

1985 December 31

[A. LOIZOU, J.]

IN THE MATTER OF ARTICLE 146
OF THE CONSTITUTION

GEORGHIOS THEMISTOCLEOUS,

Applicant.

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondent.

(Case No. 68/85).

Public Officers—Promotions—Confidential Reports—Order 9 of the Regulatory Orders on Confidential Reports—Failure by Countersigning Officer to discuss with the Reporting Officer their difference of opinion regarding applicant's confidential report—In the circumstances such an omission is an irregularity, not of a material nature—Conflicting material as regards confidential reports in respect of an interested party—Public Service Commission entitled to ask for reasons and explanations—As part of its duty to carry out a due inquiry—In doing so in this case it did not question the conclusions of other competent organs as regards such confidential reports.

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Administrative Law—Irregularity—If it is not of a material nature, it does not vitiate the relevant administrative act or decision.

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By this recourse the applicant challenges the refusal and/or omission of the respondent Commission to promote him to the post of Senior Pharmacist and the promotions of the interested parties to the said post.

On the 10.4.84 one of the five interested parties, namely interested party Ch. Michaelides wrote to the respondent Commission complaining that his non-promotion until then

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was due mainly, if not exclusively "to the personal dislikes and not to objective criteria of the confidential reports of the reporting officer".

5 On the 6.7.1984 the Commission heard the Director of Pharmaceutical Services who having stressed that he finds it difficult to pick up five out of the candidates as indeed they are all good officers he recommended candidates Ioannis Theodorou, Ioannis Shiatis, Errikos HadjiGeorghiou, Petros HadjiMitsi and Demetrios Aspros.

10 The Commission decided to ask the Director of Medical and Public Health Services to give explanations why for 1976 he disagreed with the reporting officer of interested party Michaelides and graded Michaelides as "excellent" whilst for the years 1978, 1979 and 1980 disagreed with
15 the reporting officer for 1978 and the Countersigning Officer of 1979 and 1980 and stated that Michaelides was not "excellent". The Director sent his views to the Commission by letter dated 22.8.84.

20 Then, on the 9.10.84 the Commission decided to ask the views of the Director of Pharmaceutical Services Mr. Kkolos who acted as countersigning officer in the confidential reports of Michaelides for the years 1981-1982. By letter dated 5.11.84 Mr. Kkolos informed the Commission that as he had ascertained that the Reporting Officer
25 graded Michaelides for the year 1981 and 1982 at a lower level from what he was worth and their relations were not wholly harmonious he brought an improvement to the grading in his capacity as Countersigning Officer.

30 On the 27.11.84 the Commission taking into consideration all the material before it that there existed a conflict between Michaelides and the Reporting Officer and that this fact affected adversely the assessment of Michaelides decided not to take into consideration the assessment of the Reporting Officer for the years 1979, 1980, 1981
35 and 1982, but to rely solely on the assessment of the Countersigning Officer. The Commission also decided not to give particular importance to the observation made in Michaelides' report by the Director of Medical and Health Services as they were conflicting. Finally regarding the

years 1981 and 1982 the Commission decided that it could not allow Mr. Kkolos to change the grading which he himself in unsuspecting time gave to Michaelides, because as it was obvious from Mr. Kkolos letter his new assessment was influenced by the excellent performance of Michaelides in 1983. 5

On 30.11.84 the respondent Commission decided to promote the interested parties, namely Petros HadjiMitsis Charalambos Michaelides, Ioannis Theodorou, Erricos HadjiGeorghiou and Demetrios Aspros to the post of Senior Pharmacist. 10

As a result applicant filed the present recourse. His complains may be summarised as follows: (a) His confidential reports were reduced without following the lawful procedure and/or in contravention of it. In this respect the applicant complains that whilst there was a disagreement between the Countersigning and the Reporting Officer, the Countersigning Officer contrary to the provisions of Order 9 of the Regulatory Orders on confidential reports failed to discuss his disagreement with the reporting officer. 15
 (b) The respondent Commission acted without having by Law authority as a "Judge" of the substantive determination, the objectivity and the lawful action of other organs which were in law exclusively competent to act in matters of evaluation of public officers, and (c) The respondent Commission acted on the basis of the recommendations of Mr. Kkolos who did not act in accordance with the Law in the preparation of the reports and who without having any direct knowledge of or supervision of the applicant on the one hand reduced the excellent picture that the Confidential Reports for many continuous years depicted of him, whereas on the other hand he recommended for promotion persons far junior to the applicant whose reports were prepared by Mr. Kkolos himself or improved by him as a countersigning officer. 20
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Held, dismissing the recourse:

(1) In the circumstances of this case the omission of the Countersigning Officer of the applicant's confidential report to discuss his difference of opinion with the Reporting

Officer is an irregularity which is not of a material nature. Such an irregularity does not vitiate the administrative act or decision in which it occurs.

5 (2) The respondent Commission did not question the conclusions of another competent organ as regards the confidential reports on interested party Michaelides, but, there being conflicting views, it asked for reasons and explanations as part of its duty to carry out a proper inquiry into the matter before it and acted upon them in
10 the same way that it might ask clarifications and explanations and further information regarding diplomas or other qualifications of a candidate.

15 (3) The third ground of law is duly answered by the facts of the case and the circumstances under which the Director of Pharmaceutical Services acted throughout both in relation to the applicant and interested party Michaelides. In any event whatever the position, the respondent Commission with its meticulous approach and extensive reasoning cleared up the situation and it can only be said
20 that the sub judice decision reached was reasonably open to it and taken in the proper exercise of discretionary powers on the matter.

Recourse dismissed.

No order as to costs.

25 Cases referred to:

Pavlides v. The Republic (1977) 3 C.L.R. 421;

Tanis v. The Republic (1978) 3 C.L.R. 314;

Georghiades v. The Republic (1982) 3 C.L.R. 16;

30 *Papantoniou and Another v. The Republic* (1983) 3 C.L.R. 64;

Christofides v. The Republic, (1985) 3 C.L.R. 1127;

Ioannou v. The Electricity Authority (1981) 3 C.L.R. 280;

Agrotis v. The Electricity Authority (1981) 3 C.L.R. 503;

35 *Michaeloudes and Others v. The Republic* (1979) 3 C.L.R. 56;

Gavriel v. The Republic (1971) 3 C.L.R. 195:

Livadas v. The Republic (1985) 3 C.L.R. 506:

HadjiGeorghiou v. The Republic (1977) 3 C.L.R. 35.

Recourse.

Recourse against the decision of the respondent to promote the interested parties to the post of Senior Pharmacist in the Pharmaceutical Services in preference and instead of the applicant. 5

A. S. Angelides, for the applicant.

A. Papasavvas, Senior Counsel of the Republic, for the respondent. 10

Cur. adv. vult.

A. LOIZOU J. read the following judgment. By the present recourse the applicant seeks:

(1) Declaration of the Court that the refusal and/or omission of the respondent Commission to promote and/or appoint the applicant to the post of Senior Pharmacist is null and void and of no legal effect. 15

(2) Declaration of the Court that the decision and/or act of the respondent Commission published in the Official Gazette of the Republic of the 11th January 1985, by which it promoted, 1. Ioannis Theodorou, 2. Charalambos Michaelides, 3. Petros Chr. HadjiMitsi, 4. Errikos Hadjigeorghiou, 5. Ioannis A. Shiati, (hereinafter to be referred to as the interested parties) to the post of Senior Pharmacist instead of and in the place of the applicant is null and void and with no legal effect. 20 25

In accordance with the Scheme of Service the post of Senior Pharmacist in the Pharmaceutical Services is a promotion post. By virtue of the provisions of Section 36 of the Public Service Laws 1967 to 1983, and Order 3 of the Regulatory Orders, a Departmental Board was set up under the Chairmanship of the Director of the Pharmaceutical Services. Its report was forwarded to the respon- 30 35

dent Commission on the 30th April 1984. It was stated therein that upon examination of the list of candidates it considered that forty-one of them possessed the required qualifications under the relevant Scheme of Service, where-
5 as the remaining sixteen did not, as not having at least five years service in the post of Pharmacist.

The Departmental Board then listed seventeen out of those candidates and recommended them for selection for promotion to the aforesaid post, among them the applicant,
10 was included. In the meantime the respondent Commission received from interested party No. 2, Charalambos Michaelides, letter dated 10th April, 1984, (Appendix 4) in which he alleged, inter alia, that his non-promotion until then was due mainly, if not exclusively "to the personal dis-
15 likes and not to objective criteria of the confidential reports of the reporting officer". He also sent another letter with the same content dated 20th March, 1984, (Appendix 5), to the Pharmaceutical Services with copy to the respondent Commission. The office of the respondent Com-
20 mission by letter, dated 5th May, 1984, (Appendix 6), asked from this interested party to substantiate his allegations with concrete facts. The Director of Pharmaceutical Services, by letter dated 14th June, 1982, transmitted to the respondent Commission, a letter of interested party Micha-
25 elides, dated 4th June, 1984, regarding the confidential reports (Appendices 9 and 10).

The respondent Commission at its meeting of the 6th July, 1984, heard the Director of Pharmaceutical Services Mr. Kkolos who mentioned the following, (Appendix 11):-

30 "He finds it difficult to pick five out of the candidates as indeed they are all good officers. Yet, taking into consideration the criteria of the Law he recom-
35 mends: Theodorou Ioannis, who although he does not possess a University Diploma, he shows particular interest for the development of science and he is sufficiently old in the service. He attended abroad certain courses and secured relevant certificates. He works at the Pharmaceutical Laboratory in Nicosia.

Shiatis Ioannis, who is an excellent officer is the

holder of M. Sc. and works in the Pharmaceutical Laboratory.

HadjiGeorghiou Errikos, who is an excellent officer is the holder of University Diploma and he is one of the old officers. He works in Nicosia and he is in charge of the stores for the Army.

HadjiMitsi Petros, who is an excellent officer has a University Diploma and was appointed in 1969. He is in charge of the Paphos Hospital.

Aspros Demetrios, who is an excellent officer possesses a University Diploma and he has also seniority. He serves in the Paediatric Department of Limassol Hospital (ex Tritoftides clinic)."

The Director of Pharmaceutical Services added that he wished to stress once more that all the officers are excellent. At this point the Director of Pharmaceutical Services withdrew from the meeting.

The minutes for the said meeting then goes on to note that candidates Vassiliou, HadjiMitsi, Ttooulos, Aspros, HadjiGeorghiou, Pashiourtidou, Constantinou, Kokkinou, Ioannidou, Koupepidou, Ioannou and Shiatis have the advantage provided by the Scheme of Service. The Commission ascertained that there exist a question for further clarification as regards the confidential reports of Michaelides Charalambos, for the years 1978, 1979 and 1980 in which the Director of Medical and Public Health Services, under whose service were the Pharmaceutical Services then, disagreed with the Reporting Officer for 1978 and the Countersigning Officer for 1979 and 1980 and had stated that the general assessment of the officer was not "Excellent", whereas previously for the year 1976 when the officer had been assessed by the Reporting Officer in four paragraphs, as "Good" and in six as "Very Good", the Director had disagreed, describing him as "Excellent". The Commission decided to ask the Director of the Department of Medical and Public Health Services to give relevant explanations and reasons for his observations in the aforesaid reports. It then adjourned its meeting.

The Director of Medical and Public Health Services sent his observations by letter dated 22nd August

1984, (Appendix 13). The respondent Commission at its meeting of the 9th October, 1984 (Appendix 14), decided to ask the views also of the Director of Pharmaceutical Services who acted as Countersigning Officer in the confidential reports of candidate Michaelides, for the years 1981-1982. As regards the allegations of Michaelides contained in his letter of 4th June, 1984, and in particular his allegations that the adverse grading in his confidential reports were due to an obvious dislike for him of the then officer in charge of the Pharmacy, Limassol Hospital, Mrs. Diamanti who acted as Reporting Officer in these reports.

The Director of Pharmaceutical Services, by letter dated the 5th November 1984 (Appendix 13), informed the respondent Commission that as he had ascertained that the Reporting Officer graded Michaelides for the years 1981 and 1982 at a lower level from what he was worth and their relations were not wholly harmonious, he brought an improvement to the grading in his capacity as Countersigning Officer. Mr. Kkolos added in his said letter that after the letter of the respondent Commission he investigated further the question of the relations of Diamanti and Michaelides and found out that they were worse than the opinion he had formed in the past and concluded that "it was consequent the grading of Michaelides not to be objective and needed further improvement although his performance it appeared was affected to some degree on account of their relations." This is why he caused to it a further improvement so that the grading became Excellent, (Appendix 17).

On the other hand Mrs. Diamanti by her letter dated 21st November, 1984, (Appendix 18) insisted that her assessment of Michaelides for the years 1979 - 1982 was in all respects objective and that self interest and personal motives, did not come into play in her assessments of any officer.

The respondent Commission at its meeting of the 27th November, 1984, (Appendix 19) concluded taking into consideration all the material before it that there existed a conflict between Michaelides and the Reporting Officer and that this fact affected adversely her assessment of Mi-

chaelides. For that reason the respondent Commission decided not to take into consideration her assessment for the officer for the years 1979, 1980, 1981, and 1982 but to rely only on the assessment of the Countersigning Officers.

As regards the observations made by Mr. Markides in the Confidential Reports of Michaelides during the years that he was acting originally as Countersigning Officer and later as Head of the Department in which the officer was serving, the respondent Commission having ascertained that they were conflicting, decided not to give them any particular importance. Regarding the confidential reports for the years 1981 and 1982 in which Mr. Kkolos acted as Countersigning Officer the respondent Commission concluded that it could not allow him to change the grading which he himself in unsuspecting time gave to the said officer because from his aforementioned letter it was obvious that the new assessment was influenced by the subsequent, during 1983, excellent performance of the officer. Also as the respondent Commission accepted the qualifications given by Mr. Kkolos that the performance of interested party Michaelides during 1981 and 1982 was affected by his conflict with the Reporting Officer, it decided to approach the evaluation of these two years with particular caution.

Finally the respondent Commission decided to adjourn the examination of the subject on a future date, given that Mr. Kkolos was not ready to assess the performance of the candidates during 1984 and asked for time to consult their immediate superior.

The respondent Commission at its meeting of the 30th November, 1984, after it heard the recommendations of the Director of Pharmaceutical Services as regards also the performance of the candidates in 1984, which can be found in its minutes of that date (Appendix 20) went on and concluded as follows:

“The Commission having proceeded to a careful evaluation and comparison of the candidates on the basis of the material facts before it:-

- (a) adopted the recommendation of the Director of

5 the Department for Petros HadjiMitsi having noted that he has very high Confidential Reports (by way of example it is mentioned that he is 'excellent' since 1979 when the new form of Confidential Reports with analytical marking was introduced in 1979, for 1980 and 1981 8-4-0 and 10 1982 and 1983 12-0-0) his until now performance for 1984 is described at about the same level with 1983 and he possesses the advantage mentioned in the Scheme of Service. From the point of view of seniority he is fifth among the candidates recommended by the Departmental Board, that is he follows Michaelides, Themistocleous, Theodorou and Vassiliou (the seniority of 15 the last as compared with HadjiMitsi being due only to age).

- 20 (b) it selected for the second post Charalambos Michaelides who was recommended together with Asprou for the fifth post and who although he does not possess the advantage, yet appears with more claims for promotion when the great seniority which he has as compared with other candidates who were recommended by the Director of the Department is taken into consideration 25 (he is by seven months senior to the second Themistocleous who however was not recommended by the Director and by five years to the immediate next in seniority Theodorou, by seven years to HadjiMitsi whom the Commission has already 30 chosen and by ten years to Shiati, whom the Director gave as second).

35 The Commission in selecting Michaelides took also into consideration that he has high Confidential reports and that in the last report for 1983 he presented a great progress as compared with those of the two previous years. Indicatively it is mentioned that he was in 1979 - 1980 'Excellent' (12-0-0) in 1981 and 1982 'Very Good' and in 1983 'Excellent' (12-0-0-). During the 40 current year 1984 his performance is at about the same level as in 1983,

- (c) it selected for the third post Ioannis Theodorou who was recommended as the best of them and who, although he does not possess the advantage from the point of seniority he is ahead of all those recommended by the Director except Michaelides. The Commission noted also that he has high Confidential Reports (indicatively it is mentioned that he was very good (3-9-0) in 1979 and 'Excellent' the last four years with analytical marking for 1980 (8-4-0). In 1981 (9-3-0) in 1982 (10-2-0) and in 1983 (12-0-0). His performance in 1984 is at about the same level as in 1983, 5 10
- (d) it selected for the fourth post Erriko HadjiGeorghiou who was recommended by the Director as third. He possessed the advantage and he has high Confidential Reports, the last years, (indicatively it is mentioned that he was 'excellent' the last three years with analytical marking in 1981 (8-4-0), in 1982 (11-1-0) and in 1983 (12-0-0) and 'very good' the two previous years with analytical marking (0-11-1) blank in 1979 and (7-5-0) in 1980). His performance in 1984 was about the same as in 1983. As regards seniority he is eighth amongst the candidates who were recommended by the Departmental Board, that is after Michaelides, Themistocleous, Theodorou, Vassiliou, HadjiMitsis, Ttooula and Aspros, but the seniority of Vassiliou, HadjiMitsi, Ttooula and Asprou as compared with HadjiGeorghiou is due only to their age, and, 15 20 25 30
- (e) for the fifth post it selected Shiatis having made a particular comparison among him and Aspros. Although both possess the additional qualification, Shiatis has on the whole higher Confidential Reports from Aspros. Indicatively are mentioned the Confidential Reports of the two candidates during the last five years, Shiatis was 'Very Good' in 1979 (5-7-0) and 'excellent' in 1980 (10-2-0), 1981 (11-1-0), 1982 (12-0-0) and 1983 (12-0-0), whereas Aspros was 'Very Good' in 1979 (0-12-0), 'Good' in 1980 (1-5-6) and 'Ex- 35 40

cellent' in 1981 (11-1-0), 1982 (12-0-0), and
1983 (12-0-0-). The performance of both candi-
dates during 1984 is about the same as in 1983.
During the selection of Shiatis the Commission
5 noted in particular the fact that he was recom-
mended by the Director as the second best of
all. The Commission did not omit to take into
consideration the fact that Aspros is ahead in
seniority to Shiatis for about three years (Aspros
10 was promoted to the post of Pharmacist 1st
Grade since 15th April 1972, whereas Shiatis
was appointed to this post since 15th July, 1975),
this, however, was not considered that it could
reverse the general picture of evaluation which
15 presents Shiatis to be superior.

*In conclusion the Commission took into considera-
tion all the elements before it considered on the basis
of the established criteria in their totality (merit, qua-
lification, seniority) that the following are superior to
20 all candidates and decided to promote them as the
most suitable to the permanent (Ord. Budg.) post of
Senior Pharmacist in the Pharmaceutical Services as
from 15th December 1984."*

There follow the names of all interested parties in the
25 order given in prayer (b) of the reliefs sought.

The grounds of law relied upon in respect of the present
recourse of the applicant were summed up by learned
counsel appearing for him, as follows:

- 30 (a) The Confidential Reports of the applicant were reduced
without following the lawful procedure and or in
contravention of it.
- (b) The respondent Commission acted without having by
Law authority as a "Judge" of the substantive deter-
mination, the objectivity and the lawful action of
35 other organs which were in law exclusively competent
to act in matters of evaluation of public officers.
- (c) The respondent Commission acted on the basis of the
recommendations of Mr. Kkolos who did not act in

accordance with the Law in the preparation of the reports and who without having any direct knowledge of or supervision of the applicant on the one hand reduced the excellent picture that the Confidential Reports for many continuous years depicted of him, whereas on the other hand he recommended for promotion persons far junior to the applicant whose reports were prepared by Mr. Kkolos himself or improved by him as a countersigning officer.

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For the sake of laying the substratum of the grounds of law relied upon, I was first referred to the way Confidential Reports are prepared, in the past under the General Orders, and since 1979 by Regulatory Orders approved by the Council of Ministers contained in Circular No. 491 of 26th March, 1979, and supplemented on the 11th January 1983, Appendices 21 and 22 attached to the written address of learned counsel for the applicant, particularly so to Order 9 thereof to the provisions of which I shall be referring later in this judgment. I was then referred to two cases of this Court in which it was decided that Annual Confidential Reports are not executory acts and consequently cannot be directly challenged but that there is room for incidental control of them in conjunction with a composite act in which they constitute a component part as for example in the concrete act of promotion under consideration. These two cases are that of *Pavlidis v. The Republic* (1977) 3 C.L.R. 421 and *Tanis v. The Republic* (1978) 3 C.L.R. 314.

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As regards the importance which illegality or mistake of law in the preparation of a confidential report may have in the case of a promotion, I was referred to the case of *Georghiades v. The Republic* (1982) 3 C.L.R. 16 in which at p. 28 it is stated:-

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“In matters of promotion and in particular those made under the proviso to section 44(1)(a) of the Law, confidential reports are intermediate acts and the ascertainment of their invalidity brings the invalidity of all subsequent acts for the issue of which the act found to be illegal constitute a legal prerequisite

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(see *Stavros Agrotis v. Electricity Authority of Cyprus* (1981) 3 C.L.R. p. 503 at p. 513, and the authorities referred to therein)."

I was also referred to the case of *Papantoniou and Another v. The Republic* (1983) 3 C.L.R. 64 at pp. 72-73 where the Court on account of mistake in the report annulled the promotion of the interested party and to the very recent case of *Andreas Christofides v. The Republic* as yet unreported, judgment delivered on the 4th May, 1985* I was referred also to the cases of *Ioannou v. Electricity Authority* (1981) 3 C.L.R. 280 at p. 290; *Agrotis v The Electricity Authority* (1981) 3 C.L.R. 503 and *Michaeloudes and Others v. The Republic* (1979) 3 C.L.R. 56.

As regards the conduct of the respondent Commission and the procedure followed in examining the Confidential Reports of interested party Michaelides it was argued that the respondent Commission was not entitled in Law to act as it did, as the Confidential Reports is the function and competence of another administrative organ and not of the respondent Commission. Learned Counsel relied in that respect on the principle of Administrative Law that the administrative organs are bound to recognize as valid and apply them as such the acts of other competent organs. This principle was followed in the case of *Gavriel v. The Republic* (1971) 3 C.L.R. 195. where at p. 202 the following passage is adopted with approval from The Conclusions of the Jurisprudence of the Council of State" at p. 157:

"In accordance with the general principle of public law, the administrative organs are bound to recognise as valid and as such to apply the acts of other organs so long as externally they bear the legal elements of valid acts: (See the Decisions of the Greek Council of State 1255/52), incidental contention subsequently of their validity (by an administrative organ) is not allowed: (See the Decision of Council of State, 1396/52)."

I hope that in my effort to condense the able arguments

* Reported in (1985) 3 C.L.R. 1127.

of learned counsel for the applicant I have not done injustice to him nor any omission on my part will be taken as disregard of all that he took the pains of placing before me in support of the applicant's case.

Under Order 9 of the Regulatory Orders on Confidential Reports if the Countersigning Officer disagrees as to any of the gradings of the Reporting Officer he discusses the subject with him and if the disagreement continues to exist, he gives his own evaluation in red ink and initials same giving reasons for his own evaluation in the column of observations. There appears to have been a difference of opinion between the Reporting Officer and the Countersigning Officer which does not seem to have been resolved and as a result changes in red ink were effected in the Confidential Report of the applicant. The omissions complained of are that the Countersigning Officer did not discuss with the Reporting Officer his difference of opinion. On the other hand there is nothing to suggest that the Director of Pharmaceutical Services and the Director of Medical Services were not aware of the correct situation in the circumstances. I shall treat this omission as an irregularity which in the circumstances of this case is not material and could not have affected adversely the outcome of the act in respect of which it has occurred, nor its legality. There is ample authority to the effect that an irregularity which is not of a material nature does not vitiate the administrative act or decision in which it occurs. This was clearly stated in the case of *Vias Livadas v. The Republic* (1985) 3 C.L.R. 506 where at p. 510 it was said:-

“Even if, however, I had found that the making of such reports by Mr. Constantinou was an irregularity I would have held that it was not of material nature vitiating the promotions of the interested parties. Useful reference, in this respect, may be made to the case of *Christou v. The Republic*, (1980) 3 C.L.R. 437, 448.”

The respondent Commission did not question the conclusions of another competent organ but there being conflicting views it asked for reasons and explanations as part

of its duty to carry out a proper inquiry into a matter before it, acted upon them in the same way that it might ask clarifications and explanations and further information regarding diplomas or other qualifications of a candidate.

- 5 No one disputes the principles advanced by learned counsel for the applicant and of the authority of the Cases in which they were decided, I only conclude that they have no bearing in the present case.

- 10 Support for the above approach can be derived from the case of *HadjiGeorghiou v. The Republic* (1977) 3 C.L.R. 35 where at p. 45 Triantafyllides, P., said after dealing with the question of professional friction and bias between a public officer and his superior that "it was up to the Commission to decide once it knew about the nature
15 of such relations whether any further inquiry into this aspect was necessary.... and I am of the opinion that it was reasonably open to the Commission not to institute an inquiry in this connection since it knew already from the material before it what was the relevant situation."

- 20 The third ground of law is duly answered by the facts of the case and the circumstances under which the Director of Pharmaceutical Services acted throughout both in relation to the applicant and interested party Michaelides. In any event whatever the position, the respondent
25 Commission with its meticulous approach and extensive reasoning cleared up the situation and I can only say that the sub *judice* decision reached was reasonably open to it and taken in the proper exercise of discretionary powers on the matter.

- 30 For all the above reasons the present recourse is dismissed but in the circumstances there will be no order as to costs.

*Recourse dismissed.
No order as to costs.*