

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

ANDREAS ZAMBAKIDES AND OTHERS,

*Applicants,*

*and*

THE REPUBLIC OF CYPRUS, THROUGH  
THE MINISTER OF FINANCE,

*Respondent.*

ANDREAS  
ZAMBAKIDES  
AND OTHERS  
v.  
REPUBLIC  
(MINISTER OF  
FINANCE)

(Cases Nos. 264/66, 114/67, 303/69, 131/70, 134/70 – 146/70, 148/70, 157/70, 159/70, 164/70, 171/70 – 179/70, 181/70, 183/70 – 187/70).

*Public Officers—Education Grants—Scheme for such education grants in respect of studies abroad in the United Kingdom or other Commonwealth Countries and in the Republic of Ireland—Scheme set out in Government Circulars No. 1286 of December 6, 1955, and No. 1374 of February 23, 1957—Refusal of the Respondent to pay such education grants for the children of the several Applicants in these cases—Refusal declared null and void as being contrary to the law as laid down on appeal by the Supreme Court in Constantinides and The Republic (1969) 3 C.L.R. 523 overruling Loizides and The Republic, 1 R.S.C.C.107.*

*Education grants—Terms of service—Public officers also in the public service on the day immediately preceding the coming into operation of the Constitution (August 16, 1960)—Terms of service safeguarded under Article 192 of the Constitution—See also supra.*

*Public Officers—Terms of service safeguarded under Article 192 of the Constitution—See supra.*

*Constitutional Law—Article 192 of the Constitution—See supra.*

The Applicants in these cases are public officers who were also in the public service on the day immediately preceding the coming into operation of the Constitution (August 16, 1960) and whose terms of service, therefore, were safeguarded under the provisions of Article 192.1 of the Constitution. They are now complaining by these recourses that, though they

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are entitled by virtue of the aforesaid constitutional provisions, to education grants in respect of studies of their children abroad in the United Kingdom or in any British Commonwealth country or in the Republic of Ireland, under a scheme set out in Government Circulars No. 1286 of the 6th December 1955, and No. 1374 of the 23rd February 1957, they have been refused such grants on the ground that the scheme in question in view of the decision of the Supreme Constitutional Court in *Loizides and The Republic*, 1 R.S.C.C. 107 is no longer applicable to studies abroad as aforesaid.

Annuling the refusals complained of the Court:—

*Held*, (1). It is correct that in the *Loizides'* case (*supra*) the then Supreme Constitutional Court decided that the scheme for education grants as set out in the aforesaid circulars (*supra*) had to be adapted, under Article 192.7(b) of the Constitution, in such a manner as in effect, to substitute education grants in respect of studies in Greece and Turkey (for Cypriot Greeks and Cypriot Turks, respectively) for studies in the United Kingdom or other Commonwealth countries and the Republic of Ireland, as provided in those circulars.

(2) But the Supreme Court on appeal in the case *Constantinides and The Republic* (1969) 3 C.L.R. 523 overruling *Loizides* case (*supra*) decided that such adaptations ought not to have been made and that therefore, the scheme for education grants set out in the aforesaid circulars still continued to be applicable to studies in the United Kingdom etc. etc.

(3) Though I myself, still hold the views which I expressed in the *Loizides* case (*supra*) and in my first instance decision in the *Constantinides* case (see *Constantinides and The Republic* (1967) 3 C.L.R. 483), I do consider myself bound to apply the law as laid down on appeal in the latter case (*supra*).

*Sub judice decisions annulled  
with £25 costs in each case  
in favour of the Applicants.*

Cases referred to:

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

*Constantinides and The Republic* (1967) 3 C.L.R. 483;

*Constantinides and The Republic* (1969) 3 C.L.R. 523 (C.A.)

**Recourses.**

Recourses against the refusal of the Respondent to pay to the Applicants educational grants in relation to the studies of their children abroad.

*N. Aloneftis*, for Applicant in Case No. 264/66.

*L. Demetriades*, for Applicant in Case No. 114/67.

*E. Lemonaris*, for Applicant in Case No. 303/69.

*M. Papas*, for Applicant in Case No. 157/70.

*M. Christofides*, for Applicant in Case No. 164/70.

*A. Triantafyllides*, for Applicants in Cases No. 131/70, 134/70-146/70, 148/70, 159/70, 171/70-179/70, 181/70, 183/70-187/70.

*L. Loucaides*, Senior Counsel of the Republic, for the Respondent.

*Cur. adv. vult.*

The following judgment was delivered by:

TRIANAFYLLIDES, J.: In all these cases (which were heard together in view of their common nature) the several Applicants complain that, though they are entitled, by virtue of Article 192 of the Constitution, to education grants in respect of studies of their children abroad, under a scheme set out in Government Circulars No. 1286 of the 6th December, 1955 and No. 1374 of the 23rd February, 1957, they have been refused payment of such grants, on the ground that the scheme was not applicable to studies abroad in any British Commonwealth country—including the United Kingdom—or in the Republic of Ireland.

It is correct that in the case of *Loizides and The Republic* (1 R.S.C.C. 107) the then Supreme Constitutional Court—with myself as one of its members—decided that the scheme for education grants, as set out in the said circulars, had to be adapted, under Article 192.7(b) of the Constitution, in such a manner as, in effect, to substitute in the place of the education grants in respect of studies in the United Kingdom, other British Commonwealth countries and the Republic of Ireland (as provided for by the aforementioned circulars) education

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grants in respect of studies in Greece and Turkey (for Cypriot Greeks and Cypriot Turks respectively).

In the latter case of *Constantinides* and *The Republic*—in which when dealt with by me in the first instance ((1967) 3 C.L.R. 483) the adaptations to the scheme as made in the *Loizides* case were adhered to—the Supreme Court decided on appeal ((1969) 3 C.L.R. 523) that such adaptations ought not to have been made and that, therefore, the scheme for education grants still continued to be applicable to studies in the United Kingdom, other countries of the British Commonwealth and the Republic of Ireland.

Though I, myself, still hold the views which I expressed in the *Loizides* case and in my first instance decision in the *Constantinides* case, I do consider myself bound to apply the law as laid down on appeal in the latter case.

As a result I must find that the refusals to pay education grants to the Applicants, as decided upon, are contrary to law and they have to be declared to be *null* and *void* and of no effect whatsoever; and this decision of mine applies both in relation to the first three of the cases now before me (in which the refusals of the grants were based on the *Loizides* case) and to the remaining of such cases (in which the refusals were based on a decision of the Council of Ministers taken after the delivery of the judgment of the Supreme Court, on appeal, in the *Constantinides* case).

It is quite clear, on the material before me, and it is actually not in dispute, that the education grants were refused without examination of the circumstances of each case, with a view to deciding whether or not the Applicant concerned was entitled, under Article 192 of the Constitution and under the relevant scheme, to an education grant. This being so I cannot attribute, in these proceedings, any significance to a contention, stated in replies given to a few of the Applicants, that they lost their entitlement to an education grant because of the terms on which they accepted promotions; if it were at all possible in law for any one of them to lose his entitlement to an education grant through a term imposed on promotion—and I am inclined to doubt the validity of such a proposition—a lot would still depend on the specific circumstances in each particular instance; and such circumstances have to be

examined by the appropriate authority along with all other relevant factors in each particular case.

As regards costs, the Republic should pay in each case £25.— towards costs.

*Sub judice decisions annulled;  
order for costs as above.*

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