

1987 February 17

[DEMETRIADES, J]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION.

SOTERIS PILAVAKIS AND OTHERS,

*Applicants,*

v.

THE REPUBLIC OF CYPRUS, THROUGH  
THE PUBLIC SERVICE COMMISSION,

*Respondents.*

*(Case No. 525/83).*

*Recourse for annulment—Nature of proceedings—Inquisitorial—Court possesses much wider powers than in other proceedings—Recalling a witness for further cross-examination—Discretion exercised in favour of the party seeking such recalling*

After the deponent of an affidavit sworn in relation to this case, namely Mr. Avraamides, was cross-examined by counsel of the respondents, the hearing was adjourned so that the respondents may call the Head of the Statistics Department as a witness, but on the day the hearing was resumed, counsel for the respondents applied that witness Avraamides be recalled for further cross-examination on the ground that certain facts that came to his knowledge required such further cross-examination. Counsel for the applicants opposed the application.

5

10

Held, granting the application: (1) Proceedings in the field of administrative law are of an inquisitorial nature and the Court is possessed of much wider powers than in other proceedings.

15

(2) In the exercise of its discretion the Court decided to allow the recalling of the said witness.

*Application granted.*

**Application.**

Application by counsel for respondents for recalling a witness for further cross-examination.

20

*Ph. Valiantis*, for the applicants.

*A. Vladimirov*, for the respondents.

DEMETRIADES J. read the following ruling. After Mr. Avraamides, who swore an affidavit in relation to this case and who, as to its contents was cross-examined by counsel for the respondents completed his evidence, counsel for the respondents sought that the hearing be adjourned so that he could call as a witness Mr. Demetriades, the Head of the Statistics Department. The case was then adjourned but on the day the hearing was to continue counsel for the respondents made an application to the Court that the witness Avraamides be recalled for further cross-examination on the ground that certain facts that came to his knowledge, among others from the confidential reports which are in the files of the applicants and the interested parties, required the recalling of this witness for further cross-examination. This, counsel said, was necessary in order that the Court assesses the credibility of the witness and has the whole truth before it.

Counsel for the applicants opposed the application on the ground that as the confidential reports files were in the possession of counsel for the respondents from the early stages of these proceedings, he surely knew their contents as from then.

Counsel for the respondents, in his final address, informed the Court that at the time he was cross-examining Mr. Avraamides, the confidential reports files were not with him. As I note from the record of these proceedings, on an occasion, before the hearing of this case started, the hearing was adjourned because the files were not available. So I feel that I can take the word of counsel for his allegation.

Counsel for the applicants further submitted that if there existed such facts, these could be given by Mr. Demetriades in his evidence. In any event, counsel said, Mr. Avraamides could only be cross-examined on the contents of his affidavit.

Proceedings in the field of administrative law are of an inquisitorial nature and the Court is possessed of much wider powers than in any other proceedings before it. For example, the Judge in order to ascertain the true legal and factual issues of a case can reopen it or, on his own initiative, invite the parties to argue on an issue not raised by them.

In the result and in the exercise of my discretion, I have decided to allow the recalling of Mr. Avraamides and his further cross-examination by counsel for the respondents.

The case is fixed for further hearing on 2.4.87.

Mr. Avraamides to attend the Court on that day and the respondents should have available their witnesses so that they can give their evidence.

*Application granted.* 5