

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

KYRIACOS ANDREOU,

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH
THE MINISTER OF INTERIOR,

Respondent.

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KYRIACOS
ANDREOU
v.
REPUBLIC
(MINISTER
OF INTERIOR)

(Case 84/66).

Administrative Law—Cyprus Police Force—Fire Service—Validity of decision to dismiss Applicant from the post of Fireman—The Police (Discipline) Regulations 1958, Regulations 18 and 20—Applicant's dismissal within the powers of the Commander of Police under Reg. 20 of the Regulations—Relevant decision reasonably open to him.

Cyprus Police Force—Fire service—Dismissal from—See above.

The Applicant in this recourse complains against the validity of a decision of the Commander of Police to dismiss him from the post of Fireman.

The *sub judice* decision of the Commander was given by him in an appeal to him by Applicant against the Reviewing Officer's decision, under Regulation 18 of the Police (Discipline) Regulations 1958, whereby on reviewing a disciplinary punishment of £5 fine he increased such disciplinary punishment to one of "requirement to resign".

Held, (1). There is no doubt that on the present occasion the Applicant has been very severely punished. But it was within the powers of the Commander of Police, under regulation 20 of the Police (Discipline) Regulations, 1958, to increase, as he did, the punishment imposed on the Applicant; and in the light of the bad disciplinary record of the Applicant—details of which are fully set out in the Opposition—it is quite clear that it was reasonably open to the Commander of the Police to decide to dismiss the Applicant.

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(2) This Court cannot substitute its own view, as to the quantum of disciplinary punishment, in the place of the view taken by the appropriate organ in the present Case (see Kyriakopoulos "Law of Civil Servants" (1954) p. 289).

*Application dismissed.
Order for costs as
aforesaid.*

Recourse.

Recourse against the validity of the decision of the Commander of Police to dismiss Applicant from the post of Fireman in the Fire Brigade.

Applicant in person.

L. Loucaides, Counsel of the Republic, for the Respondent.

Cur. adv. vult.

The following Judgment was delivered by:

TRIANTAFYLLIDES, J.: By this recourse the Applicant attacks, in effect, the validity of the decision of the Commander of Police — who comes under the Respondent Ministry — to dismiss him from the post of Fireman. Such decision was reached on the 3rd February, 1966 — and not on the 29th January, 1966, as erroneously alleged in the Application.

The Applicant became a Fireman on the 1st April, 1958. As from the 1st September, 1963, he was posted at the Larnaca Fire Station.

On the 27th December, 1965, the Applicant assaulted his Station Officer and, as a result, he was prosecuted before, and convicted accordingly by, the District Court of Larnaca.

Following such conviction he was punished disciplinarily by being fined £5.

The Chief Fire Officer, acting as a Reviewing Officer in the matter, under the provisions of regulation 18 of the Police (Discipline) Regulations 1958, decided to increase the disciplinary punishment imposed on the Applicant to one of "requirement to resign".

The Applicant appealed against the Reviewing Officer's decision to the Commander of the Police and his appeal was heard by him on the 3rd February, 1966. The record of such hearing is *exhibit 1* in these proceedings.

As it appears from *exhibit 1* the Commander of Police not only rejected the appeal, but he increased the punishment to be "dismissal from the Force". In doing so he based himself on the Applicant's bad disciplinary record (including a case of discreditable conduct in 1965 for which he was originally dismissed from the Force, but where later, on appeal, the Commander of Police reduced the punishment to one of deferment of increment for two years; it appears that on that occasion the Applicant was warned that he was being given a last chance).

There is no doubt that on the present occasion the Applicant has been very severely punished. But it was within the powers of the Commander of Police, under regulation 20 of the aforesaid Regulations, to increase, as he did, the punishment imposed on the Applicant; and in the light of the bad disciplinary record of the Applicant — details of which are fully set out in the Opposition — it is quite clear that it was reasonably open to the Commander of the Police to decide to dismiss the Applicant.

This Court cannot substitute its own view, as to the quantum of disciplinary punishment, in the place of the view taken by the appropriate organ in the present Case (see *Kyriakopoulos "Law of Civil Servants"* (1954) p. 289)

In the circumstances this recourse fails and has to be dismissed accordingly. Subject to any order for costs already made, I have thought fit to make, otherwise, no order as to costs; in adopting such a course I have taken into account, *inter alia*, the severity of the disciplinary punishment imposed on the Applicant, which was such as to make him pursue this recourse to the very end irrespective of its merits.

*Application dismissed.
Order for costs as
aforesaid.*

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