

1985 December 20

[MALACHTOS, J.]

IN THE MATTER OF ARTICLE 146
OF THE CONSTITUTION

ELIAS LARMOS,

Applicant.

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE ACCOUNTANT GENERAL OF THE
MINISTRY OF FINANCE,

Respondent.

(Case No. 72/73).

Public Officers—Educational grants—Circular 1286 dated 6.12.55—Only Government Officers in permanent posts on 15.8.60 are eligible for such a grant—School teachers in Elementary and Secondary Education on 15.8.60 were not considered as Government Officers—Therefore the applicant who on 15.8.60 was a school teacher in Elementary Education was not entitled to the Educational grant he applied for.

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On 27.8.1959 the applicant, who was at the time a teacher serving in the elementary education, accepted an offer made to him by the Department of the Greek Education and assumed the duties of an Assistant Inspector in elementary education on a temporary basis till July 1960. His status, however, as a teacher did not change.

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On 12.8.1960 the Greek Educational Board decided that with regard to the matter of applicant's appointment to the post of Assistant Inspector, the applicant would continue to serve on probation for one more year before his permanent appointment to the post. This decision was communicated to the applicant by letter dated 10.10.1960.

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On 22.8.72 the applicant applied to the respondent for

an educational grant in respect of his three daughters for their studies in Greece. By letter dated 19.10.1972 the applicant was informed that his said application had been rejected on the ground that as on the 15.8.1960 the applicant was not holding on a permanent basis the post of Assistant Inspector in Elementary Education. On 2.1.73 the applicant received another letter from the respondent to the effect that as on 15.8.60 he was holding the post of elementary school teacher, he was not entitled to the educational grant since elementary and secondary education school teachers are not considered as public servants.

As a result applicant filed the present recourse:

Held, dismissing the recourse:

(1) According to Circular 1286 dated 6.12.1955 only Government Officers in permanent posts on 15.8.60 are eligible for educational grant. School Teachers on 15.8.60 were not considered as Government Officers.

(2) The holder of the post of Assistant Inspector in elementary education was considered as a Government Officer. but the decision dated 12.8.60 to appoint the applicant to such post had been communicated to him on 10.10.60 and his appointment was on probation as from 1.9.60. It follows that as on 15.8.60 applicant was a school teacher in elementary education and so he is not entitled to educational grant.

Recourse dismissed.

No order as to costs.

Recourse.

Recourse against the refusal of the respondent to grant applicant educational grant in respect of his three daughters who were studying abroad.

K. Talarides, for the applicant.

L. Loucaides, Deputy Attorney-General of the Republic, for the respondent.

MALACHTOS J. read the following judgment. The applicant in this recourse claims a declaration of the Court that the decision of the Accountant-General of the Republic, which was communicated to him by letter dated 2nd January, 1973, and received on 5th January, 1973, by which he was informed that he was not entitled to educational grant in respect of his three daughters who were studying abroad, is null and void and of no legal effect whatsoever. 5

The relevant facts of the case are the following:

On the 20th August, 1959, the applicant, who was at the time a teacher serving in the elementary education, received a letter from the Department of the Greek Education enquiring as to whether he was willing to assist in the inspection of the elementary schools of Paphos during the academic year of 1959-1960. He was also informed that this new post did not entail any change of his salary and his position as a teacher but he was given to understand that in the future an appointment might be offered to him for the post of Assistant Inspector of Elementary Education if his work would be considered as satisfactory. 10 15 20

The applicant by letter dated 27th August, 1959, accepted the offer and assumed duties as an Assistant Inspector in elementary education on a temporary basis in the Paphos District till July, 1960. On the 8th July, 1960, at a meeting of the Greek Educational Board a submission was made for the appointment of the applicant on a permanent basis, to the post of Assistant Inspector. The Board supported the submission and agreed that the applicant should be appointed on a permanent basis provided that the report of the General Inspector on his performance would be favourable. 25 30

On the 15th July, 1960, a meeting of the same Board took place where it was decided that with regard to the permanent appointment of applicant as an Assistant Inspector in elementary education, a decision would be taken after the submission of a written report by Mr. Kouros, who was then the General Inspector of elementary education. 35

On the 5th August, 1960, still before the establishment of the Republic, the Board met again and having heard

the recommendations of Mr. Kouros, decided that the applicant should be appointed to the post of Assistant Inspector.

5 Finally, at a meeting of the 12th August, 1960, the Board decided that with regard to the appointment of the applicant to the post of Assistant Inspector, he would continue to serve on probation for one more year before his permanent appointment to that post.

10 On the 3rd October, 1960, the applicant wrote the following letter to the Principal Greek Educational Officer:

"I shall be pleased to have written confirmation of my appointment to the post of Assistant Inspector in the Elementary Education.

15 2. I shall also be pleased that in fixing my salary my present emoluments should be taken into account. Basic salary £600.-, allowance as Headmaster A £180.-, total £780.-"

20 In reply the applicant received the following letter dated 10th October, 1960:

25 "You are informed that the Greek Educational Board at its meeting of the 12th August, 1960, has decided that you should serve in the post of Assistant Inspector, Elementary Education, on probation, for one year before you are permanently appointed to that post. Your salary scale in the present academic year (1.9.60-31.8.61) has been fixed at £780.- (plus cost-of-living allowance)".

30 On the 22nd August, 1972, the applicant applied to the respondent for educational grant in respect of his three daughters for their studies in Greece.

35 By letter dated 19th October, 1972 the applicant was informed that he was not entitled to educational grant as on the 15th August, 1960, he was not holding on a permanent basis the post of Assistant Inspector in Elementary Education.

On the 2nd January, 1973, the applicant received another letter from the Accountant-General, which reads as follows:

"Further to my letter of the 19th October, 1972, I inform you that on the 15th August, 1960, you were holding the post of school teacher and so you are not entitled to educational grant since elementary education school teachers and secondary education school teachers are not considered as public servants". 5

As a result, the applicant filed the present recourse.

The only question that falls for consideration in this recourse, is whether the applicant was, on the 15th August, 1960, the day prior to the Establishment of the Republic, a public servant in accordance with the provisions of Circular No. 1286 dated 6th December, 1955. 10

According to this Circular only government officers in permanent posts on 15th August, 1960, are eligible for educational grant. School teachers on 15th August, 1960, were not considered as government officers. 15

In the case of the applicant, although there was a decision on 12th August, 1960, to appoint him as an Assistant Inspector in elementary education, a post the holder of which was considered as being an officer in the Public Service, yet, this decision was communicated to the applicant on 10th October, 1960, and his appointment was on probation as from 1st September, 1960. 20

Therefore, the applicant on 15th August, 1960, was serving as an elementary school teacher and so, he cannot be considered as a public servant entitled to educational grant. 25

This recourse, therefore, fails and is dismissed with no order as to costs.

Recourse dismissed with no order as to costs. 30