

1985 March 21

[TRIANTAFYLIDIS, P., A. LOIZOU, LORIS, STYLIANIDES,
PIKIS, JJ.]

THE REPUBLIC OF CYPRUS, THROUGH
THE COUNCIL OF MINISTERS,

Appellant,

v.

ANDREAS ANASTASSIADES AND OTHERS,

Respondents.

(Revisional Jurisdiction Appeal No. 320).

Revisional Jurisdiction—Appeal from a judgment of a Judge of the Supreme Court—Practice—Re-opening of the hearing of the Appeal, directing at the same time the filing of particulars relating to relevant facts.

5 This Appeal is directed against a decision of a Judge
of the Supreme Court (Hadjianastassiou, J.) whereby the
recourses of the respondent, by means of which they com-
plained against the decision of the appellant Council of
10 Ministers not to pay to them their emoluments in respect
of the periods of time during which they had been out
of work by reason of the termination of their services in
the public interest in 1973 and until they were re-employed
on or after the 16.7.1974 were dismissed on the ground
that the aforesaid decision of the Council was not a deci-
15 sion in the domain of public law.

 It was stated in the judgment appealed from that the
respondents had become entitled to damages under Art.
146.6 of the Constitution because the termination of their
services in 1973 had been "annulled" by a judgment of
20 the Full Bench of the Supreme Court on the 4.4.1975 in
Andreou and Others v. The Republic (1975) 3 C.L.R. 108.
What has actually happened in the case of *Andreou*, su-
pra is that the recourses, which some of the respond-

ents filed against the termination of their services were treated as abated on the 9.7.1975 for the same reasons as those stated in *Andreou* case, supra; and some others were treated as abated on the basis of reasons given in *Platis v. The Republic* (1978) 3 C.L.R. 384. 5

It has been found out, too, that the serial numbers of some of the earlier recourses given in the opposition do not appear to be correct; moreover one of the old recourses is still pending. 10

Held, The hearing of the appeal would be reopened. Directions are given to counsel for the appellant to prepare and file within three months from to-day full particulars regarding (a) the administrative decisions by means of which there were terminated the services of the respondents (including the dates of such decisions and the organs which have taken these decisions) (b) the decisions by means of which the respondents were re-employed by the Republic (including the dates of such decisions and the organs which have taken these decisions and (c) the serial numbers of any earlier recourses filed by respondents against the termination of their services and the fate of such recourses (including the date on which each one of them was disposed of, if it is not still pending). 15 20

Order accordingly. 25

Appeal.

Appeal against the judgment of a Judge of the Supreme Court of Cyprus (Hadjianastassiou, J.) given on the 4th July, 1983 (Revisional Jurisdiction Cases Nos. 129/75-136/75 and 143/75-147/75)* whereby applicants' recourses against the refusal of the respondent to pay applicants their salaries in view of the fact that the previous decision of the respondent to dismiss applicants from the Police Force had been revoked, were dismissed. 30

N. Charalambous, Senior Counsel of the Republic, for the appellant. 35

* Reported in (1984) 3 C.L.R. 312.

A. Markides with E. Efthymiou for the respondents (applicants in recourses No. 129/75 - 136/75, 144/75 - 147/75).

5 No appearance for the remaining respondents (applicants in recourse No. 143/75).

Cur. adv. vult.

10 TRIANTAFYLLIDES P. read the following decision of the Court. This appeal has been made against the first instance judgment of a Judge of this Court by means of which there were dismissed recourses of the respondents (Nos. 129/75 - 136/75 and 143/75 - 147/75) which were made under Article 146 of the Constitution.

15 By such recourses the respondents complained against the decision of the appellant Council of Ministers (No. 13996 of 15th May 1975) by means of which it was decided not to pay to the respondents their emoluments in respect of the periods of time during which they had been out of work after their services had been terminated in the public interest in 1973 and until they were re-employed on or after the 16th July 1974.

20 The recourses of the respondents were dismissed on the ground that the aforesaid decision of the Council of Ministers was not a decision in the domain of public law and, therefore, it could not be challenged by means of recourses made under Article 146 of the Constitution.

25 It was stated, however, in the judgment of the trial Judge that the respondents had become entitled to damages under Article 146.6 of the Constitution because the termination of their services had been "annulled" by a judgment of the Full Bench of the Supreme Court, on the 4th April 1975, in *Andreou and others v. The Republic*, (1975) 3 C.L.R. 108. Actually, the said judgment did not annul, in the sense of Article 146.4(b) of the Constitution, the termination of the services of any one of the respondents in the present proceedings. What has only happened is that by means of it there were treated as having been abated recourses which some of the respondents had filed against the termination of their services in 1973; and the said recourses are, in so far as we could ascertain, recourse

437/73, which was filed by the respondents-applicant in recourse 130/75, the respondent-applicant in recourse 132/75 and the respondent-applicant in recourse 133/75, recourse 303/73 which was filed by respondent-applicant 2 in recourse 143/75 and recourse 73/73 which was filed by respondent-applicant 14 in recourse 143/75 (who seems to be the same person as applicant 13 in recourse 145/75). 5

We are not concerned in the present proceedings with recourses 74/73, 97/73 and 180/73 which were, also, found by the judgment in the *Andreou* case, supra, to have been abated. 10

The remaining respondents do not appear to have been parties to any one of the recourses which were found to have been abated by the judgment in the *Andreou* case, supra, and so to that extent the first instance judgment of the trial Judge in the present proceedings appears to have been based, on a wrong assumption, obviously due to an oversight. 15

From the material before us, and from relevant records of the Supreme Court to which we naturally have access, it appears that some of the recourses of the respondents against the termination of their services as aforesaid were, on the 9th June 1975, treated as having been abated, for the same reasons which were relied on, on the 4th April 1975, in the judgment in the *Andreou* case, supra; and, moreover, some other recourses of the respondents against the termination of their services were treated as having been abated on the basis of reasons given in the judgment delivered in the later case of *Platis v. The Republic*, (1978) 3 C.L.R. 384. 20
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It has been found out, too, that the serial numbers of earlier recourses which are mentioned in some of the Oppositions (such as those in recourses 135/75, 136/75 and 143/75) as having been filed by some of the respondents against the termination of their services do not appear to be correct and we have not been able to trace which are the earlier recourses, if any, which have been filed by such respondents. Also, we have been unable to ascertain whether any other respondents have filed recourses against the termination of their services. 35
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Lastly, recourse 79/73, which was filed by respondent-applicant 6 in recourse 143/75 against the termination of his services, is still pending and is awaiting the outcome of the present Revisional Jurisdiction Appeal.

- 5 In the light of all the foregoing we have decided that it is necessary to reopen the hearing of the present appeal and to direct that counsel for the appellant should prepare, in consultation whenever necessary with counsel for the respondents, and file, if possible within three months from to-
10 day, full particulars regarding (a) the administrative decisions by means of which there were terminated the services of the respondents (including the dates of such decisions and the organs which have taken these decisions) (b) the
15 decisions by means of which the respondents were re-employed by the Republic (including the dates of such decisions and the organs which have taken these decisions) and (c) the serial numbers of any earlier recourses filed by
respondents against the termination of their services and the fate of such recourses (including the date on which
20 each one of them was disposed of, if it is not still pending).

After the aforementioned particulars have been filed in Court and delivered to counsel for the respondents we shall proceed to fix this appeal for further hearing.

Order accordingly.