

1988 February 29

[DEMETRIADES, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

CHRISTODOULOS STYLIANOU AND OTHERS,

Applicants.

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondent.

(Cases Nos. 17184, 156184, 162184).

Bias—Promotions of Public Officers—Confidential reports—Allegation that reporting officer aspired himself for sub judice post—As at the time of the preparation of the report there existed no real competition between applicant and such reporting officer, the allegation cannot be accepted.

5 *Public Officers—Promotions—Judicial control—Striking superiority.*

Public Officers—Promotions—Qualifications—Additional qualifications, not envisaged as an advantage in the scheme of service—Do not by themselves indicate striking superiority.

10 *Public Officers—Promotions—One year's seniority, additional qualifications, not envisaged as an advantage, equal ratings with the interested party in last 4 confidential reports, but comments in such reports better for the interested party, who was recommended by Head of Department—Whether applicant succeeded in making out a case of striking superiority—Question determined in the negative.*

15 *Public Officers—Promotions—Head of Department, recommendations of—Referring to only two of the candidates—Whether permissible—In the circumstances question determined in the affirmative.*

Public Officers—Promotions—Departmental Committees—Whether obligatory

to hold interviews or oral or written examinations.

Public Officers—Promotions—Departmental Committees—5 vacancies—Four candidates qualified under para. 1 of the Scheme, and the remaining seven under note (1)—Whether possible for Committee to recommend simultaneously all 11 candidates.

The respondent Commission had to fill 5 vacancies to the post of Senior Transport Controller 2nd Grade. Having filled the first 4 vacancies, they proceeded with the selection in respect of the remaining post among candidates, who were qualified under note (1) to the scheme of service. In this respect, the Commission adopted the recommendation of the Head of the Department to confine the selection among candidates Shiengas and Athanassiou.

Shiengas was a year senior to Athanassiou and was better qualified, but his additional qualification was not regarded by the scheme of service as an advantage. Both had excellent reports for the last 4 years, but the comments for Athanassiou were better. Athanassiou was recommended by the Head of the Department.

The present recourses challenge the validity of the selection of Athanassiou.

Applicants Stylianou and Efrem argued that some of their confidential reports were prepared by officers, who aspired for promotion to the sub judge post, and ought, therefore, to be ignored.

Applicant in case 162/84 complained (a) The information which was before the Departmental Committee was insufficient and, therefore, by not holding interviews or oral or written examinations, it failed to carry out its task in examining and evaluating the candidates' ability and worth, and (b) The report sent to the Commission was not in accordance with the provisions of the regulations in that it should recommend not less than two and not more than four candidates for the fifth post and not, as it had done, eleven candidates for all five vacancies.

Held, *dismissing the recourses*: (1) In the light of the facts placed before the Court at the time of preparation of the complained of reports for Stylianou and Efrem there existed no real competition between either of them and the respective reporting officer. Indeed, the reporting officer in each case held at a time a post superior to that held by the respective party and the scheme of service for the sub judge post was prepared after completion of the last complained of report and, in any event, the applicants were quali-

fied under note (1) to the scheme, whereas the respective reporting officer was normally qualified under the said scheme.

5 (2) Applicant Stylianou is senior by a year to the interested party, but the latter was recommended for promotion, was superior in merit and had better qualifications. Applicant, therefore, failed to make out a case of striking superiority.

10 (3) Applicant Shiengas had better qualifications to the interested party (a University Diploma). Such diploma, however, was not considered an advantage. Shiengas was, also, senior to the interested party by one year. Though they both had excellent reports for the last 4 years, the reports on Athanassiou had better comments. Athanassiou was recommended by the Head of the Department. In the light of these facts applicant failed to make out a case of striking superiority.

15 (4) Applicant in case 162/84 failed to make out a case of striking superiority.

(5) The fact that the Head of the Department, in making his recommendations, referred to only two of the candidates is not in the circumstances a ground of annulment (*Constantinou v. Public Service Commission* (1980) 3 C.L.R. 551 adopted).

20 (6) It was not obligatory, under the regulations, on the Committee, to hold interviews or oral or written examinations if it was, on the material before it, satisfied that all candidates should have been recommended for promotion. Since, therefore, the vacant posts in the present case were five and all eleven candidates were eligible for promotion either under paragraph (1) of the scheme of service or under Note (1) thereof, it was not improper for
25 the Committee to recommend all of them. In any event, the irregularity, if any, was not a material one.

*Recourses dismissed.
No order as to costs.*

30 *Cases referred to:*

Bagdades v. Central Bank of Cyprus (1973) 3 C.L.R. 417;

Cleanthous v. Republic (1978) 3 C.L.R. 320;

Evangelou v. Republic (1965) 3 C.L.R. 292;

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

Constantinou v. Public Service Commission (1980) 3 C.L.R. 551;

Savoulla v. Republic (1973) 3 C.L.R. 706;

Christou v. Republic (1980) 3 C.L.R. 437;

Mi. ellidou v. Republic (1981) 3 C.L.R. 461;

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Agrotis v. Electricity Authority of Cyprus (1981) 3 C.L.R. 503.

Recourses.

Recourses against the decision of the respondent to promote the interested party to the post of Senior Transport Controller 2nd Grade in the Department of Inland Transport in preference and instead of the applicants. 10

E. Lemonaris, for applicant in Case No. 17/84.

N. Panayiotou, for applicant in Case No. 156/84.

A. Xenophontos, for applicant in Case No. 162/84.

G. Constantinou - Erotocritou (Mrs.), Senior Counsel of the Republic, for the respondent. 15

Cur. adv. vult.

DEMETRIADES J. read the following judgment. By means of the present recourses, which were heard together in view of their nature, the applicants challenge the decision of the respondent Public Service Commission to promote, instead of them, interested party Antonis Athanassiou to the post of Senior Transport Controller 2nd Grade, in the Department of Inland Transport, as from the 15th November, 1983. 20

As the post of Senior Transport Controller 2nd Grade is a promotion post, there was followed the procedure envisaged by means of section 36 of the Public Service Laws, 1967 to 1983, and a Departmental Committee was instituted for the purpose of recommending to the respondent Commission those candidates eligible for promotion.

On the 2nd July, 1983, the Departmental Committee forwarded to the Public Service Commission their report in which all eleven candidates for the five vacant posts of Transport Controller 2nd Grade were recommended for promotion.

The respondent Commission met on the 7th November, 1983, in the presence of the Director of the Department of Inland Transport, who expressed his views and made his recommendations about the candidates.

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

"Η Επιτροπή εξέτασε τα ουσιώδη στοιχεία από το Φάκελλο Πλήρωσης της θέσης, καθώς και από τους Προσωπικούς Φακέλλους και τις Εμπιστευτικές Εκθέσεις των υποψηφίων και έλαβε υπόψη τα πορίσματα της Τμηματικής Επιτροπής και τις κρίσεις και συστάσεις του Διευθυντή του Τμήματος Χερσαίων Μεταφορών.

Η Επιτροπή, λαμβάνοντας υπόψη τις υψηλές Εμπιστευτικές Εκθέσεις, την αρχαιότητα και τα προσόντα των Παπαρίδη, Φοινικαρίδη, Κυθραιώτη και Ιακώβου, οι οποίοι είναι οι μόνοι που κατέχουν τα προσόντα που απαιτούνται από την παράγραφο (1) του Σχεδίου Υπηρεσίας, έκρινε ότι αυτοί είναι κατάλληλοι για προαγωγή και αποφάσισε να τους προαγάγει στις τέσσερεις πρώτες θέσεις.

Για την πέμπτη θέση η επιλογή έγινε ανάμεσα στους υποψηφίους που δικαιούνται να διεκδικήσουν τη θέση με βάση τη Σημείωση (1) του Σχεδίου Υπηρεσίας, οι οποίοι συστήθηκαν από την Τμηματική Επιτροπή.

Η Επιτροπή, αφού έκαμε γενική σύγκριση μεταξύ των υποψηφίων αυτών, σημείωσε ότι οι Αθανασίου και Σιέγκας έχουν τις υψηλότερες Εμπιστευτικές Εκθέσεις ('Εξάιρετοι' τα τρία τελευταία χρόνια) και αφού έλαβε υπόψη επίσης τα προσόντα και την αρχαιότητα, υιοθέτησε τη σύσταση του Διευθυντή όπως η επιλογή για την πέμπτη θέση γίνει ανάμεσα στους δύο αυτούς υπαλλήλους. 5

Η Επιτροπή έλαβε υπόψη ότι και οι δύο κατέχουν τη θέση Ελεγκτή Μεταφορών, 1ης Τάξης, από 15.3.82 και ότι ο Σιέγκας προηγείται του Αθανασίου σε αρχαιότητα κατά ένα χρόνο στην προηγούμενη τους θέση. Σημειώθηκε επίσης ότι από πλευράς προσόντων ο Σιέγκας κατέχει πανεπιστημιακό δίπλωμα, ενώ ο Αθανασίου δίπλωμα του Κ.Ε.Π.Ε., που είναι κατώτερο του πανεπιστημιακού. Η επιτροπή έλαβε επίσης σοβαρά υπόψη όσα ο Διευθυντής ανέφερε στις συστάσεις του για την απόδοση των δύο υπαλλήλων και ιδιαίτερα το ότι η απόδοση του Αθανασίου παρουσιάζει βελτίωση κατά το 1983 ενώ του Σιέγκα παραμένει στο ίδιο επίπεδο όπως και κατά το 1982. 10 15

Ενόψει των πιο πάνω, η Επιτροπή έκρινε ότι ο Αθανασίου είναι καταλληλότερος του Σιέγκα για προαγωγή και τον επέλεξε για την πέμπτη θέση. 20

Συμπερασματικά η Επιτροπή, λαμβάνοντας υπόψη όλα τα ενώπιόν της στοιχεία, έκρινε με βάση τα καθιερωμένα κριτήρια στο σύνολό τους (αξία, προσόντα, αρχαιότητα) ότι οι παρακάτω τέσσερεις υποψήφιοι με αρ. 2 - 5 είναι κατάλληλοι για προαγωγή και ότι ο υποψήφιος με αρ. 1 υπερέχει των υπόλοιπων υποψηφίων και αποφάσισε να τους προαγάγει στη μόνιμη (Τακτ. Προϋπ.) θέση Ανώτατου Ελεγκτή Μεταφορών, 2ης Τάξης, στο Τμήμα Χερσαίων Μεταφορών από 15.11.83" 25 30

("The Commission considered the essential material from the File of the Filling of the post, as well as from the Personal Files and the Confidential Reports of the Candidates and took

into account the conclusions of the Departmental Committee and the views and recommendations of the Director of Inland Transport.

5 The Commission, having taken into account the high Confidential Reports, the seniority and the qualifications of Pappari-
rides, Finikarides, Kythreotis and Iacovou, who are the only
ones who possess the qualifications required under paragraph
(1) of the Scheme of Service, considered that they are suitable
for promotion and decided to promote them to the first four
posts.

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For the fifth post the selection was made between the candi-
dates who are entitled to claim the post pursuant to Note (1) of
the Scheme of Service, who were recommended by the De-
partmental Committee.

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The Commission, after it had made a general comparison
between these candidates, noted that Athanassiou and Shien-
gas have the higher Confidential Reports ('Excellent' the last
three years) and after it had taken also into account the quali-
fications and seniority, adopted the recommendations of the Di-
20 rector that the selection for the fifth post be made between
those two officers.

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The Commission took into account that both of them hold
the post of Transport Controller, 1st Grade, as from 15.3.82
and that Shiengas precedes Athanassiou in seniority by one
year in their previous post. It has been noted also that as re-
gards qualifications Shiengas possesses a university degree,
whereas Athanassiou a diploma of K.E.P.E. which is lower
than that of a university. The Commission took also seriously
into consideration all that the Director had stated in his recom-
30 mendations about the performance of the two officers and par-
ticularly that the performance of Athanassiou presents an im-
provement during 1983, whereas that of Shiengas remains at
the same level as in 1982.

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In view of the foregoing, the Commission considered that Athanassiou is more suitable to Shiengas for promotion and selected him for the fifth post.

In concluding, the Commission, having taken into account all the material before it, considered that on the basis of the established criteria as a whole (merit, qualifications, seniority) the following four candidates under Nos. 2 - 5 are suitable for promotion and that candidate No. 1 is superior to the remaining candidates and decided to promote them to the permanent (Or. Budg.) post of Senior Transport Controller, 2nd Grade, in the Department of Inland Transport, as from 15.11.83".

It is to be noted that candidates Nos. 2 - 5 are not parties to the present proceedings and that candidate No. 1 is the interested party A. Athanassiou.

Before proceeding to examine any other issue raised in the present proceedings, I will consider first the contention put forward by counsel for the applicants in Cases Nos. 17/84 and 162/84, that the Commission, in considering the merits of the applicants concerned, should have ignored the contents of certain confidential reports in respect of them, which, in accordance to their allegations, have been improperly prepared.

Counsel for applicant Chr. Stylianou submitted that the assessment of the merits of the applicant in the confidential reports for the years 1980, 1981, could not be considered as accurate and objective because the reporting officer, N. Finikarides, had himself a personal interest to the promotion in the post of Senior Transport Controller 2nd Grade, and, therefore, the Commission, by adopting and relying on such reports, which have been prepared by a competitor and a candidate for promotion to the post concerned, had violated the rules of natural justice and acted under a misconception of a most material fact, that is to say the true merits of the applicant.

Counsel for applicant Ch. Efrem argued that the confidential

report in respect of him for the year 1981 could not be prepared, for the same reasons as above, by the reporting officer I. Papparides, as no impartiality is secured.

5 Regarding his confidential report for the year 1982, counsel alleged that as Mr. Kapsosideris, who had signed the report, must have relied partially on the opinion of Mr. Papparides, because he was not the person who directly supervised the applicant, as direct supervisor was still Mr. Papparides, who continued to be the officer in charge, such report was not impartially graded and did not present the correct picture of the applicant.

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 It is to be noted that at the time of the preparation of the confidential reports for the years 1980, 1981, both Mr. Finikarides and Mr. Papparides held the post of Transport Controller 1st Grade and were superior to the applicants. Both applicants were promoted to such post on the 15th March, 1982 and from that time other hierarchically superior officers assumed duties of reporting officers in respect of them. The relevant schemes of service for the post of Senior Transport Controller 2nd Grade were approved by the Council of Ministers on the 17th June, 1982 and the Ministry of Finance gave its approval for the filling of the five vacancies in such post on the 21st April, 1983.

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 Even if I accept the contention of counsel for the applicants that the provisions of the draft Scheme of Service for the post were known to all persons concerned since 1981, I am not prepared to accept the contention of counsel that in anticipation of future promotions the reporting officers had acted in a biased manner, because, in any case, in accordance with paragraph (1) of the Scheme of Service, both N. Finikarides and I. Papparides would precede in such promotion to the applicants, who would be eligible only under Note (1) of such scheme of service. And what was actually done when the five vacancies in the particular post were to be filled, was to promote first the four candidates who had the required under paragraph (1) of the Scheme of Service qualification, including N. Finikarides and I. Papparides, and then consider the remaining candidates, who were entitled to be promoted

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under Note (1), including the applicants.

Therefore, it appears that actually no real competition existed between N. Finikarides and I. Papparides on the one hand, and the applicants on the other, and no comparison between them was ever made. Therefore, I cannot accept the contention of counsel for the applicants that the reports concerned have not been prepared impartially or that there occurred a violation of the rules of natural justice.

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In view of my above conclusion, I dismiss also the allegation of counsel for applicant Efrem that his confidential report for the year 1982 was not impartially graded and I think that after the promotion of this applicant to the same post as his reporting officer I. Papparides, it was the only course left open, in accordance with the relevant Regulations for the preparation of the confidential reports, for the countersigning officer of the previous years, who was hierarchically superior, to act as reporting officer for the applicant.

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I find, therefore, that the respondent Commission in evaluating the merits of the candidates had correctly relied on the contents of such reports in respect of the applicants.

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I will now consider a common ground raised by counsel for the applicants in all cases: It has been submitted that, on the basis of merits, qualifications and seniority, the Commission failed in its paramount duty to select the best candidate for promotion.

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Comparing applicant Stylianou in Case No. 17/84 with the interested party, it must be observed that the interested party is strikingly superior in merit to the applicant, in that he has "excellent" confidential reports for the last four years, whereas the applicant is graded as "very good". Further, the interested party was recommended for promotion by the Director of Inland Transport, whereas the applicant was not.

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As regards qualifications, though both of them possess the re-

quired under the relevant scheme of service qualifications and the applicant had passed the government qualifying examinations, the interested party is better qualified than the applicant because he possesses a certificate in Accounting Higher of "KLIMENS", Athens, a diploma in Public Relations of "K.E.P.E." School, Athens and he is an Associate Member of the Chartered Institute of Transport, U.K.

Coming now to seniority, it is evident that the applicant is senior to the interested party by one year to the post of Transport Controller, 2nd Grade, to which the applicant was appointed on the 1st December, 1975 and the interested party on the 1st December, 1976, and was first appointed on a casual basis about four months before the interested party.

I do not treat the experience of the applicant of four months as significant and, in view of fact that the interested party is superior in merit and qualifications to the applicant, his seniority over the interested party could not have tilted the scales in his favour.

In view of all the foregoing, Case No. 17/84 of applicant Chr. Stylianos has to be dismissed.

Counsel appearing for applicant L. Shiengas, in Case No. 156/84, has submitted that the applicant was better qualified than the interested party and that the Commission was labouring under a misconception that the interested party possessed a diploma in Public Relations, whereas he did not.

This last submission of counsel is clearly unfounded because in the personal file of the interested party, which was before the respondent Commission at the material time, there is to be found a certificate (see red 36) that he possesses a diploma in Public Relations of "K.E.P.E." School, Athens.

Of course the applicant possesses a Diploma in Law for Executive Leadership La Salle Extension University Chicago (U.S.A.) which is a higher qualification than the diploma pos-

sessed by the interested party, but this fact was taken into account by the Commission and specific reference to the aforesaid qualification of the applicant and the interested party was made by it in its relevant minutes. It is to be noted that such qualifications were not required by the relevant scheme of service and that both the applicant and the interested party possessed those required and, therefore, such qualification could not be considered as an advantage on the part of the applicant over the interested party, but the selection of the best candidate should be made on the totality of all relevant circumstances (See, in this respect, *Bagdades v. The Central Bank of Cyprus*, (1973) 3 C.L.R. 417, 427, 428 and *Cleanthous v. The Republic*, (1978) 3 C.L.R. 320, 327).

But in any case, considering the remaining qualifications of the interested party, I do not treat that the applicant was strikingly superior to him in this respect. The fact that no specific mention was made that the applicant had passed the Government Qualifying Examinations cannot establish that the Commission failed to carry out a due inquiry in this respect because all relevant material regarding the qualifications possessed by the candidates was placed before the Commission and it is to be presumed that all data were taken into account.

Regarding their confidential reports, both the applicant and the interested party were rated as "excellent" in their last four confidential reports, though there appear more favourable comments in the confidential reports in respect of the interested party.

As it appears from the relevant minutes of the respondent Commission (see exhibit 6) the Director of Inland Transport limited the selection for the fifth vacant post between only this applicant and the interested party and finally recommended the interested party for the reasons stated by him before the respondent Commission. In the light of those reasons, I cannot accept the contention of counsel for the applicant that the assertions of the Director are general, vague and unsubstantiated because what was said by him can find support from the contents of the personal and confidential report files in respect to both of them.

The fact that the interested party was not selected in 1975 but a year later, when the applicant was first appointed is immaterial and could not, in my opinion, lead to the annulment of the sub judge decision.

5 What remains now to be considered is the seniority by one
10 year of the applicant over the interested party to the post of Transport Controller 2nd Grade. The reasons for selecting the interested party for promotion appear extensively in the sub judge decision and what has weighed in the mind of the Commission were obviously the recommendations of the Director, which could not be lightly disregarded by it.

15 Having carefully scrutinized all relevant material appertaining to each one of them, I am not satisfied that the applicant was a strikingly superior candidate and should have been preferred instead of interested party. It is well settled that mere superiority, not being of a striking nature, cannot justify the annulment of the sub judge decision (see, inter alia, *Evangelou v. The Republic*, (1965) 3 C.L.R. 292, 300 and *Makrides v. The Republic*, (1983) 3 C.L.R. 750, 758).

20 Therefore, recourse No. 156/84 also fails and has to be dismissed.

25 Coming next to the argument of counsel for applicant in Case No. 162/84 that his seniority should have prevailed in view of the fact that the applicant and the interested party are equal in merit and qualifications, I must state that this is not substantiated by the material before me.

30 Regarding merit the interested party had better confidential reports for the last four years because he was rated as "excellent" in all of them, whereas the applicant was rated as "excellent" only in two of them and as "very good" in the remaining two.

The interested party was, also, recommended as the most suitable for promotion by the Director of Inland Transport and as re-

gards qualifications from a comparative table in respect of the candidates, it is clear that the interested party is better qualified than the applicant, though both of them possess the basic qualifications required by the scheme of service.

Therefore, the seniority of the applicant by one year, over the interested party, to the post of Transport Controller 2nd Grade, could not be a determining factor in view of the superiority of the interested party in all other respects.

Regarding the manner in which the recommendations of the Director of Inland Transport were made, counsel for applicant submitted that in view of the fact that he failed to commend on all candidates in an equal manner and gave specific evaluations for only two out of seven candidates, the Commission erroneously attributed undue weight to the views of the Director of Inland Transport.

In answer to this point I will refer to the case of *Constantinou v. The Public Service Commission*, (1980) 3 C.L.R. 551, where A. Loizou J., said the following (at p. 561):

"The argument advanced on behalf of the applicant that there has been a violation of the principle of equality because of the fact that the Head of the Department did not comment expressly on all candidates but only on those mentioned in the minutes, cannot stand. There cannot be, in my view, any question of unequal treatment if a Head of a Department expressly comments on some and does not comment on others. The inference to be drawn, especially when there is a big number of candidates, as in the present case, is that for those not commented upon there was nothing to be said in favour and it was not his intention to recommend them for promotion or in other instances there is something to be said to explain why and in view of certain circumstances, such as marked seniority, they are not being recommended for promotion or that their seniority or other advantage should be ignored."

5 Lastly, I will deal with the complaint of counsel for applicant in Case No. 162/84 that the manner in which the Departmental Committee considered the applications was defective in Law for it was not done in accordance with the standing regulations and in any way it did not serve the main purpose for which the Committee was established for.

His arguments in this respect may be summarized as follows:

10 (a) The information which was before it was insufficient and, therefore, by not holding interviews or oral or written examinations, it failed to carry out its task in examining and evaluating the candidates' ability and worth.

15 (b) The report sent to the Commission was not in accordance with the provisions of the regulations in that it should recommend not less than two and not more than four candidates for the fifth post and not, as it had done, eleven candidates for all vacancies.

(c) The material sent by the Departmental Committee to the Commission was insufficient and the Public Service Commission failed to carry out itself any inquiry and important information in respect of all candidates was lacking.

20 From the contents of the relevant report of the Departmental Committee (exhibit 4) which was sent to the respondent Commission, it appears that the Committee in forming its opinion about those eligible for promotion had taken into account the merit of the candidates, as they were reflected in their confidential reports, their qualifications, seniority and experience. It was not obligatory, under the regulations, on the Committee, to hold interviews or oral or written examinations if it was, on the material before it, satisfied that all candidates should have been recommended for promotion.

30 The task of the Departmental Committee is not to substitute its decision for that of the respondent Commission as to the candidates to be promoted but by a preparatory procedure to select,

from a greater number of candidates, those qualified under the relevant scheme of service and, in comparison to the others, most suitable, to be recommended to the Commission as eligible for promotion, limiting the number as provided for in the relevant regulation. Since, therefore, the vacant posts in the present case were five and all eleven candidates were eligible for promotion either under paragraph (1) of the scheme of service or under Note (1) thereof, it was not improper for the Committee to recommend all of them. Even if I were to accept the contention of counsel for the applicant that any irregularity has occurred in the present instance, I do not treat such an irregularity as of a material nature, as to lead to the annulment of the relevant administrative process (see, in this respect, *Savoulla v. The Republic*, (1973) 3 C.L.R. 706, 713, and *Christou v. The Republic*, (1980) 3 C.L.R. 437, 448). And I do not agree with counsel that the respondent Commission had failed to carry out a due inquiry or that it had acted on insufficient material because, as it appears from the sub judice decision, the Commission had before it all relevant material contained in the personal files and the confidential reports so as to decide on the basis of the established criteria, i.e. merit, qualifications and seniority, the recommendations of the Head of Department, and the conclusions of the Departmental Committee whom to select as the most suitable for promotion. The cases of *Mikellidou v. The Republic*, (1981) 3 C.L.R. 461 and *Agrotis v. The Electricity Authority of Cyprus*, (1981) 3 C.L.R. 503, referred to by counsel for the applicant in support of his aforesaid argument, are distinguishable, on their particular facts, from the present case.

In view of all the foregoing I am not prepared to annul the sub judice decision in the present cases as I have not been satisfied that the applicants were strikingly superior to the interested party or that the respondent Commission had exceeded the outer limits of its discretion or in any way had acted in excess or abuse of powers.

In the result, the present recourses fail and are dismissed accordingly, but with no order as to their costs.

*Recourses dismissed.
No order as to costs.*