

1974
Dec. 5

[TRIANTAFYLLOIDES, P., STAVRINIDES, HADJIANASTASSIOU,
A. LOIZOU, MALACHTOS, JJ.]

DEMETRAKIS
& PANTELIDES
AND OTHERS
(No. 2)
v.
REPUBLIC
(COUNCIL OF
MINISTERS)

DEMETRAKIS PANTELIDES AND OTHERS (No. 2),
Appellants,
and
THE REPUBLIC OF CYPRUS, THROUGH
THE COUNCIL OF MINISTERS,
Respondent.

(Revisional Jurisdiction Appeal No. 142).

Public Officers—Extension of services after reaching age of retirement—Section 8 (4) of the Pensions Law, Cap. 311—Policy decision laying down test for deciding as to desirability of extension in the public interest—Sub judice extension taken on recommendation of Minister of Interior and on a submission by Ministry of Finance—No misapplication of section 8 (4) of the Law in view of contents of said recommendation and submission—Moreover subject decision has not been taken in excess of the limits of the said policy decision.

Administrative Law—Administrative decision—Due reasoning—Decision under s. 8 (4) of the Pensions Law, Cap. 311 allowing public officer to remain in the service after attaining age of compulsory retirement—Sufficient reasoning therefor by looking at the relevant administrative process as a whole.

This was an appeal against a first instance decision of a Judge of this Court by means of which there was dismissed the recourse of the appellants against a decision of the Council of Ministers extending for a period of three years the services of the interested party as District Officer, under the provisions of s. 8 (4) of the Pensions Law, Cap. 311.

By a policy decision of the respondent Council of Ministers it was laid down that the test for deciding as to the desirability, in the public interest, of an extension of services after the age of retirement, should be whether there will be an adverse effect on the functioning of the public service through the loss of the service of a particular officer.

When taking the *sub judice* decision the respondent Council of Ministers had before it a recommendation by the Minister of Interior and a submission by the Ministry of Finance.

Held, (1). Having in mind the contents of the recommendation by the Minister of Interior, as well as the contents of the submission which was made to the Council of Ministers, we are of the view that, in the present case, there has not taken place any misapplication of section 8 (4) of Cap. 311, nor has the subject decision been taken in excess of the limits of the aforementioned policy decision of the Council of Ministers.

(2) Though the reasoning of the *sub judice* decision might have been more detailed, so as to indicate how, in particular, the functioning of the public service would have been adversely affected through the loss of the services of the interested party, it is quite clear—especially when one bears in mind the description of his many good qualities as a public officer—why his services were extended, and we, therefore, are not prepared to say that, when the relevant administrative process is looked at as a whole, there cannot be derived therefrom sufficient reasoning for the subject decision.

Appeal dismissed.

Per curiam: As it is well established that the reasoning for any administrative decision may be derived not only from its text, but from the relevant administrative process as a whole, it is always necessary, for the purposes of the determination of a recourse, to place before the Court all relevant official records which relate to the *sub judice* decision, so that the matter of the existence of due reasoning, and of its validity, can be judicially examined.

Appeal.

Appeal from the judgment of a Judge of the Supreme Court (L. Loizou, J.) given on the 23rd March, 1974, (Revisional Jurisdiction Case No. 422/71) whereby appellant's recourse against the decision of the respondent to allow the interested party Chr. Kythreotis to remain in the service after he attained the age of compulsory retirement was dismissed.

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M. Christofides, for the applicants.

L. Loucaides, Senior Counsel of the Republic, for the respondent.

K. Michaelides, for the interested party.

Cur. adv. vult.

The judgment of the Court was delivered by:—

TRIANTAFYLIDIS, P.: This is an appeal against the decision* of a Judge of this Court at first instance, by means of which there was dismissed the recourse of the appellants against a decision of the Council of Ministers (No. 10.571 of June 28, 1971) extending for a period of three years the services, as District Officer, of Mr. Chr. Kythreotis, who is the “interested party” in the present proceedings.

The appeal was argued on the basis that the extension of the services of the interested party—(whose many good qualities as a public officer were not disputed)—was not validly effected, and that, in any case, the *sub judice* decision is not duly reasoned.

During the hearing of this appeal we had to ask for the production before us of all relevant official records, because some of them were not available to the trial Judge. As it is well established that the reasoning for any administrative decision may be derived not only from its text, but from the relevant administrative process as a whole, it is always necessary, for the purposes of the determination of a recourse, to place before the Court all relevant official records which relate to the *sub judice* decision, so that the matter of the existence of due reasoning, and of its validity, can be judicially examined.

The salient facts of the case, as they appear from the totality of the material now before us, are that the interested party applied himself for the extension of his services for a period of three years after he would have become due to retire at the age of sixty years. His application was recommended by the at that time Minister of Interior, under whom the interested party was serving as a District Officer; the Minister described in really glowing terms the qualities of the interested party. The matter was forwarded for consideration to the Ministry of Finance and, eventually, it was proposed, by means of a submission placed before the Council of Ministers, that the exten-

* Reported in this part at p. 203, *ante*.

sion of the services of the interested party be made for only two years; the Council decided, however, to extend his services for three years, as applied by him.

The relevant statutory provision is section 8 (4) of the Pensions Law, Cap. 311; the Council of Ministers is empowered thereunder to extend the services of a public officer, after he has reached the age of retirement, if such a course is desirable in the public interest.

It appears that by a policy decision of the Council of Ministers (No. 6593, of May 4, 1967) it was laid down that the test for deciding as to the desirability, in the public interest, of an extension of services after the age of retirement, should be whether there will be an adverse effect on the functioning of the public service through the loss of the services of the particular officer.

Each such case has, of course, to be dealt with on the basis of its own merits: Having in mind the contents of the recommendation by the Minister of Interior, as well as the contents of the submission which was made to the Council of Ministers, we are of the view that, in the present case, there has not taken place any misapplication of section 8 (4) of Cap. 311, nor has the subject decision been taken in excess of the limits of the aforementioned policy decision of the Council of Ministers.

Also, though the reasoning of such decision might have been more detailed, so as to indicate how, in particular, the functioning of the public service would have been adversely affected through the loss of the services of the interested party, it is quite clear—especially when one bears in mind the description of his many good qualities as a public officer—why his services were extended, and we, therefore, are not prepared to say that, when the relevant administrative process is looked at as a whole, there cannot be derived therefrom sufficient reasoning for the subject decision.

For the above reasons this appeal fails; but we shall make no order as to its costs.

*Appeal dismissed. No order
as to costs.*

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