

1981 December 21

[SAVVIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

TAKIS SOUPERMAN AND OTHERS,

*Applicants,*

v.

THE REPUBLIC OF CYPRUS, THROUGH

1. THE MINISTER OF INTERIOR,
2. THE COMMANDER OF POLICE,

*Respondents.*

(Case No. 1/80).

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*Fire Service—Members of—Hours of duty—Same as those of the other members of the “Force” as defined by the Police Law, Cap. 285—And governed by regulation 15 of the Police (General) Regulations, 1958.*

*Hierarchy of texts—Principle of—Circular—An inferior text to that of a Regulation.* 5

*Statutes—Repealing enactment—Provisions of previous laws—Not applicable unless specifically preserved—Police Force Order No. 30—Issued prior to the Police Law, 1958 (Law 5/58) and the Police (General) Regulations, 1958 made thereunder—Provisions thereof not preserved by Law 5/58 or the said Regulations—Therefore they are not applicable.* 10

The applicants, who were members of the Fire Service of the Republic, applied to the Chief of Police and asked to be treated in a like manner as all members of the Police Force by reducing their working hours to 48 per week instead of 56, and to grant them overtime allowance or time off in respect of any period of work exceeding 48 hours per week. The Chief of Police turned down their request and hence this recourse. 15

The claim of the applicants was based on the definition of 20

5 "Force"\* as appearing in section 2 of the Police Law, Cap. 285 which was a reproduction of the Police Law, 1958 (Law (5/58); and on regulation 15\*\* of the Police (General) Regulations, 1958 which were made under the provisions of section 10 of Cap. 285. Under regulation 15 the normal daily period of work of a member of the Force is fixed at eight hours and the normal weekly period at forty-eight hours.

10 Prior to the enactment of Cap. 285, and the enactment of the Police (General) Regulations 1958, the position of fire men was regulated by Force Order No. 30 which had been issued by the Chief of Police before the enactment of Law 5/58 and the 1958 Regulations made thereunder; and counsel for the respondent submitted that it regulated the working hours of the Police Fire Service. An unsigned and undated copy of this  
15 Order was produced before the Court and, so far as relevant, reads as follows:

*Paragraph* 1:—"A Police Fire Brigade is established at Nicosia. In all other urban municipalities in the Island, the municipal authorities and not the Police,

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\* "Force" is defined as follows:

" 'Force' means the Cyprus Police Force and includes the Fire Service, the Mobile Reserve, the Auxiliary Police Force, Special Constables and Women Police".

\*\* Regulation 15 reads as follows:

"15(1) Every member of the Force shall carry out all lawful orders and shall at all times punctually and promptly perform all appointed duties and attend to all matters within the scope of his office as a police officer.

(2)(a) The normal daily period of duty (including the period for refreshment referred to in sub-paragraph (b) of this paragraph) of a member of the Force other than special constable shall be eight hours and the normal weekly period forty-eight hours, and in addition any time occupied in reporting at the appointed place for duty before the hour of duty begins.

(b) Where the normal period of duty is performed in one tour of duty, an interval of 45 minutes shall normally be allowed.

(c) This regulation shall not apply to a member of the Force who is—  
(i) above the rank of Chief Inspector; or  
(ii) employed in duties which have been specially exempted by the Chief Constable.

(d) Notwithstanding anything in this regulation contained every member of the Force shall, if properly called upon, or if he perceives it his duty to do so, be required to perform any duty appertaining to his office at any time and, except when on leave, shall perform not less than forty-eight hours' duty in a week. *Gazetted Officers shall have a twenty-four hour responsibility*".

are responsible for the provision of fire services and for the actual fire fighting”.

*Paragraph 10*: “The Nicosia Police Fire Brigade shall consist of a sergeant in charge and 16 firemen. Its duties and powers are regulated by the Police Law”.

*Paragraph 11*: “The firemen will stand by in two watches of 24 hours—8 men in each watch, one watch on and the other off duty”.

*Held*, that since the provisions of Force Order No. 30 were not preserved by the 1958 Regulations, made under Law 5/58, once this Law was enacted (which contained provisions regarding the Fire Service) not only any previously existing Orders but even any previous Laws regarding the matter, do not apply, unless specifically preserved by that Law and if the provisions of the said Order were intended to continue to apply, they should have been embodied in the Regulations; that, moreover, Force Order No. 30 is not valid as it cannot be more than a circular which was not embodied in the Regulations made under section 10(1) of the Law and any Circular or Order outside the provisions of the Regulations, cannot override the provisions of the Regulations (see *Arsalis v. The Republic*, (1976) 3 C.L.R. 255 at p. 268 where it was held that “a circular is an inferior text to that of a regulation and on the basis of the principle of hierarchy of texts, the regulation prevails”).

(2) That since after the making of the Police (General) Regulations, 1958 no Force or other Order was made under regulation 15(2)(c)(ii) exempting the members of the Fire Service as a whole from the provisions of regulation 15(2)(a) and 15(3); that since no other Regulations were made specifically referring to the Police Fire Service the only Regulations applicable to them are the Police (General) Regulations, 1958 which apply to the “Force” in general, under which definition they are classified; that since the hours of duty of the members of the Force are defined under regulation 15 of the Police (General) Regulations 1958, the applicants are entitled to the benefits of regulation 15(2)(a) concerning hours of duty and regulation 15(3) concerning overtime allowance or time off, of the Police (General) Regulations 1958; accordingly the decisions of the Chief of the Police communicated to the applicants by letters

of the Chief Fire Officer dated 27.10.1979 and 5.11.1979 are null and void as being contrary to the Police Laws 5/58 (Cap. 285)—16/79 and the Police (General) Regulations made thereunder.

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*Sub judice decisions annulled.*

Cases referred to:

*Arsalis v. The Republic* (1976) 3 C.L.R. 255 at p. 268.

**Recourse.**

Recourse against the refusal of the respondents to approve  
10 48 hours of work per week for the applicants.

*A. Pandelides*, for the applicants.

*M. Kyprianou*, Senior Counsel of the Republic, for the respondents.

*Cur. adv. vult.*

15 *SAVVIDES J.* read the following judgment. The applicants, 190 in number, are members of the Fire Service of the Republic, serving at various Fire Stations all over Cyprus, and by this recourse they pray for:

20 (a) A declaration of this Court that the decision and/or decisions of the Chief of Police, which are contained in the letters of the Chief Fire Officer dated 27.10.1979 and 5.11.1979 and communicated to the applicants, are null and void and of no legal effect whatsoever, and,

25 (b) A declaration of the Court that the omission and/or refusal of the respondent to approve 48 hours of work per week for the applicants and/or to pay them overtime allowance and/or to grant them a proportionate  
30 time off are void and/or that there should have been approved a 48/hour week period of work and/or the grant of overtime allowance or of time off.

35 What gave cause to the complaint of the applicants emanated from the refusal of the Chief of Police to treat the applicants in a like manner as all members of the Police Force by reducing their working hours to 48 hours per week instead of 56 and to grant them overtime allowance or time off in respect of any period of work exceeding 48 hours per week.

The undisputed facts of the case as set out in the application and the opposition, as well as the various exhibits which were produced to the Court, are as follows:—

Under the Police Law, Cap. 285, a law providing for the organisation, discipline, powers and duties of the Cyprus Police Force and for matters incidental thereto, the definition of “force” is given as follows:— 5

“ ‘Force’ means the Cyprus Police Force and includes the Fire Service, the Mobile Reserve, the Auxiliary Police Force, Special Constables and Women Police”. 10

Under the provisions of the Police (General) Regulations, 1958 as published in Supplement No. 3 of the Cyprus Gazette of the 28th April, 1958 under Notification 279 (as subsequently amended by Regulations 1959 to 1980) which were made under the provisions of section 10 of Cap. 285 the normal daily period of work of a member of the Force is fixed at eight hours and the normal weekly period at forty eight hours. 15

Prior to the enactment of Cap. 285, which is a reproduction of the Police Law 5/58 whereby all previous Police Laws were repealed and before the Police (General) Regulations 1958 were made, the position of firemen was regulated by Force Order No. 30 issued by the Chief of Police. Copy of such Force Order unsigned and undated was produced before the Court and counsel for respondents based most of his arguments on such order. 20 25

Certain provisions of such order which are material for the purposes of the present case are the following:—

*Paragraph 1*:—“A Police Fire Brigade is established at Nicosia. In all other urban municipalities in the Island, the municipal authorities and not the Police, are responsible for the provision of fire services and for the actual fire fighting”. 30

*Paragraph 10*:—“The Nicosia Police Fire Brigade shall consist of a sergeant in charge and 16 firemen. Its duties and powers are regulated by the Police Law”. 35

*Paragraph 11*:—“The firemen will stand by in two watches of 24 hours—8 men in each watch, one watch on and the other off duty”. 35

As it appears from this order, the then Police Fire Brigade consisted of 16 firemen and one sergeant in charge of them and the working hours of the firemen were 12 hours a day, that is, a total of 84 hours a week. As from 1968 the duty hours were reduced gradually so that by the 1st November, 1973, firemen were working 56 hours a week as against 48 hours in respect of other members of the Police Force. No Force Order was issued after the making of the Police (General) Regulations 1958.

10 On the 2nd August, 1971 the Firemen Association sent a request to the Director-General of the Ministry of Interior, claiming a further reduction of their hours of duty from 56 to 48, as provided by the Police (General) Regulations, 1958 for the Police Force in general. - This request was transmitted  
15 to the Attorney-General for an opinion on the matter. The Attorney-General's Office replied by letter dated 6th July, 1972, copy of which is attached to the written address of the respondents as Annex 'C', the material part of which reads as follows:

20 "Without going into the legal aspect of the problem and in particular, in the powers of the Chief of Police to fix the working hours of the firemen under Regulation 15(2)(c) (ii) of the Police (General) Regulations, I think that in  
25 the present case the claim of the firemen as embodied in the memorandum submitted by their Association dated 2.8.1971, is prima facie justified. I am of the opinion that the firemen should have the same treatment as policemen...  
....."

And went on to suggest, for the solution of the problem, the  
30 engagement of additional firemen. No action was taken by the administration on the strength of the above opinion, and the firemen in groups addressed identical letters to the Chief of Police and the Minister of Interior through the Chief Fire Officer, requesting for equal treatment, in the same manner  
35 as all other members of the Police Force. One of these letters dated 13.10.1979, copy of which is attached to the application as *exhibit* 1, reads as follows:-

"We the undersigned Police Officers/Firemen of No. 1 Nicosia Fire Station, request that within a reasonable time the hours of duty be reduced from 56 to 48 hours

weekly, without excluding any additional claim for the reduction of hours of duty in case of further reduction of the present hours of duty for the Police.

We firmly believe that the above mentioned claim of ours will be favourably solved, otherwise we regret to inform you that we are determined to have recourse to justice .....

In answer to these letters the Chief Fire Officer sent a letter dated 27.10.1979, addressed generally to firemen of all Fire Stations (copy of which is attached to the application as *exhibit 2*) which reads as follows:-

“I refer to a recent application of yours on the subject of the reduction of working hours and grant of overtime allowance and inform you that the Chief of Police remarked the following:-

‘There is no question of paying overtime allowance since the firemen follow the weekly hours of duty fixed in accordance with the regulations which include repose and even sleeping time because of the special conditions of work’ ”.

On the 5th November, 1979, another letter was addressed to the firemen of Fire Stations by the Chief Fire Officer (copy of which is attached to the application as *exhibit 3*) which reads as follows:-

“I refer to a recent application of yours on the subject of the reduction of hours of duty and grant of overtime allowance and to inform you that the Chief of Police remarked the following:-

‘Efforts are being made for securing the required staff for the improvement of the hours of duty. Until this is settled, however, I see no way of satisfying their claim’ ”.

As a result, the applicants filed the present recourse. The recourse is based on the following legal grounds as set out in the recourse:-

- (1) On the definition of the Police Force, as appearing in section 2 of Cap. 285, which includes the Fire Service,

(2) on regulation 15 of the Police (General) Regulations of 1958, and

(3) on Article 28 of the Constitution securing equality of all citizens of the Republic.

5 Counsel for the respondents in his opposition relied on the following grounds of Law:-

10 (1) The claim of the applicants for overtime allowance is legally unfounded and therefore the decision contained in the letters of 27.10.1979 and 5.11.1979 is valid in all respects.

15 (2) The provisions of regulation 15(2)(c)(ii) of the Police (General) Regulations of 1958 are correctly applied in respect of the members of the Fire Service and the provisions of regulation 15(2)(a) and 15(3)(a) of the same Regulations are inapplicable in the present case.

(3) Regulation 15(2)(c)(ii) of the Regulations does not contravene the provisions of Article 28 or of any other Article of the Constitution.

20 (4) The *sub judice* act and/or decision was issued in compliance with the accepted principles of Administrative Law and Natural Justice and after all material facts were taken into consideration and the proper administrative discretion of the respondents was exercised.

25 Counsel for applicants contended that the decision to exempt firemen from the remaining Force was not properly taken in that—

(a) it should have been published in the official Gazette and

30 (b) any such decision is void as being ultra vires the Regulations, as it does not fall within the exemptions provided by section 15(2)(c)(ii), the effect of which is to give power to the Chief of Police in isolated cases to give directions concerning the duty hours of the Police, but he cannot give such directions in respect of the whole of the Fire Service lasting indefinitely.

35 With reference to Force Order No. 30, counsel submitted



that such order cannot be considered as standing law under regulation 47 as it was issued prior to the enactment of the Regulations and not subsequently. In the alternative, that even if Force Order No. 30 could be considered in force, it cannot contradict the provisions of the Police Law under which the Regulations were made and in case of any conflict between such order and the Regulations, the order should be treated as ultra vires. As to the interpretation of Regulation 15(2)(c)(ii), of the Regulations, counsel contended that the power given to the Chief of Police under such regulation, is to regulate the working period but not to increase the duty hours which are provided by regulation 15(2)(a).

Counsel for the respondents, on the other hand, submitted that the members of the Fire Service fall within the category of persons specially exempted by the Chief of Police under regulation 15(2)(c)(ii) for the purpose of performing duties in excess of the 48 hours weekly normal working hours. He also contended that under regulation 47 of the Regulations, the Chief of Police is empowered, from time to time, to issue standing orders to the Force, with which the members of the Force have to comply and observe. He further referred to the provisions of Force Order No. 30 and submitted that every member of the Force, upon entering the Force, accepted the conditions of compliance with the terms of service and the hours of work, as defined in such Force Order. According to the said Order, members of the Fire Brigade Service, had to work 84 hours and they were so working until 1968 when the Government decided to reduce them gradually to 56 hours weekly. He also contended that the firemen, in accordance with the terms of service accepted by them when they were appointed and due to the peculiarity of their professional occupation, were rightly exempted of the limitation of 48 hours per week.

The whole case turns as to—

- (a) whether the refusal of the Chief of Police to treat the applicants in a like manner as all members of the Police Force and in accordance with the provisions of regulation 15 of the Police (General) Regulations 1958, by reducing their working hours to 48 hours per week and granting to them the benefits provided

by the law for work over 48 hours per week is legally founded, and

- (b) whether there exists inequality of treatment between firemen and policemen who are all members of the same class under the provisions of the respective law, which violates Article 28 of the Constitution.

I have already dealt with the definition of the word "force" under section 2 of Cap. 285 which includes not only the members of the Police Force but also the members of the Fire Service. By Law 21/64 which is a law amending the Police Law, Cap. 285, and, in particular, by the Schedule set out therein under the provisions of section 4 of the said Law, the definitions of "force" (δύναμις) and "policeman" (άστυνομικός) under section 2, are given as follows:-

" 'Δύναμις' σημαίνει την 'Αστυνομικήν Δύναμιν Κύπρου, περιλαμβάνει δέ την Πυροσβεστικήν, την Τακτικήν 'Εφεδρείαν την 'Επικουρικήν 'Αστυνομικήν Δύναμιν, την Ειδικήν 'Αστυνομίαν και τὸ Γυναικείον Σῶμα τῆς 'Αστυνομίας".

" 'Αστυνομικός' σημαίνει πᾶν μέλος τῆς 'Αστυνομικῆς Δυνάμεως Κύπρου πλὴν τῶν ἐπικουρικῶν, τῶν εἰδικῶν άστυνομικῶν και τῶν ἐκτάκτων πυροσβεστῶν".

(" 'Force' means the Cyprus Police Force and includes the Fire Service, the Mobile Reserve, the Auxiliary Police Force, Special Constabulary and Women Police").

("'Policeman' means any member of the Cyprus Police Force other than auxiliaries, special constables and part-time retained firemen").

The text of Cap. 285 embodied verbatim the provisions of the Police Law, 1958 (Law 5/58) which was enacted on the 19th March, 1958 and whereby the previous laws in force (Cap. 265) of the Laws of Cyprus (1949) (Vol. 2) and its subsequent amendments by Laws 24/53 to 10/56 were repealed. If one looks at the old Cap. 265 the definition of "Force" is given under section 2, as follows:-

" 'Force' means the Cyprus Police Force as established by this Law".

And under section 3, the following provision appears:

“There is hereby established in the Colony a police force to be called the Cyprus Police Force”.

Some of the material changes brought about by Law 5/58 (Cap. 285) regarding the position of firemen were:-

Under section 2 the inclusion in the definition of the “Force” of the Fire Service as constituting part of such Force together with the Cyprus Police Force, the Mobile Reserve, etc. Most of the provisions of the previous laws regarding Fire Service were substituted by other provisions under Part VIII of Cap. 285, the most important of which are the following:-

The previous title referring to Police Fire Brigade was substituted by the words “Police Fire Service”. Section 44 was introduced whereby the functions of the service were extended throughout the Island. Under sections 45 and 46 certain duties and powers were assigned to the Chief of Police to make provisions for fire fighting purposes and to pay persons not being members of the service who render services for fire fighting purposes, such rewards as the Chief of Police thinks fit. Power is also given to the Chief of Police (with the approval of the Council of Ministers) under section 50, to make Regulations for the better carrying out of the provisions of Part VIII of the Law which refers to Police Fire Service. This was in addition to the powers of the Chief of Police under section 10(1) of Cap. 285 prior to its amendment, to make Regulations with the approval of the Governor for the good order, administration and government of the Force which included, *inter alia*, the following under section 10(2):-

“10(2). Without prejudice to the generality of the powers conferred by subsection (1), the regulations may make provision for all or any of the following matters:

- (a) appointments;
- (b) enlistments;
- (c) service, including hours of duty;
- .....
- .....
- (i) payment of allowances;
- (j) leave, including weekly rest days and public holidays.
- .....

## (m) Fire Service and Auxiliary Fire Service;

.....”

Section 10(1) of Cap. 285 was amended by section 4 of Law 21/64 by the deletion of the words “The Chief Constable may with the approval of the Governor” and their substitution by the words “The Council of Ministers may on the advice of the Chief of Police”. In consequence, the power to make regulations concerning the matters hereinabove set out was vested in the Council of Ministers and the only function left in this respect to the Chief of the Police is to advise the Council of Ministers accordingly.

Under section 2 of Cap. 285 the definition of “Force Order” is introduced but no specific reference is made in any part of the Law to such order. A Force Order is defined as follows:—

“ ‘Force Order’ means any order issued by the Chief Constable (now the Chief of Police) for the good order and government of the Force and for the guidance of police officers in the execution of their duties”.

Mention of Force Orders is made in the Police (General) Regulations, 1958, where the following is provided under Regulation 47:—

“As part of Force Orders the Chief of Police may from time to time, issue standing orders to the Force (herewith referred to as ‘Force Standing Orders’) which shall be complied with and observed by all members of the Force”.

Provision as to “Force Orders” was made in the main part of the Police Laws (other than the definition) by s. 2 of the Police (Amendment) Law, 1968 as follows:—

“Τὸ ἐδάφιον (1) τοῦ ἀρθροῦ 9 τοῦ βασικοῦ Νόμου τροποποιεῖται διὰ τῆς ἐν τέλει αὐτοῦ προσθήκης τῶν λέξεων ‘ὅστις πρὸς τὸν σκοπὸν τοῦτον δύναται νὰ ἐκδίδῃ Ἀστυνομικὰς Διαταγὰς’”.

(“Sub-section (1) of section 9 of the main law is amended by the insertion at the end thereof of the words ‘who can for this purpose issue Police Orders’”).

The only Regulations made under section 50 are the Police

(Auxiliary Firemen) Regulations 1962, which concern a completely different class of firemen who do not come within the definition of the "Force" or of "Policeman" under the Schedule set out in section 4 of Law 21/64 and who are specifically exempted from such definition. No other Regulations were made specifically referring to the Police Fire Service and, therefore, the only Regulations applicable to them are the Police (General) Regulations, 1958 which apply to the "Force" in general, under which definition they are classified. The hours of duty of the members of the Force are defined under Regulation 15 of the Police (General) Regulations 1958, which provides as follows:-

"15(1) Every member of the Force shall carry out all lawful orders and shall at all times punctually and promptly perform all appointed duties and attend to all matters within the scope of his office as a police officer.

(2)(a) The normal daily period of duty (including the period for refreshment referred to in sub-paragraph (b) of this paragraph) of a member of the Force other than special constable shall be eight hours and the normal weekly period forty-eight hours, and in addition any time occupied in reporting at the appointed place for duty before the hour of duty begins.

(b) Where the normal period of duty is performed in one tour of duty, an interval of 45 minutes shall normally be allowed.

(c) This regulation shall not apply to a member of the Force who is-

(i) above the rank of Chief Inspector; or

(ii) employed in duties which have been specially exempted by the Chief Constable.

(d) Notwithstanding anything in this regulation contained every member of the Force shall, if properly called upon, or if he perceives it his duty to do so, be required to perform any duty appertaining to his office at any time and, except when on leave, shall perform not less than forty-eight hours' duty in a week. Gazetted Officers shall have a twenty-four hour responsibility".

Under regulation 15(3) provision is made that in case where a member of the Force is called to perform extra duties an equal period of time off or overtime allowance at the rate provided therein shall be granted to him.

5 Having dealt with the law as it stands, I am coming now to consider the nature of Force Order No. 30 on which counsel for the respondent based his argument that it regulates the working hours of the Police Fire Service.

10 As I have already said, copy of such order has been produced, bearing no signature and no date as to when such order was issued. It has been admitted that such order was issued prior to the enactment of Law 5/58 and the Regulations made thereunder. It is clear that it was made at a time when no Police  
15 Fire Brigade existed and it specifically states that a Police Fire Brigade is established at Nicosia for the first time, excluding all other urban municipalities in the Island. Such Police Fire Brigade consisted of 16 firemen under a Police Sergeant. The provisions of this Force Order were not preserved by the Regulations made under the provisions of Law 5/58. Once the  
20 Police Law 5/53 was enacted (which contains provisions regarding the Fire Service) not only any previously existing orders but even any previous laws regarding the matter, do not apply, unless specifically preserved by that Law. If the provisions of the said order were intended to continue to apply,  
25 they should have been embodied in the Regulations. Counsel for respondents argued that Order 30 did not cease to apply after the enactment of the law and the regulations, but must be read in conjunction with them. Even if this argument, with which I do not agree, is taken as correct, again the Order  
30 is not valid as it cannot be more than a circular which was not embodied in the Regulations made under section 10(1) of the Law and any Circular or Order outside the provisions of the Regulations, cannot override the provisions of the Regulations. As it was said in *Arsalis v. The Republic*, (1976) 3 C.L.R., 255  
35 at p. 268 "a circular is an inferior text to that of a regulation and on the basis of the principle of hierarchy of texts, the regulation prevails".

In the present case it has not been alleged and no evidence has been adduced that after the making of the Police (General)  
50 Regulations 1958 any Force or other order was made under

regulation 15(2)(c)(ii) exempting the members of the Fire Service as a whole from the provisions of regulation 15(2)(a) and 15(3), the contents of which might have been contested by the applicants. Counsel for respondents based his whole argument in this respect on Force Order No. 30 which pre-existed the Regulations and the Police Laws 2/58 to 16/79 and, which, as I have already said, ceased to have any force after the enactment of Law 2/58 and the Police (General) Regulations 1958. Therefore, in the absence of any order specially exempting the firemen from the provisions of regulations 15(2)(a) and 15(3) any argument on the powers of the Chief of the Police under regulation 15(2)(c)(ii) is merely of academic interest.

In the light of the above, I find that the applicants are entitled to the benefits of regulation 15(2)(a) concerning hours of duty and regulation 15(3) concerning overtime allowance or time off, of the Police (General) Regulations 1958.

In the result, the decisions of the Chief of the Police communicated to the applicants by letters of the Chief Fire Officer dated 27.10.1979 and 5.11.1979 are null and void as being contrary to the Police Laws 2/58 (CAP 285)-16/79 and the Police General Regulations made thereunder.

Having found as above, I consider it unnecessary to deal with the question as to whether there is enequality of treatment of the Fire Service men as members of the "Force" compared with the other members of the same class in violation of Article 28 of the Constitution.

On the question of costs, as this recourse succeeds, I award to the applicants £40 against their costs.

*Sub judice decision annulled. Order for costs as above.*