

1975
April 4

[TRIANTAFYLIDIS, P., STAVRINIDES, L. LOIZOU,
HADJIANASTASSIOU, A. LOIZOU, MALACHTOS, JJ.]

TELEMACHOS
ANDREOU
AND OTHERS
v.
REPUBLIC
(COUNCIL OF
MINISTERS)

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

TELEMACHOS ANDREOU AND OTHERS,

Applicants,

and

THE REPUBLIC OF CYPRUS, THROUGH
THE COUNCIL OF MINISTERS,

Respondent.

(Cases Nos. 73/73, 74/73, 97/73, 180/73, 303/73 & 437/73).

Administrative Law—Recourse for annulment—Revocation of administrative decision challenged thereby—Recourse abated.

Abatement of recourse—Through revocation of decision challenged thereby.

Recourse for annulment—Abatement.

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Whilst judgment in the above recourses was reserved there was published a decision of the respondent revoking the decisions challenged in such recourses.

Counsel on both sides have submitted that these recourses have been abated, because of the said decision of the respondent Council of Ministers.

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Held, in the light of what counsel have submitted we agree that their common view as to the outcome of these cases is correct; so, the reserved judgment will not be delivered and the cases are hereby struck out as abated (see Tsatsos on Recourse for Annulment to the Council of State 3rd ed. pp. 370-372).

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Recourses abated; cases struck out.

Recourses.

Recourses against the decision of the respondent to terminate applicants' services in the Police Force.

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L. Papaphilippou, for applicant in Case No. 73/73.

L. Papaphilippou with P. Demetriou, for applicant in Case No. 303/73.

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P. Demetriou, for applicant in Case No. 74/73.

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5 P. Demetriou for A. Neocleous, for applicant in Case No. 437/73.

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E. Nicolaou (Miss) for L. Clerides, for applicant in Case No. 180/73.

Fr. Markides with E. Markidou (Mrs.) and N. Anastassiades, for applicant in Case No. 97/73.

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

The judgment of the Court was delivered by:

15 TRIANTAFYLLIDES, P.: In these six cases, which were heard together, judgment was reserved on the 1st March, 1974. Subsequently, on the 2nd August, 1974, there was published in the Fourth Supplement to the Official Gazette (Not. 66) a decision of the Council of Ministers revoking, *inter alia*, the decisions challenged in these proceedings.

The said decision of the Council reads as follows:

20 “Ανάκλησις Ἀποφάσεων Ὑπουργικοῦ Συμβουλίου δι’ ὧν ἑτεροματίσθησαν αἱ ὑπηρεσίαι Δημοσίων Ὑπαλλήλων, Ἐκπαιδευτικῶν, Ἀστυνομικῶν καὶ Δεσμοφυλάκων.

Ἀπόφασις ὑπ’ Ἀρ. 13.421.

25 Τὸ Συμβούλιον ἀπεφάσισεν ὅπως ὅλαι αἱ ἀποφάσεις αἱ περιγραφόμεναι εἰς τὸν Πίνακα ἀνακληθῶσι ἀπὸ τῆς ἡμερομηνίας καθ’ ἣν αὗται ἐλήφθησαν καὶ θεωρηθῶσιν ἀπὸ τῆς ἐν λόγῳ ἡμερομηνίας ὡς ἄκυροι καὶ ὡς μὴ ὑφιστάμενοι παντὸς ὅπερ ἐγένετο δυνάμει τῶν ρηθισῶν ἀποφάσεων θεωρουμένου ὡς μὴ γενομένου καὶ παντὸς ὅπερ παρελείφθη νὰ γίνῃ ἐνεκεν
30 τῶν ρηθισῶν ἀποφάσεων διαταττομένου ὅπως γίνῃ”.

(“ Revocation of Decisions of the Council of Ministers by means of which there were terminated the services of Public Officers, Educationalists, Policemen and Prison-Warders.

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TELEMACHOS
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Decision No. 13.421.

The Council decided to revoke all the decisions described in the Schedule as from the date on which they were taken and they should be regarded as from the said date as null and non-existent and everything done by virtue of the said decisions should be regarded as not having been done and it is ordered that there should be done whatever was omitted to be done because of the said decisions".)

Counsel on both sides have submitted that because of the above decision of the Council these recourses have been abated; they argued that this was the inevitable conclusion in view of the wording and effect of such decision; in this respect reference was made, *inter alia*, to Tsatsos on Recourse for Annulment to the Council of State (Θ. Τσάτσου—'Η Αίτησις 'Ακυρώσεως 'Ενώπιον του Συμβουλίου της 'Επικρατείας) 3rd ed., pp. 370-372.

In the light of what counsel have submitted we agree that their common view as to the outcome of these cases is correct; so, the reserved judgment will not be delivered and the cases are hereby struck out as abated.

Regarding costs, we have decided that the respondent should pay to each counsel for the applicants his costs; the Court will fix the amounts payable as costs, on presentation by each advocate of his bill of costs.

Cases struck out as abated.
Order for costs as above.