

1984 November 1

[TRIANTAFYLIDIS, P., MALACHTOS AND STYLIANIDES, JJ.]

THE KYRENIA MUNICIPALITY,

*Appellants-Defendants.*

v.

STELIOS LIONTARIS AND 2 OTHERS,

*Respondents-Plaintiffs.*

*(Civil Appeal No. 6573).*

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*Municipal Corporations—Employees of—Collective agreement providing for increases in salaries of—Not approved by District Officer—Is not binding on the Corporation—Section 67(4) of the Municipal Corporations Law, Cap. 240.*

5       The sole issue in this appeal was whether, in view of the provisions of sections 67\* and 69\* of the Municipal Corporations Law, Cap. 240, a collective agreement providing for increases in the salary of the employees of the appellant Municipality was binding on the Municipality in the absence of its approval  
10       by the District Officer.

15       *Held*, that the wording of section 67(4) of Cap. 240 is so clear and unambiguous that admits of only one meaning so that the task of interpretation can hardly be said to arise; that it means that a municipal employee, appointed either under section 67  
20       or section 69 of the law, during the period in which he is holding office shall receive such salary as the Municipal Council shall appoint, subject to the approval of the District Officer; and that this certainly means that whenever there is a change of salary during the service of an employee, will certainly not be valid without the approval of the District Officer; that, therefore, the interpretation given to the aforesaid subsection by the trial

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\* Sections 67 and 69 are quoted at pp. 793–794 post, but the provision most relevant is section 67(4) which runs as follows:

“67(4) Every person appointed under this section shall hold office during the pleasure of the Council and shall receive such salary as the Council with the approval of the District Officer shall appoint”.

Judge was plainly wrong; and that, accordingly, the appeal must be allowed.

*Appeal allowed.*

**Appeal.**

Appeal by defendants against the judgment of the District Court of Limassol (Korfiotis, D.J.) dated the 25th April, 1983 (Consolidated Actions Nos. 3076/79, 3077/79 and 3078/79) whereby the defendant Municipality was adjudged to pay to the plaintiffs, who were at the material time in its service, various sums for increase of salary based on a collective agreement as well as for cost of living allowance for the year 1976.

*St. Mc Bride*, for the appellants.

*A. Proestos with A. Indianos*, for the respondents.

TRIANTAFYLLIDES P.: The judgment of the Court will be delivered by Mr. Justice Malachtos.

MALACHTOS J.: This is an appeal against the judgment of a District Judge of the District Court of Limassol in three consolidated Actions Nos. 3076/79, 3077/79 and 3078/79, where the appellant defendant Municipality was adjudged to pay to the respondents plaintiffs, who were at the material time in its service, various sums for increase of salary based on a collective agreement, which was made in 1974 by their trade union SEK and the said Municipality for the period as from 1.7.1977 to 31.2.1978, as well as for cost of living allowance for the year 1976.

The Municipality in its defence did not dispute the collective agreement or the non payment of the cost of living allowance for 1976 but alleged that the collective agreement was not binding on them as it was not approved by the District Officer of Kyrenia as it is provided by section 69 of the Municipal Corporations Law, Cap. 240. It was further alleged in the defence that the cost of living allowance for 1976 was not paid because such payment was not allowed by law or by a decision of the Council of Ministers. It is not in dispute that the collective agreement in question was not approved by the said District Officer.

The trial Judge in his judgment in interpreting the provisions of section 69 of the Law, adopted the submission of counsel for the plaintiffs that approval by the District Officer is required only in cases of first appointment of employees of Municipalities and not in cases of increase of salary for those already in the service, as in the present case.

The trial Judge further rejected the submission of counsel for the defendant Municipality as to the non payment of the cost of living allowance for the year 1976 and gave judgment in favour of plaintiffs as per claim, with costs.

This appeal today before us, turns up on only one point which is the interpretation of section 69 of the Law, since the appeal against that part of the judgment of the trial Court as to the payment of cost of living allowance for the year 1976, has been abandoned. Section 69 of Cap. 240 reads as follows:

“69.(1) The Council may appoint fit persons, not being members thereof to such subordinate offices as they think necessary for the purposes of this law.

(2) The provisions of sub sections (2), (4) and (5) of section 67 of this Law, shall apply to every appointment made and to every person appointed under this section”.

The relevant part of section 67 reads as follows:

“67.(1) The Council may, and when required by the Commissioner so to do shall, appoint fit persons, not being members thereof, to all or any of the following principal offices, that is to say, the office of—

- (a) town clerk;
- (b) treasurer;
- (c) municipal engineer;
- (d) sanitary surveyor;
- (e) medical officer of health:

Provided that one person may be appointed to the office of town clerk and treasurer.

(2) No person who is over sixty years of age shall be appointed to any of the offices enumerated in subsection (1) of this section.

(3) Every appointment under this section shall be subject to the approval of the Commissioner and shall not take effect until it is approved by him.

(4) Every person appointed under this section shall hold office during the pleasure of the council and shall receive such salary as the council with the approval of the Commissioner shall appoint: 5

Provided that no such person shall be dismissed or removed from office except—

(a) in accordance with a resolution of the council passed by a majority of at least two-thirds of those councillors who shall be present at a meeting of the council specially convened for the purpose after notice of not less than seven or more than fourteen days before such meeting; and 10 15

(b) with the approval of the Commissioner.

(5) Every person who completes his sixtieth year of age while holding any of the offices enumerated in subsection (1) of this section shall cease to hold such office:

Provided that \_\_\_\_\_". 20

What we are really concerned with in this appeal is the interpretation of subsection 4 of section 67 of the Law which applies also to appointments of municipal employees under section 69, as well.

The wording of this subsection is so clear and unambiguous that admits of only one meaning so that the task of interpretation can hardly be said to arise. It means that a municipal employee, appointed either under section 67 or section 69 of the law, during the period in which he is holding office shall receive such salary as the Municipal Council shall appoint, subject to the approval of the District Officer. This certainly means that whenever there is a change of salary during the service of an employee, will certainly not be valid without the approval of the District Officer. 25 30

Therefore, the interpretation given to the aforesaid subsection by the trial Judge is plainly wrong. 35

For the above reasons, the appeal is allowed and the judgment of the trial Court is varied accordingly.

There will be no order as to the costs of the appeal.

*Appeal allowed with no order  
as to costs.*

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