

1970
Dec. 4

[TRIANTAFYLIDIS, J.]

—
GEORGE
ECONOMOU
v.
REPUBLIC
(MINISTER OF
FINANCE)

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

GEORGE N. ECONOMOU,

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH
THE MINISTER OF FINANCE,

Respondent.

(Case No. 107/70).

Administrative act or decision—Validity—Decision declared null and void on the ground of insufficient inquiry into the facts or because of material misconception of fact—Rent allowance—Decision of the Rent Allowance Appeals Committee refusing increased rent allowance to the Applicant—Annulled—Because the reasons for such decision were relied on either due to insufficient inquiry as to, and consequently ignorance about, essential facts or due to material misconception of fact.

Insufficient inquiry into essential facts—Ground for annulment of the administrative act concerned—See supra.

Material misconception of fact—Judicial control of findings of fact made by the administration—Court after hearing evidence reversed such finding.

Findings of fact made by the administration, in the instant case by the Rent Allowance Appeals Committee—Judicial control of such findings—See immediately hereabove.

Judicial control of findings of fact—See supra.

Public officers—Rent allowance—See supra; see also infra.

Rent allowance — Public Officers — Rent Allowance Appeals Committee—See supra.

Rent allowance scheme—Decision granting rent allowance based on a notional rent—Whether such course possible—Question left open.

Costs—No order for costs in favour of successful Applicant in the present case—Reasons for such course.

1970
Dec. 4

—
GEORGE
ECONOMOU
v.
REPUBLIC
(MINISTER OF
FINANCE)

The facts of this case sufficiently appear in the judgment of the Court annulling the decision of the Rent Allowance Appeals Committee concerning Applicant's claim for increased rent allowance under the relevant scheme.

Recourse.

Recourse against the validity of a decision of the Rent Allowance Appeals Committee whereby the rent allowance paid to Applicant was based on £35.— per month and not on the actual rent paid by him.

P. Pavlou, for the Applicant.

S. Georgiades, Senior Counsel of the Republic, for the Respondent.

Cur. adv. vult.

The following judgment was delivered by:

TRIANAFYLIDIS, J.: In this case the Applicant, who is a public officer (the District Labour Officer in Limassol) challenges the validity of a decision of the Rent Allowance Appeals Committee concerning his claim for increased rent allowance, under the scheme whereby a rent allowance is granted to public officers (see the relevant circular No. 1317 of the 7th April, 1956):

Previously the Applicant was receiving less rent allowance in respect of a house for which he was paying rent at the rate of £25 per month; then, after he had moved to another house for which he agreed to pay £38.500 mils per month he applied for an increase, under the said scheme, of the rent allowance.

By virtue of the decision of the Committee, which was communicated to him on the 4th February, 1970, the Applicant was granted a rent allowance on the basis of a monthly rent of £35 per month; even though, as stated, he had to pay £38.500 mils rent per month; the Applicant had appealed to the said Committee against a decision of the Director of the Department of Personnel whereby he had been, originally, granted a rent allowance on the basis of a notional monthly rent of £32.

The reasons for the aforesaid decision of the Committee, as set out therein, are that an investigation conducted by the Limassol District Officer's office showed that a house of approximately the same type, condition and in the same area as that of the Applicant could be found at £32-£33 per month; that in the same area, and almost a month earlier, another officer had rented a house of approximately the same type and condition for the sum of £400 yearly (£33.350 mils per month); and that the Applicant had stated to the Respondent Committee that he could remain in the house he previously occupied, if he wanted, but he would have to pay the higher rent of £35 per month.

From the material before the Court I am satisfied that these reasons were relied on either due to insufficient inquiry as to, and consequently ignorance about, essential facts or due to material misconceptions; the Committee's decision is, therefore, declared to be *null and void*.

From the evidence of Mr. Efpraxias, the District Inspector who conducted the aforementioned investigation, it is to be clearly derived that such investigation was not a really thorough one. The lack of thoroughness does not seem to have been due to any failure to pursue the investigation with the necessary diligence; it can be attributed to the fact that from a letter addressed by the Department of Personnel, on the 22nd August, 1968, to the Limassol District Officer it appeared that in such Department the view had crystallized, on the basis of information already in its possession (which was set out in the said letter), that the Applicant's claim for increased rent allowance was unjustified; thus, Mr. Efpraxias did not, apparently, think it necessary to investigate himself the matter as thoroughly as he might have otherwise done. In this respect I would like to observe that, as a matter of good administration, when an organ of Government refers to another such organ a case for information or for a specific investigation the relevant communication should not be couched in such terms—as in the present instance—so as to forestall, in a way, the reply to be received.

Regarding the house which, as aforesaid, had been rented by another public officer at £400 yearly, it was not at all safe, in my opinion, to conclude that this house was of approximately the same type as the house in respect of which the Applicant claimed the rent allowance; actually, the evidence called

during the hearing of this case tends to show that these two houses are of different types.

To rely, in the manner in which the Committee did in its decision, on Applicant's statement that he could have remained in the house in which he was previously staying if he had agreed to pay £35 per month amounts in my view to a fallacious understanding of the nature of the matter: It is quite evident from the material before the Court that had the Applicant chosen such a course not only he would have remained in a house which was unsuitable and had become—as explained in a letter written by the Applicant on the 19th July, 1968—even more unsuitable, but, furthermore, he would have to pay more than what that house was worth, which is something undoubtedly inconsistent with the object of the rent allowance scheme.

In the light of the foregoing I have found no difficulty in deciding to annul the *sub judice* decision; because, however, the Applicant decided to change house accommodation without applying in time to the appropriate authority in order to ascertain whether or not there would be any objection to granting him the increase in rent allowance that such change was going to involve I am not prepared to make in these proceedings an order as to costs in his favour.

Before concluding I feel that it is necessary to point out that the *sub judice* decision was based on a notional rent of £35; whether or not such a course was possible under the relevant scheme is much to be doubted but I leave this question open to be duly examined at the reconsideration of the Applicant's claim for rent allowance; such reconsideration having become necessary in view of this judgment.

*Sub judice decision declared null
and void; no order as to costs.*

1970
Dec. 4

GEORGE
ECONOMOU
v.
REPUBLIC
(MINISTER OF
FINANCE)