that the Commission exceeded the outer limits of its discretion or that the decision for their promotion is faulty in any respect; accordingly the promotion of interested party Stassini Demetriou is annulled and that the recourses with regard to the decision to promote the other interested parties must fail.

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*Promotion of interested party  
Stassini Demetriou annulled.  
Otherwise recourses dismissed.*

Cases referred to:

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*Angelidou and Others v. Republic* (1982) 3 C.L.R. 520;

*Protopapas v. Republic* (1981) 3 C.L.R. 456;

*Skarparis v. Republic* (1978) 3 C.L.R. 106 at p. 116;

*Makrides v. Republic* (1983) 3 C.L.R. 750;

*Georgiades and Others v. Republic* (1967) 3 C.L.R. 653;

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*Duncan v. Republic* (1977) 3 C.L.R. 153;

*Demetriades and Others v. Republic* (1983) 3 C.L.R. 842;

*Evangelcu v. Republic* (1965) 3 C.L.R. 292 at p. 300;

*Georgiou v. Republic* (1976) 3 C.L.R. 74 at p. 83;

*HjiIoannou v. Republic* (1983) 3 C.L.R. 1045;

*HjiSavva v. Republic* (1982) 3 C.L.R. 76 at p. 78.

## 5 Recourses.

Recourses against the decision of the respondents to promote the interested parties to the post of Headmaster in Secondary Education in preference and instead of the applicants.

10 *L. Papaphilippou*, for applicants in Case Nos. 288/82 and 352/82.

*A. S. Angelides*, for applicants in Case No. 397/82.

*T. Papadopoulos* for applicant in Case No. 410/82.

*D.A. Demetriades*, for applicant in Case No. 413/82.

*R. Vrahimi (Mrs.)*, for the respondents.

15 *Cur. adv. vult.*

STYLIANIDES J. read the following judgment. By the present recourses the applicants challenge the promotions to the post of Headmaster in Secondary Education, which were effected by the respondent-Commission on 21.6.1982.

20 The respondent-Commission on June 7, 1980, and August 30, 1980, filled the said posts by promotion of a number of educationalists. Those promotions were attacked by recourses. On 12.5.1982 Triantafyllides, P., annulled the said promotions and left it to the Commission to reconsider the filling, in the  
25 proper manner, of the posts concerned, in accordance with the relevant legislation and principles of Administrative Law. The ground of annulment was that the personal knowledge and information of the members of the Commission about the candidates was one of the criteria which were taken into  
30 account in the course of the exercise of the discretionary powers in connection with the decisions. Such personal knowledge or information possessed by members of the respondent-Commission, a collective organ, about the candidates was not recorded in detail so as to render feasible judicial control.

35 On 9th December, 1981, exhibit No. 1 was produced to the Court. That was a sweepingly and widely phrased statement that rendered impossible the exercise at all of any judicial control

or the purpose of ascertaining whether the personal knowledge of members of the Commission about the various candidates was consistent or inconsistent, and to what extent in each particular case, with the other material regarding such candidates, which was before the Commission. (See *Kleri Angelidou and Others v. The Republic of Cyprus, through The Educational Service Commission*, (1982) 3 C.L.R. 520). 5

At the meeting of the Commission of 21.6.1982 the Heads of the Department of Secondary and Technical Education were present. They repeated the recommendations made by them or their departments in June and August, 1980, when the annual decisions for promotion were taken. 10

None of the applicants was recommended by the Head of this Department. The Commission on the basis of the scheme of service in operation in June and August, 1980, considered and promoted 21 educationalists to the post of Headmaster of Secondary Education. Seven persons out of those who were not promoted filed recourses aiming at the said decision. In the course of the hearing applicant No. 1 in Recourse No. 397/82, Adonis G. Constantinides, withdrew his recourse as in the meantime he had been promoted. 15 20

Only the promotion of Christodoulos Neophytides was not challenged by any of the applicants. The other 20 promotees were listed as interested parties in one or more of the recourses.

As these recourses were argued on common points, at some stage in the proceedings they were taken together. 25

The material part of the sub judice decision reads as follows:-

“ Η Έπιτροπή μελέτησε και πάλι τους προσωπικούς και εμπιστευτικούς φακέλους όλων των Βοηθών Διευθυντών των υποψηφίων για προαγωγή στη θέση Διευθυντή. Έχοντας υπόψη τις διατάξεις του Νόμου και των Σχεδίων Υπηρεσίας καθώς και την απόφαση του Ανωτάτου Δικαστηρίου και με βάση την αξιοκρατία, τα προσόντα και την αρχαιότητα των υποψηφίων, αφού έδωσε σε κάθε ένα από τα κριτήρια αυτά τη δέουσα βαρύτητα, την εντύπωση που έσχημάτισε για τον κάθε ένα από τους υποψηφίους κατά τις προσωπικές συνεντεύξεις και τις πιο πάνω συστάσεις των Τμηματάρχων, η Έπιτροπή Εκπαιδευτικής Υπηρεσίας 30 35

καταλήγει ότι οι πιο κάτω υποψήφιοι είναι οι καταλληλότεροι για προαγωγή στη θέση Διευθυντή, για τους λόγους που αναφέρονται για τον καθένα ξεχωριστά”.

5 (“The Committee has considered again the personal and confidential files of all the Assistant Directors candidates for promotion to the post of Director. Having in mind the provisions of the Law and the schemes of service as well as the decision of the Supreme Court and on the basis of the merit, qualifications and seniority of the candidates and after having given to each one of the criteria the proper weight, the impression formed for each one of the candidates at the personal interviews and the above recommendations of the Heads of Departments the Educational Service Committee comes to the conclusion that the above candidates are the most suitable for promotion to the post of Director, for the reasons stated for each one separately”).

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The sub judice decision is attacked on the following grounds:-

- 20 (1) The Commission was precluded from reaching the said decision by the judgment in *Kleri Angelidou v. The Republic, through The Educational Service Commission* (supra) which annulled the previous decision for promotion of the same persons, and operates as *res judicata*;
- 25 (2) The recommendations were made by the Head of the Department whereas s.35(3) of Law 10/69, as amended by s.5(c) of Law 53/79, provides for recommendations of the appropriate department;
- 30 (3) A short-list was used in the 1980 promotions and, as that short-list is presumed to have been used for the reaching of the sub judice decision, this is contrary to the principles of Administrative Law;
- (4) There is no reasoning for preferring candidates who did not have the advantage of the additional qualification whereas five of the applicants have the additional qualification provided in the scheme of service;
- 35 (5) No interviews were held in 1982 and the impression of the members of the Commission from the 1980 inter-



views, though not recorded in the annulled decisions, were recorded in the sub judice decision;

- (6) Applicant in Recourse No. 397/82 submitted that he was rated at 35 grades in 1980. It was rectified to 37 in 1981 and the Commission took into consideration the erroneous assessment; and lastly, 5
- (7) The Commission failed in its paramount duty to promote the best suitable candidates, as per their duty under ss. 26 and 35 of Law 10/69, as amended by ss. 3 and 5 of Law No. 53/79. 10

### 1. *RES JUDICATA*:

The doctrine of *res judicata* was introduced into the legal systems for the purpose of finality of litigation as it is in the interests of society that litigation should come to an end and not continue *ad infinitum*. Furthermore it is in the interests of the individual to be certain of his legal position after the determination of an issue by a competent Court. 15

As it has been repeatedly said, Article 146 of the Constitution introduced the Administrative Law and Jurisdiction in this country. Paragraph 5 reads:- 20

“Any decision given under paragraph 4 of this Article shall be binding on all Courts and all organs or authorities in the Republic and shall be given effect to and acted upon by the organ or authority or person concerned”.

A decision annulling an administrative act extinguishes such act, and the legal results purported to have been produced by such act are in general obliterated. This is the one aspect of *res judicata* which is embodied in paragraph 5 of Article 146 of the Constitution. 25

The annulling decision of the Court binds both the applicant and the Administration. The Administration has a duty, however, thereafter to examine the matter afresh under the factual and legal regime obtaining at the time the first act was issued. The Administration is estopped from issuing an identical act on the same grounds and the same reasoning which were declared invalid by the administrative Court. If the act was annulled as being contrary to law, it cannot rely on the same law and issue an identical act. If the first administrative act was 30 35

annulled for lack of reasoning or for deficient reasoning, the erroneous reasoning cannot be used for the issue of a new act. The Administration cannot rely on the grounds which caused the annulment of the first act. It is not, however, contrary to the doctrine of *res judicata* the issue of a new administrative act on the same subject and with the same content as the annulled one provided that the new act is not based on the grounds that caused the annulment of the first act by the Court. (See Greek Council of State, *Case No. 307/40*; see, also, Dendia—Administrative Justice, (1965) Volume 'C', pp. 364–367; Vegleri—Compliance of the Administration to the Decisions of the Greek Council of State, (1934) pp. 29–48; Conclusions of the Greek Council of State, 1929–1959, p. 281).

In the present case the promotions were annulled by the Court because they were vitiated by non-recording the personal knowledge or information of members of the Commission about the candidates, one of the criteria taken into account in the course of the exercise of their discretionary power in connection with the annulled decisions of the Commission. The new sub judice decision is not based on that ground and, therefore, the Commission is not precluded from taking an identical one. The doctrine of *res judicata* is not applicable.

## 2. RECOMMENDATIONS OF THE HEAD OF THE DEPARTMENT:

Section 35(3) of Law 10/69 provided that the Commission should take due consideration of the recommendations of the appropriate inspector. Very rightly s.5(c) of Law 53/79 substituted the recommendations of the appropriate government department of education for the recommendations of the inspector.

The recommendations in this case were made by the heads of the appropriate departments of education. It was submitted by counsel that this is contrary to law and in support of such argument a written recommendation by the Department of Elementary Education, when that department was headed by Papaxenophontos, was produced, recording therein that the views of the various sections of the department were taken into consideration in formulating that recommendation.

Be that as it may, I hold the view that the best possible re-

representative and spokesman of a department is no other than the head thereof. He represents his department and his recommendations, unless the contrary is proved or a doubt is created by the applicant, are not his personal but the recommendations of the department. It is presumed that he conveys to the Commission the recommendations of the department. Though the wording of s.35(3) of Law 10/69, as amended by s.5(c) of Law 53/79, is slightly different from the corresponding section of the Public Service Law No. 33/67 (section 44(3)), I find that there was no contravention of the Law. This ground fails.

### 3. *SHORT-LIST:*

Neither in the sub judice decision nor anywhere else there appears that a short-list was used or that the interest of any of the applicants was affected because of any such short-list. The applicants were considered for promotion by the Commission.

### 4. *ADDITIONAL QUALIFICATIONS:*

The scheme of service provides:-

“4. Μετεπτυχιαίξεις εις το εξωτερικόν ή επιπρόσθετος τίτλος σπουδών, κατά προτίμησιν εις τα Παιδαγωγικά ή θέματα αφορώντα εις την διοίκησιν των σχολείων, θεωρείται ως πρόσθετον προσόν”.

(“Post graduate studies abroad or an additional title preferably in paedagogics or subjects related to the administration of schools, is considered as an additional qualification”).

Five of the applicants had the additional qualifications whereas interested parties Stassini Demetriou, Andreas Manolis, Lella Panaouri, Fross Mourouzi and Loucas Kakoullis did not possess additional qualifications.

Where certain additional qualification is required under the scheme of service, special reasoning must be given in cases where a person not possessing such qualification was selected in preference to another possessing one, as to why such qualification was disregarded—(*Protopapas v. The Republic*, (1981) 3 C.L.R. 456).

Triantafyllides, P., pointed out in *Skarparis v. The Republic*, (1978) 3 C.L.R. 106, at p. 116:—

5 “The recommendation of the Ministry concerned—the Head of the Department—constitutes a very good reason for not preferring a candidate in spite of his postgraduate qualification”.

10 None of the applicants who possess the additional qualifications was recommended whereas the interested parties who did not possess the required qualifications, with the exception of Stassini Demetriou, were recommended by the appropriate department of education. This satisfies the requirement for special reasoning.

15 In *Makrides v. The Republic*, (1983) 3 C.L.R. 750, at p. 758, the applicant possessed additional qualifications but the interested parties were senior and better in merit. It was held that it was reasonably open to the respondent—Commission to prefer any of them and to promote them instead of the applicant.

20 Stassini Demetriou had neither additional qualifications nor recommendations by the department and her marks are slightly below of most of the applicants.

This ground fails as against all interested parties except Stassini Demetriou to whom I shall revert later on in this judgment.

##### 5. INTERVIEWS:

25 No new interviews of the candidates were held and the Commission relied on the impression they formed from the interviews of 1980.

30 The performance at the interviews is not in general a decisive factor. Due regard, however, should be paid to the evaluation of the candidates made through the interview especially when the relevant scheme of service makes provision for possession by candidates of organising and administrative ability, as in this case—(*Georghiades & Others v. The Republic*, (1967) 3 C.L.R. 653; *Duncan v. The Republic*, (1977) 3 C.L.R. 153).

35 In the 1980 decision, which was annulled, the impression of the Commission from the interviews was not recorded. In the sub judice decision, however, the Commission thought

proper to record the performance of the candidates and the view formed by them at the interview.

Counsel for the applicants relied on the judgment of a Judge of this Court in *Demetriades & Others v. The Republic*, (1983) 3 C.L.R. 842. Factually *Demetriades* case is distinguishable from the present case. In *Demetriades* case some of the candidates were interviewed before the amendment of the scheme of service and some others after its amendment. The interviews of the one group took place 18 months after the interview of the first group and no record was kept of the performance at the first interview.

I see no fault on the issue of the interviews.

#### 6. *MARKS OF APPLICANT IN RECOURSE NO. 397/82:*

The applicant in Recourse No. 397/82 was erroneously rated at 35 grades in 1980 whereas his proper mark was 37 and this was rectified in 1981. This was before the Commission at the material time that the sub judice decision was taken.

#### 7. *SENIORITY:*

Applicant Sofocleous is senior to all the interested parties with the exception of Ellinas.

Interested party Stylianou is senior to the interested parties except Ellinas, Papadopoullos, Loulloupis, Christoforou, Panouris and Agathocleous.

The other applicants are senior to Stassopoulos and Kontopoulos and all the applicants are senior to Georghios Michaelides, who was posted at Pyrghos, Tyllirias, the most remote and isolated village in the Republic, a most disadvantageous post which for many years, as set out in the decision of the Commission, constituted a permanent problem for them.

As it was reiterated by this Court, seniority counts only if all other things are equal, and having considered the material in the files, the recommendations of the department and all other relevant factors taken into consideration, I find that the seniority of the applicants could not tip the scale in their favour.

#### 8. *SELECTION OF THE BEST CANDIDATE:*

The paramount duty of the Commission under the Law is to

promote the best suitable candidate for the interest of education and the public in general. In doing so it has to take into consideration the criteria set out in the Law, i.e. merit, qualifications and seniority - (Section 35(2) of Law No. 10/69 as amended by  
5 Law No. 53/79).

Some of the interested parties are better rated than the applicants but applicants Stylianou and Kinanis have better marks than some of the promotees, that is to say, Stylianou was rated for the last two years 37-38 and Kinanis 37-37, whereas the  
10 marks of interested parties Michaelides and Christoforou were 35-36. A difference, however, of one or two marks in their reports is not such as to be considered as constituting striking superiority of the applicant over the interested parties, justifying thus the annulment of the sub judice decision. As said in  
15 *Evangelou v. The Republic*, (1965) 3 C.L.R. 292, at p. 300:-

“... it is a settled principle of administrative law that mere superiority, not being of a striking nature, is not sufficient to lead to the conclusion that the appointing authority has acted in excess or abuse of powers”. (See Conclusions from  
20 the Council of State in Greece, 1929-1959, p.268).

The Commission has to take into consideration all relevant factors and not rely only on one element.

The promotion is within the competence of the Commission. This Court exercises a judicial control over the decisions of the  
25 Commission. The Court is not entitled to substitute its own decision for that of the organ to which the Law assigns the duty and responsibility to effect the promotions.

The Educational Service Commission promotes a candidate on the basis of comparison with others, and it is not necessary  
30 to show, in order to justify his selection, that he was strikingly superior to the others. On the other hand, an administrative Court cannot intervene in order to set aside the decision regarding such selection unless it is satisfied, by an applicant in a recourse before it, that he was an eligible candidate who was strikingly  
35 superior to the one who was selected, because only in such a case the organ which has made the selection for the purpose of an appointment or promotion is deemed to have exceeded the outer limits of its discretion and, therefore, to have acted in excess or

abuse of its powers; also, in such a situation the complained of decision of the organ concerned is to be regarded as either lacking due reasoning or as based on unlawful or erroneous or otherwise invalid reasoning - (*Odysseas Georghiou v. The Republic*, (1976) 3 C.L.R. 74, at p. 83). 5

“Striking superiority” was dealt with by the Full Bench in *Hji-Ioannou v. The Republic*, (1983) 3 C.L.R. 1041. It adopted the following passage from *Hji-Savva v. The Republic*, (1982) 3 C.L.R. 76, at p. 78:-

“As the expression ‘striking superiority’ suggests, a party’s 10  
superiority, to validate an allegation of this kind, must be self-evident and apparent from a perusal of the files of the candidates. Superiority must be of such a nature as to emerge on any view of the combined effect of the merits, qualifications and seniority of the parties competing for 15  
promotion; in other words, it must emerge as an unquestionable fact; so telling, as to strike one at first sight”.

Having considered carefully all the aspects of the case, I hold the view that applicants Stylianou, Kinanis and T. Nicolaides are strikingly superior to interested party Stassini Demetriou in 20  
the sense that, with the exception of the performance at the interview, they have better marks, they have the additional qualification - which Stassini Demetriou is lacking - and none of them was recommended for promotion by the appropriate department. With regard to all the other interested parties, I 25  
was not persuaded by the applicants that the Commission exceeded the outer limits of its discretion or that the decision for their promotion is faulty in any respect.

In the result the promotion of Stassini Demetriou is annulled. The recourses with regard to the decision to promote the other 30  
interested parties fail and are hereby dismissed.

Let there be no order as to costs.

*Sub judice decision partly annulled. No order as to costs.*