

1986 June 4

[MALACHTOS, J.]

IN THE MATTER OF ARTICLE 146  
OF THE CONSTITUTION

GEORGHIOS KYRIACOU,

*Applicant,*

v.

- THE REPUBLIC OF CYPRUS, THROUGH
- 1. THE MINISTER OF COMMUNICATIONS  
AND WORKS,
- 2. THE PERMITS AUTHORITY.

*Respondents*

*(Case No. 207/82)*

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*The Motor Transport (Regulation) Law 16/64—Licences, renewal of—Regulated by section 11—A licence must, upon payment of the prescribed fees, be renewed, unless previously revoked or suspended—Appropriate authorities not empowered to give an authoritative interpretation of the provisions of a carrier's licence—Nor do they have power to modify or amend upon renewal terms of such licence.* 5

The applicant is running a petrol filling station in Paphos. On 21.11.78 a "B" carrier's licence was issued for applicant's vehicle No. CQ 785 on condition that it should be use for transportation of petroleum products only. This licence was renewed every year, but when it was renewed for the year 1981 a new condition was inserted therein, prohibiting the said vehicle from transporting petroleum products from the refinery of Larnaca. 10 15

The applicant impeached the said decision of the Licensing Authority by means of a hierarchical recourse to the Minister of Communications and Works. On 9.4.82 the Minister dismissed the said recourse on the ground

that applicant's licence afforded to him the right to use the said vehicle only for the transportation of petroleum products from his filling station to his customers and consequently the addition included in the renewal as aforesaid did not amount to modification of the terms of the said licence, but to clarification of it.

Hence the present recourse.

*Held*, annulling the sub judice decision, that section 11 of Law 16/64 plainly provides that a licence must, upon payment of the prescribed fees, be renewed unless previously revoked or suspended. As in this case applicant's licence was neither revoked nor suspended, the authorities were duty bound to renew it. The Licensing Authority or the Minister had no power to amend or modify its terms nor did they have power to give an authoritative interpretation of its provisions (*Charalambous v. The Republic* (1983) 3 C.L.R. 1236 adopted).

*Sub judice decision annulled.*  
*£25 costs against respondent.*

20 Cases referred to:

*Charalambous v. The Republic* (1983) 3 C.L.R. 1236.

**Recourse.**

Recourse against the decision of the respondents to modify the conditions of a "B" carrier's licence of applicant's tanker motor vehicle under Reg. No. CQ 785.

*St. Nathanael*, for the applicant.

*M. Tsiappa (Mrs.)*, for the respondents.

*Cur. adv. vult.*

MALACHTOS J. read the following judgment. The applicant in this recourse claims as stated therein the following remedies:

A. A declaration of the Court that the decision of the respondents and/or either of them dated 9.4.82 communicated to the applicant by letter dated 13.4.82 by virtue of which the conditions of a "B" carrier's licence of his tanker

motor-vehicle under registration No. CQ 785 were modified, is null and void and of no legal effect whatsoever, and

B. A declaration of the Court that the decision of respondent No. 2 was taken in excess and abuse of power and is of no legal effect whatsoever. 5

The facts of the case shortly put are the following:

The applicant who is running a petrol filling station in Paphos town was the owner of a tanker vehicle under registration No. AW 783 which was licensed to circulate under a "B" carrier's licence for transportation of petroleum products. On 26.7.78 he applied to the Licensing Authority for replacement of the above vehicle with a tanker under registration No. CQ 785 and on 21.11.78 his application was approved and a "B" carrier's licence was issued for the said vehicle on condition that it should be used for transportation of petroleum products only. It must be noted here that this licence was issued to the applicant on the recommendation of the District Transport Officer of Paphos who stated in his report that the object of the applicant was to transport petroleum products to his filling station and that there was no objection on behalf of the representatives of the trade unions. 10  
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This licence was renewed every year till the end of 1980 with the same conditions but when it was renewed for the year 1981 a new condition was inserted therein prohibiting the said vehicle from transporting petroleum products from the refinery of Larnaca whereas on the previous licence it was always recorded that the vehicle in question was licensed to circulate all over Cyprus. 25

As against this decision of the Licensing Authority the applicant filed on 29.4.81 a hierarchical recourse to the Minister of Communications and Works who on 9.4.1982 dismissed his said application. The decision of the Minister reads as follows: 30

"Taking into consideration the legislation in force and all the real circumstances which have been placed before me, I have come to the conclusion that the 35

5 carrier's licence "B" which the applicant possessed for his vehicle under registration No. CQ 785 did not afford to him the right to use the said vehicle for the transportation of petroleum products from the instal-  
10 lation of Shell Co. at Larnaca to his filling station at Paphos, but only for the transportation of petroleum products from his filling station to his customers. Consequently the relevant addition which was included in the renewal of the last licence of the above vehicle does not amount to modification of the terms of the said licence, but to clarification of it.

In the light of the above the above recourse is dismissed."

15 Counsel for applicant in support of his case, submitted that the Licensing Authority and on appeal the Minister, in issuing the decision complained of acted in excess of power vested in them by s. 11 of the Motor Transport (Regulation) Law, 1964 (Law 16 of 1964) which provides that "carrier's licence shall, unless previously revoked or  
20 suspended under the provisions of this Law, continue in force for one year from the date on which it has been granted and shall, on payment of the prescribed fee, be renewed from year to year."

25 He further submitted that the Licensing Authority was bound to renew the licence in question without adding new conditions. He also submitted that the wording of the original conditions of the licence in question was clear and unambiguous and there was no need for clarifications.

30 Before the conclusion of the hearing of this case judgment was issued on 23.12.83 on exactly the same point by Mr. Justice Pikis in Case No. 123/82, *Charalambous v. The Republic* (1983) 3 C.L.R. 1236. That was a case where the applicant was the holder of a carrier's "B" licence entitling him to make use of his lorries, both for the supply  
35 of his petrol station for oil products as well as their distribution to customers. Upon presenting the licence for renewal the respondents, under the guise of clarification by the terms of renewal, restricted use of the vehicles to dis-

tribution of products from his petrol station to customers.  
At p. 1239 of the report we read:

“This being the case, we must enquire whether the  
Licensing Authority or the Minister for that matter  
on appeal, had power to amend or modify the terms 5  
of a licence submitted for renewal. Renewal of a li-  
cense under the provisions of the Motor Transport Re-  
gulation Law—16/64, is regulated by the provisions of  
s. 11. The plain provisions of the law make indul-  
gence, in any exercise of interpretation, unnecessary. 10  
Section 11 plainly provides that a licence must, upon  
payment of the prescribed fees, be renewed unless  
previously revoked or suspended. The licences of the  
applicant in this case had neither been revoked nor 15  
suspended. Consequently, the authorities were duty-  
bound to renew the licence. In so doing, they exceeded  
their powers as well as abused them, in that they in-  
voked the provisions of the law for purposes extra-  
neous to its provisions. Therefore, the decision must  
be set aside. 20

Before leaving the matter, we may note that under  
no provision of the law are the appropriate transport  
authorities empowered to give an authoritative inter-  
pretation of the provisions of a carrier’s licence. In  
case of dispute as to the ambit of the terms of a 25  
licence the appropriate bodies to resolve it depending  
on the nature of the controversy, are the Courts of  
law.”

I must say that I fully agree with the above reasoning  
which is applicable to the case under consideration and, 30  
therefore, the recourse is allowed and the decision com-  
plained of is declared null and void. On the question of  
costs the respondent Authority is adjudged to pay £25.-  
against the costs of the applicant.

*Sub judice decision annulled. 35*  
*Order for costs as above.*