

[VASSILIADES. J.]

IN THE MATTER OF ARTICLE 146 OF THE
CONSTITUTION

JORDANIS G. IORDANOU (NO. 3),

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH
THE PUBLIC SERVICE COMMISSION,

Respondent.

(Case No. 151/66).

1966
July 19
—
JORDANIS G.
IORDANOU (NO. 3)
and
THE REPUBLIC
OF CYPRUS,
THROUGH
THE PUBLIC
SERVICE
COMMISSION

Public Officers—Transfers—Interruption of transfers by provisional orders—Application for a provisional order to arrest applicant's transfer based on new material—New material making no difference to the position—Provisional order refused with costs against applicant—It is of paramount importance for the functioning of the public service that such interruptions of transfers by provisional orders should not only be subjected to the strict application of the principles enunciated in the case Cleanthis Georghiades (No. 1) and The Republic (1965) 3 C.L.R. 392, but should also be looked upon with proper regard to the disruption of good administration—And, this Court should carefully avoid unnecessary interference with such administrative decisions in proceedings for provisional orders.

Administrative Law—Transfer of public officers—Interruption of, by means of provisional orders—See under Public Officers above.

Practice—Provisional orders—See under Public Officers above.

Cases referred to :

Cleanthis Georghiades (No. 1) and The Republic (1965) 3 C.L.R. 392, principles enunciated, applied.

Application.

Application for a provisional order to suspend Applicant's transfer from Nicosia to Omodhos pending the hearing and final determination of a recourse against such transfer.

L. Clerides, for the Applicant.

M. Spanos, Counsel of the Republic, for the Respondent.

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The following decision was delivered by:

VASSILIADES, J.: The matter before me presents, in my opinion, no difficulty; it is fully covered both on principle and practice, by the Judgment in the previous application for a provisional order to stop this transfer. It is sufficient for me to read the following paragraphs from the Judgment of Triantafyllides, J. in that application delivered not more than 19 days earlier, that is on 1st July, 1966*.

“I have carefully weighed whatever has been urged on behalf of the Applicant in support of his application for a provisional order but I have not been convinced that, if the transfer of Applicant to Omodhos is not postponed until the final determination of this recourse, he will suffer irreparable damage which cannot be compensated for eventually, under the provisions of Article 146(6) in case Applicant succeeds, in the end, in this recourse”.

When I say today that “I have carefully weighed whatever has been urged on behalf of the Applicant in support of his application”, I have in mind what has been urged on his behalf this morning as well as the contents of the decision of the Council of Ministers which was put in by consent as Exhibit 1. This new material, in my opinion, makes no difference to the position. I go on now with the second part of the extract from the Judgment of the 1st July, which I consider just as important.

“On the other hand it does appear that this is a case where if the Applicant’s transfer is postponed, as applied for, it will cause obstacles to the proper functioning of the Administration. I am of the view, on the material at present before me, that though no doubt the taking of effect of the transfer of Applicant will involve some inconvenience for him and his family —as any transfer invariably does, more or less—this is a case where his personal interest has to be subjected to the general public interest”.

What I have to add is that, in my opinion, it is of paramount importance for the functioning of the public service that such interruptions of transfers by provisional orders should

*Note: Reported *ante*, at p. 696.

not only be subjected to the strict application of the principles enunciated in the case of *Cleanthis Georgiades (No. 1) and The Republic*, (1965) 3 C.L.R. p. 392, but should also be looked upon with proper regard to the disruption of good administration when public officers find it easy to arrest their transfers by means of such provisional orders.

The transfer of a public officer is, presumably, the result of due consideration by the responsible authorities in the Service; and I think that this Court should carefully avoid unnecessary interference with such administrative decisions in proceedings for provisional orders. I have no hesitation in coming to the conclusion that this application for a provisional order to arrest Applicant's transfer must be dismissed with costs.

VASSILIADES, J.: What are Respondent's costs, Mr. Spanos?

Mr. Spanos: £15., Your Honour, including preparation etc.

VASSILIADES, J.: Applicant to pay £15.- costs of this application before he takes any other steps in furtherance of his recourse

Application dismissed.

Order as to costs as aforesaid.

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