

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

PANAYIOTIS ANTONIOU,

*Applicant,*

*and*

THE REPUBLIC OF CYPRUS, THROUGH  
THE MINISTER OF LABOUR AND SOCIAL  
INSURANCE,

*Respondent.*

PANAYIOTIS  
ANTONIOU  
v.  
REPUBLIC  
(MINISTER  
OF LABOUR  
AND SOCIAL  
INSURANCE)

(Case No. 8/71).

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*Recourse under Article 146 of the Constitution—Witnesses—Powers of the Supreme Court, exercising jurisdiction as an Administrative Court under Article 146 of the Constitution—Empowered under Rule 11 of the Supreme Constitutional Court Rules, 1962, to summon any person to give evidence or produce documents for the purpose of enabling it to do justice in the case—Relevant discretion to be exercised judicially.*

*Social Insurance—Proceedings under the Social Insurance Law, 1964 (Law No. 2 of 1964)—Powers of the Supreme Court, sitting as an Administrative Court, to apply sections 67 to 71 of the Law—Cf. section 2 of said Law.*

*Evidence—Witnesses—Powers of the Supreme Court, sitting as an Administrative Court, to summon witnesses—Rule 11 of the Supreme Constitutional Court Rules, 1962.*

*Witnesses—Summoning of—See supra.*

*Supreme Constitutional Court Rules, 1962—Rule 11—Powers to summon witnesses etc.—See supra.*

Counsel for the applicant applied to the Court that two persons be summoned to appear before the Court and give evidence in this social insurance case. Counsel for the respondent objecting, argued that the administration, after making their assessment of the evidence, rejected the version of the applicant that he was an "employed person" within the definition in section 2 of the Social Insurance Law, 1964 (Law No. 2 of 1964); and that this Court as an Administrative Court, in proceedings under Article 146 of the Constitution, cannot interfere with findings of fact made by an administrative authority, this Court not being an Appellate Court

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exercising appellate jurisdiction as regards administrative decisions ; it cannot therefore have the same powers as in the case of a Court of Appeal in considering judgments of inferior Courts.

Rejecting counsel's for the respondent submission, the Court ruled as follows :

*Ruling :* (1) This Court, in exercising its jurisdiction as an Administrative Court, has power to summon any person to give evidence or produce documents for the purpose of enabling the Court to come to a just decision in the case. This is clear from the wording of Rule 11 of the Supreme Constitutional Court Rules, 1962. Of course, this discretion has to be exercised judicially taking into consideration the circumstances of each particular case.

(2) I must further add that I hold the view that in proceedings under the Social Insurance Law, 1964 this Court has now power in a proper application to apply the provisions of sections 67 to 71, both inclusive, of the said Law, being the Court having jurisdiction as defined in section 2 of that Law.

(3) In the present case I consider necessary that P.A. and C.K., the rural constables....., should be summoned to give evidence before the Court.

*Order in terms.*

### **Ruling.**

Ruling on an objection raised by respondent's counsel to the application of applicant's counsel for leave to summon certain witnesses to give evidence for the applicant at the hearing of his recourse against the validity of the decision of the respondent that he is not entitled to an insurance benefit.

*P. Sivitanides* with *P. Michaelides*, for the applicant.

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

*Cur. adv. vult.*

The following ruling was delivered by :—

MALACHTOS, J. : In this case Mr. Sivitanides, counsel for the applicant, in his opening address applied to the Court that the persons who made statements to the Assistant Labour Officer in connection with the present case and, in particular, the rural constable of Timi village namely, Costas Kattides, be summoned to appear before the Court and give evidence.

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Mr. Loucaides appearing for the respondents objected to such a course being followed by the Court and submitted that the Administration, after making their assessment of the evidence, they rejected the version of the applicant as, in the circumstances, he was not an employed person within the meaning of section 2 of the Social Insurance Law, 1964. He further submitted that this Court, as an Administrative Court, in proceedings under Article 146 of the Constitution, cannot interfere in respect of findings of fact by an Administrative Authority. The Administrative Court is not an appellate Court exercising appellate jurisdiction as regards administrative decisions. It cannot, therefore, have the same powers as in the case of a Court of Appeal in considering judgments of inferior Courts.

I have considered the able arguments of counsel and I have come to the conclusion that this Court, in exercising its jurisdiction as an Administrative Court, has power to summon any person to give evidence or produce documents for the purpose of enabling the Court to come to a just decision in the case. This is clear from the wording of rule 11 of the Supreme Constitutional Court Rules, 1962. Of course, this discretion must be exercised judicially taking into consideration the circumstances of each particular case.

I must further say that I hold the view that in proceedings under the Social Insurance Law, 1964, this Court after the 9th July, 1964, the date of coming into operation of the Administration of Justice (Miscellaneous Provisions) Law, 1964, has power in a proper application to apply the provisions of sections 67 to 71, both inclusive, of the Social Insurance Law, 1964, being the Court having jurisdiction as defined in section 2 of the said Law.

In the present case I consider necessary that the applicant, Panayiotis Antoniou of Timi, Paphos, as well as the rural constable of Timi, namely, Costas Kattides, should be summoned to give evidence for the purpose of enabling the Court to come to a just decision in the case.

The case is adjourned to the 17th December, 1971, for further hearing.

The Registrar is directed to summon the applicant, Panayiotis Antoniou of Timi, Paphos, as well as the rural constable of Timi, Paphos, Costas Kattides, to appear before this Court on the above date to give evidence.

*Order in terms.*