

1965  
Oct. 29  
Nov. 6

[TRIANTAFYLIDIS, J.]

IN THE MATTER OF ARTICLE 146 OF THE  
CONSTITUTION

NICOS LEONIDA KOLOKOS

*Applicant,*

*and*

THE REPUBLIC OF CYPRUS, THROUGH  
THE MINISTER OF FINANCE,

*Respondent.*

(Case No. 73/65)

*Administrative Law—Public Officers—Rights to education grant—  
Recourse against Respondent's decision not to grant Applicant  
education grant under the scheme laid down by circular 1286  
of the 6th December, 1955—Decision annulled as reached  
under a misconception of the correct legal position.*

Applicant by this recourse challenges a decision of Respondent refusing him an educational grant in relation to his daughter and in respect of the school-years 1960/61 to 1964/1965, under the scheme laid down by circular 1286, of the 6th December, 1955, and the subsequent amendments thereof.

*Held, I.* After the Judgment of the Court, in *Boyiatzis and The Republic*, 1964, C.L.R. 367, affirming *Loizides and The Republic*, 1 R.S.C.C. p. 107, there can be no doubt that the letter of the 27th January, 1965, refusing Applicant such grant on the ground specified therein, was written on the basis of a decision reached under a misconception of the correct legal position.

*II.* On the basis of the material before me—and as no other ground whatsoever has been raised, peculiar to the circumstances of this Case or otherwise, why Applicant is not entitled to the grant in question—I have no difficulty in declaring that the decision the subject-matter of this recourse, contained in the letter of the 27th January, 1965, is *null* and *void* and *of* no effect whatsoever.

*III.* The authorities have now to deal afresh with the application of Applicant dated the 2nd January, 1965, in the light of these proceedings.

*Decision complained of  
declared null and void.*

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Cases referred to:

*Boyiatis and The Republic*, 1964 C.L.R 367;

*Loizides and The Republic*, 1 R.S.C.C. p. 107.

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**Recourse.**

Recourse against the refusal of the respondent to pay to the applicant, educational grant in relation to his daughter and in respect of the school-years 1960/1961 to 1964/1965.

*Char. Ioannides* for the applicant.

*M. Spanos, Counsel of the Republic*, for the respondent.

*Cur. adv. vult.*

The following judgment was delivered by:—

TRIANTAFYLIDIS, J.: In this Case, the Applicant applies for a declaration that the decision of Respondent communicated to him through a letter of the Accountant-General, dated the 27th January, 1965, (vide *exhibit 1*) is *null and void* and of no effect whatsoever.

By such decision Applicant was refused an educational grant in relation to his daughter Andriani and in respect of the school-years 1960/1961 to 1964/1965, under the scheme laid down by circular 1286, of the 6th December, 1955, (vide *exhibit 3 (a)*), and the subsequent amendments thereof.

It is not in issue that Applicant, at the material time, was an officer established in a permanent post and, therefore, entitled to benefit under the scheme in question.

The only reason put forward in *exhibit 1* for refusing the grant to Applicant was that such grants had been “completely abolished” except in cases in which they were being paid immediately before the 16th August, 1960.

No Opposition has been filed by Respondent in these proceedings. Notice calling upon Respondent to do so was given on the 26th August, 1965, and the Case came before the Court, for mention, on the 25th September, 9th October

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and 23rd October, 1965, with a view to an out-of-court arrangement.

In the absence of such an arrangement a short date of hearing was given to this Case, due to its nature, and it came before the Court on the 29th October, 1965. On that date counsel for Respondent stated that no Opposition had been filed because after reconsideration of the matter it was found that Applicant was entitled under the relevant scheme to an educational grant in relation to the years in question, in respect of his daughter Andriani.

After the judgment of this Court, in *Boyiatzis and The Republic*, 1964 C.L.R. 367, affirming *Loizides and The Republic*, 1 R.S.C.C. p. 107, there can be no doubt that *exhibit 1*, refusing Applicant such grant on the ground specified therein, was written on the basis of a decision reached under a misconception of the correct legal position; counsel for Respondent has very fairly conceded this point at the hearing.

On the basis of the material before me—and as no other ground whatsoever has been raised, peculiar to the circumstances of this Case or otherwise, why Applicant is not entitled to the grant in question—I have no difficulty in declaring that the decision, the subject-matter of this recourse, contained in *exhibit 1* (the letter of the 27th January, 1965) is *null and void* and of no effect whatsoever.

The authorities have now to deal afresh with the application of Applicant dated the 22nd January, 1965, in the light of these proceedings.

*Decision complained of declared null and void. No order as to costs.*