

1985 December 11

[TRIANTAFYLLIDES, P., SAVVIDES, LORIS.  
STYLIANIDES, KOURRIS, JJ.]

THE REPUBLIC OF CYPRUS, THROUGH  
1. THE EDUCATIONAL SERVICE COMMISSION,  
2. THE MINISTRY OF EDUCATION,

*Appellants,*

v.

NICOS LIVERDOS,

*Respondent.*

*(Revisional Jurisdiction Appeal No. 487).*

*Recourse for annulment—Developments affecting its fate—  
Duty of administration to keep informed the trial Court of  
such developments.*

*Practice—Revisional Jurisdiction Appeal—Leave to adduce evi-  
dence, application for by appellants—In the circum- 5  
stances leave refused.*

The appellants applied for leave to adduce evidence that the respondent, who was the successful applicant in recourse 292/82 against the outcome of which this appeal was made, was promoted on the 23.12.83 retrospectively 10 as from 15.11.81 to the sub judge post.

It should be noted that the hearing of the said recourse was concluded before the 23.12.83 and that the judgment appealed from was delivered on 23.5.85.

It appears that the appellants will content that by reason 15 of such retrospective promotion the respondent had lost his legitimate interest to pursue the recourse.

*Held, dismissing the application:* (1) It is a cardinal duty of an administrative organ involved in proceedings under Article 146 to keep informed the trial Court at all 20

times till the delivery of judgment of any development which may affect the fate of such proceedings

(2) As in this case the appellant Commission has not discharged such duty, this Court is not prepared to grant  
5 the application.

*Application dismissed.*

**Application.**

Application by appellants for leave to adduce evidence  
10 *in order to establish that the respondent was promoted*  
retrospectively as from the 15th November, 1981.

*R. Vrahimi (Mrs.)*, for the appellants.

No appearance for the respondent.

*A. Pandelides*, for interested party *M. Katzi*.

*Cur. adv. vult.*

15 TRIANTAFYLIDIS P. read the following decision of the  
Court. At this stage of this appeal we are dealing with an  
application of counsel for the appellants for leave to adduce  
evidence in order to establish that the respondent, Nicos  
20 Liverdos—who was the applicant in the recourse (No.  
292/82)\* against the outcome of which this appeal was  
made—was promoted, on the 19th December 1983, re-  
trospectively as from the 15th November 1981; and it  
appears that it is going to be the contention of counsel  
for the appellants that the respondent, after his said pro-  
25 motion, ceased to have a legitimate interest entitling him  
to pursue any further his said recourse.

The judgment of the learned trial Judge was given on  
the 23rd May 1985. However, the hearing of the recourse  
had been concluded on an earlier date prior to the  
30 aforementioned retrospective promotion of the respondent.

Yet, in spite of the period of time which intervened  
between such promotion on the 19th December 1983 and  
the delivery of the reserved judgment on the 23rd May

\* Reported in (1985) 3 C L R 909

1985, both the appellants, and, in particular, the appellant Educational Service Commission, failed to apply to the trial Judge for a re-opening of the hearing of the case, in order to adduce before him the evidence which it is sought to adduce now before us, and to put forward, on the basis of such evidence, the contention that the respondent, as applicant, was deprived of his legitimate interest, in the sense of Article 146.2 of the Constitution, and that, therefore, his recourse could not be pursued any further.

It is a cardinal duty of an administrative organ involved in proceedings under Article 146 of the Constitution, such as the Educational Service Commission in the present instance, to keep informed the trial Court, at all times till the delivery of its judgment, of any development which may affect the fate of such proceedings.

On the present occasion the appellant Educational Service Commission has failed, without any justification, to discharge its aforesaid duty and, therefore, we are not prepared to grant the application of counsel for the appellants for leave to adduce evidence before us in relation to the promotion of the respondent, which ought to have been adduced before the trial Court had delivered its judgment; and, consequently, such application has to be dismissed.

Before concluding this decision we should state that we have noted that one of the grounds of appeal of the appellants is that the respondent was deprived, while his recourse was pending, after judgment had been reserved and before judgment was delivered by the trial Judge, of his legitimate interest, and, of course, counsel for the appellants is still entitled to argue such ground and to rely in this respect on any fact which is already on record, or of which this Court can take judicial notice, or which can be established otherwise than by calling evidence in respect of it before us.

*Application dismissed.*