

1985 July 8

[DEMETRIADES, J.]

IN THE MATTER OF ARTICLE 146
OF THE CONSTITUTION

ANTONIS LOUCA,

Applicant,

v.

THE REPUBLIC OF CYPRUS THROUGH

1. THE MINISTER OF INTERIOR
2. THE COMMANDER OF POLICE,

Respondents.

(Case No. 396/83).

The Police Force and Fire Service (Increase of Salaries of Members, Restructuring and Placement of Certain Posts on Unified Salary Scales) Law 19/83—Retrospective effect of such Law as from 1.5.1979—Whether an ex-member of the Police Force who resigned before publication of the said Law but after 1.5.1979 entitled to benefits under such Law for the period 1.5.79 to the date of his resignation from the Force.

The applicant was enlisted in the Police Force in 1964. On the 29.9.1981, after he had pleaded guilty to a number of disciplinary offences, he was sentenced to the disciplinary punishment of requirement to resign."

After the applicant submitted his resignation the Police Force and Fire Service (Increase of Salaries of Members, Restructuring and Placement of Certain Posts on Unified Salary Scales) Law 19/83 was enacted with retrospective effect as from 1.5.1979.

After the enactment of the said Law the applicant applied to the Chief of the Police for the payment to him of all benefits to which he was entitled from the date on which the said Law came into force (1.5.79) until the date of his resignation from the Police Force (29.9.1981).

The Chief of Police dismissed the said application on

the ground that the applicant's claim was not covered by the provisions of Law 19/83 as on the date of its publication (22.4.1983) he was not in the service. Hence the present recourse.

Held, The present recourse succeeds as it is clear from the wording of Law 19/83 and, in particular, of sections 6 and 7 that the intention of the Legislator was clearly to increase salaries and benefits of all members of the Police Force and the Fire Service, who were in service at any time during the period 1.5.79 to 22.4.1983. 5
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Sub judice decision annulled.

Recourse.

Recourse against the decision of the respondents not to pay applicant all benefits which he was entitled under the provisions of Law No. 19 of 1983 from the date on which the Law came into force i.e. 1st May, 1979 until the date of his resignation from the service i.e. the 29th September, 1981. 15

A. Spyridakis, for the applicant.

N. Charalambous, Senior Counsel of the Republic, for the respondents. 20

Cur. adv. vult.

DEMETRIADES J. read the following judgment. The applicant was enlisted in the Cyprus Police Force in 1964 and on the 29th September, 1981, after he had pleaded guilty to a number of disciplinary offences, he was asked to submit his resignation, a punishment provided for by the Police (Discipline) Regulations, 1958-1981. 25

After the applicant submitted his resignation the Police Force and Fire Service (Increase of Salaries of Members, Restructuring and Placement of Certain Posts on Unified Salary Scales) Law, 1983 (Law 19/83) was enacted, on the 22nd April, 1983, with retrospective effect as from the 1st May, 1979. 30

On the 8th June, 1983, the applicant, through his counsel, applied to the Chief of the Police to be paid all benefits to which he was entitled from the date on which the Law 35

came into force, i.e. the 1st May, 1979, until the date of his resignation from the service, i.e. the 29th September, 1981.

5 On the 19th July, 1983, counsel for the applicant received a letter signed on behalf of the Chief of the Police, by means of which he was informed that applicant's claim was not covered by the provisions of Law 19/83 as on the date of its publication he was not in the service.

10 Counsel for the respondents argued that as Law 19/83 was enacted on the 22nd April, 1983, its provisions cannot have retrospective effect in the case of the applicant and, therefore, the applicant who ceased to be a member of the Police Force as from the 29th September, 1981, cannot
15 avail himself of any benefits derived from the Law. In support of his argument he relied on the interpretation given by section 2 of the Law to the word "μέλος" (member) which is: «... παν πρόσωπον κατέχον μονίμως ή προσωρινώς οιαδήποτε θέσιν» ("...every person possessing permanently or temporarily any post") and submitted that if
20 the intention of the legislator was to include persons who were members of the Police Force prior to the enactment of the Law, he would clearly say so by defining the word "μέλος" (member) as "persons who on the specified day held permanently or temporarily any post".

25 The submission of counsel for the respondents is, in my view, untenable as it is clear from the wording of the Law, and, in particular, of sections 6 and 7, that the intention of the legislator was clearly to increase the salaries and benefits of all members of the Police Force and the Fire Service
30 who were in service at any time during the period from the 1st May, 1979 to the 22nd April, 1983.

Therefore, the present recourse succeeds, but with no order as to its costs.

35 *Sub judice decision annulled.*
No order as to costs.