

1987 June 5

{A LOIZOU MALACHTOS LORIS PIKIS KOURRIS JJ}

THE PUBLIC SERVICE COMMISSION (NO 4),

Appellant - Respondent,

v

MARINA POTOUDES AND OTHERS,

Respondents - Applicants

(Revisional Jurisdiction Appeal No 680)

Revisional Jurisdiction Appeal — Lack of service of recourse on interested parties — Effect

An objection was raised to that part of the address of counsel for the interested parties, which raised issues not included in R A 680 filed by the Appellant Commission, but included in R A 682, filed by the interested parties 5

Held, (1) The question of non service of Recourses 106/84 and 113/84 was left in abeyance by the ruling of 10 3 87* as, at the time, it appeared that no useful purpose would be served by delving into it Now the position changed

(2) The nonservice of the two recourses amounts to a ground of nullity and this matter can be examined by the Court ex proprio motu It follows that the judgment in so far as it relates to such recourses must be set aside 10

Judgment in so far it relates to Recourses 106/84 and 113/84 set aside 15

Objection.

Objection raised to the part of the address of Counsel for the interested parties which aimed at raising grounds of appeal not included in the notice of appeal filed by the appellant Public Service Commission. 20

A. *Vladimirou*, for the appellant

A. *Angelides*, A *Ladas*, N *Papaefstathiou*, for the respondents

* P S C v Potoudes and Others (1987) 3 C L R 1044

L. Papaphilippou, for the interest parties

5 A LOIZOU J gave the following ruling of the Court In the course of the address of learned counsel for the interested parties an objection was raised to the part of his address which aimed at raising grounds of appeal not included in the notice of R A 680, filed by the appellant Commission It may be mentioned here, however, that these grounds were raised in R A 682 which was filed by the interested parties but as it had been ruled by this Court it would have been heard separately

10 After a ruling of this Court was given by our learned Brother Pikiis J , it became necessary to decide the objections which had been raised earlier in connection with the right of an interested party to file an appeal though such party had not appeared and had not taken part in the proceedings in the first instance Equally
15 connected with this issue was once more the fact which by our two rulings of the 10th March, 1987, we had decided in the first one that the question of service of a litigant could independently of whether the matter was raised in the grounds of appeal, also be entertained on its own motion by the Court as the examination of
20 any other ground of appeal would be futile, and by our second ruling we concluded that no service had been effected in recourses 106 and 113 with which we are concerned in Revisional Appeal 682, though alongside with Recourse No 96/84

25 In the ruling, having reached that conclusion we set aside the judgment given in recourse No 96/84 on the ground that there had been a violation of the rules of natural justice, the non-service being a ground of nullity and not a mere irregularity, but we left in abeyance the same issue as regards recourses Nos 106/84 and 113/84 as we were of the opinion at the time that for practical
30 reasons it would serve no purpose to set aside the judgments once the interested parties in those recourses had been served with other recourses challenging the same administrative act.

Now the matter has to be resolved for the reasons already given Having considered the matter we have no difficulty in following
35 our previous two rulings and conclude that the non-service of these two recourses on the interested parties amounts to a ground of nullity and not an irregularity and that this matter could be examined by this Court *ex proprio motu*. We therefore set aside the judgment given in so far as it relates to these two recourses

also. Once that has been done R.A. 682 remains without a subject matter to be challenged by it and should be considered that its purpose has come to an end.

We intend therefore to proceed with the hearing of R.A. 680 on the grounds that appear on the notice filed.

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Order accordingly.