

1986 January 30

{TRIANTAFYLIDIS, P., SAVVIDES, LORIS, PIKIS, KOURRIS, JJ.]

A. STAVROU AND OTHERS,

Appellants-Interested Parties.

v.

THE REPUBLIC OF CYPRUS, THROUGH

1. THE MINISTER OF INTERIOR AND DEFENCE.
2. THE COMMANDER OF POLICE.

Respondents.

AND

EFSTATHIOS LEFKATIS AND OTHERS.

Respondents-Applicants.

(*Revisional Jurisdiction Appeal No. 490.*)

5 *The Police Law, Cap. 285—The Police (Promotions) (Amendment) Regulations, 1983—S.10(1) as amended by the Table to Law 21/64—S.13(3)(4) as amended by s.2 of Law 29/66—The rule making power under s.10(2) in respect of matters specified in s.13(3) was repealed by necessary implication by s.2 of Law 29/66—After the enactment of Law 29/66 regulations governing the conditions of promotion of members of the Police Force can only be made under s.13(3) and laid before the House of Representatives under s.13(4)—Consequently the said Regulations made under s.10(1) are invalid for lack of legitimacy.*

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Interpretation of Statutes—Repeal by necessary implication.

15 *Words and Phrases: “Conditions of Promotion” in s.13(3) of the Police Law, Cap. 285.*

The promotions of the interested parties to the post of Chief Inspector in the Police Force made under the Police (Promotions) (Amendment) Regulations, 1983 were

annulled by a Judge of this Court for lack of legitimacy of the said regulations. These regulations were made under s.10(1) of Cap. 285 as amended by the Table to Law 21/64. The learned trial Judge found that this section was impliedly repealed by subsequent legislation, namely s.2 of Law 29/66, amending the provisions of s.13 of the Police Law, Cap. 285.

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The sole issue in this appeal is whether the said regulations are invalid for lack of legitimacy. Counsel for the appellants argued that s.10 can co-exist with s.13(3) as amended by Law 29/66 because the expression "conditions of promotion" in s. 13(3) is confined to the terms of promotion and not the prerequisites for promotion, whilst the rule-making power under s.10 relates to the prerequisites of promotion. In order to reinforce this argument he submitted that s.10 refers to substantive and procedural matters leading to promotion, whilst s.13(3) before its amendment by Law 29/66 referred to matters incidental to promotion.

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Held, dismissing the appeal (1) The word "conditions" (öpoi) connotes in its ordinary meaning the necessary prerequisites for the achievement or accomplishment of something else.

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(2) The submission that s.10 refers to substantive and procedural matters leading to promotion, whilst s.13(3) before its amendment by Law 29/66 referred to matters incidental to promotion cannot be upheld. Perusal of the two provisions strengthens the views that the expression "conditions of promotion" in s.13(3) in its unamended form refers to the prerequisites of promotion.

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(3) Section 13(3), as amended by s.2 of Law 29/66 expressly provides that conditions for the promotion of all members of the Police Force should be governed by Regulations made by the Council of Ministers "on the basis of section 13 of the Law." Thereafter, Regulations governing the conditions inter alia of promotion could only be made under s.13(3) and laid before the House of Representatives, as provided in s.13(4).

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(4) Reconciliation between s.10(2) and s.13(3) of the Law is not possible. The only way to resolve the conflict

is by holding that the rule making power under s.10(2) in respect of matters specified in s.13(3) was repealed by necessary implication by s.2 of Law 29/66.

Appeal dismissed.

No order as to costs.

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Appeal.

Appeal against the judgment of a Judge of the Supreme Court of Cyprus (Stylianides, J.) given on the 22nd May, 1985 (Revisional Jurisdiction Cases Nos. 1/85, 28/85, 10 29/85 etc)* whereby the promotions of the interested parties to the post of Chief Inspector were annulled.

P. Pavlou, for appellants.

A. Panayiōtou, for respondents-applicants in Recourses 233/85 and 234/85.

15 *A. S. Angelides*, for respondents-applicants in Recourses 175/85 and 280/85.

A. Papacharalambous, for respondents-applicants in Recourses 177/85, 311/85, 318/85, 348/85 and 357/85.

20 *A. Papacharalambous* for *L. Clerides*, for respondents-applicants in Recourses 117/85—121/85, 123/85, 135/85 and 147/85:

25 *Ph. Valiantis*, for respondents-applicants in Recourses 1/85, 27/85, 28/85, 63/85, 74/85, 78/85, 83/85, 103/85, 186/85, 309/85, 323/85 and 324/85.

Z. Katsouris, for respondent-applicant in Recourse No. 333/85.

30 *A. I. Ndorzis*, for respondent-applicant in Recourse No. 286/85.

G. Triantafyllides, for respondent-applicant in Recourse No. 183/85:

Cur. adv. vult.

* Reported as *Lefkatis and Others v. Republic* in (1985) 3 C.L.R. 1372.

TRIANAFYLLIDES P.: Having heard counsel for the appellants, we find it unnecessary to hear counsel for the respondents. Justice Pikis will give the judgment of the Court.

PIKIS J.: The appeal turns solely on the ruling of the learned trial Judge that the Police (Promotions) (Amendment) Regulations 1983, are invalid for lack of legitimacy. They originated, in fact they were made under the provisions of a section of the Police Law, s. 10 - Cap. 285, that had been partly repealed by the enactment of Law 29/66 and the amendment introduced thereby to the provisions of another section of the Police Law, notably, s. 13. Section 10 of the law was not expressly amended but impliedly as an unavoidable inference from the enactment of subsequent legislation. As a result of the amendment the rule-making power vested in the Council of Ministers (see, s. 10(1) - Cap. 285, as amended by the Table to Law 21/64) to make, on the advice of the Chief of the Police, Regulations governing, inter alia, the promotion of members of the police force, was taken away and entrusted to the Council of Ministers in accordance with and subject to the provisions of s. 13(3) of the Police Law (as amended by s. 2 of Law 29/66). Consequently, the regulations made in 1983 were bad for lack of lawful authority, having been made under the provisions of an inexistent law. As a corollary thereto, the promotion of the appellants and other officers, made under the regulations enacted in 1983, were defective, founded, as they were, on the provisions of the abortive Regulations.

The learned trial Judge noted that both as a matter of principle and on authority¹, courts are disinclined to find statutory amendments by implication. The principle is that the legislature ordinarily gives effect to its intention by express words but as it has been recognised the amendment of the law may have been, in the contemplation of the legislature, an inference warranted whenever the provisions of two or more sections of the law cannot be matched in the context of the same legislation. If they cannot be re-

¹ (Reference was made, inter alia, in the judgment to numerous authorities, Cyprus and English, the effect of which is succinctly summarised in Maxwell—Interpretation of Statutes, pp. 191-196).

conciled because of unavoidable conflict between their provisions, the inference may legitimately be drawn that the legislature intended to amend the law by the introduction of the chronologically newer legislation.

5 Counsel for the appellants submitted there was no incompatibility between the provisions of s. 10 and those of s. 13(3) (as amended by Law 29/66) of the Police Law because the two sections dealt with different matters and as such could coexist without conflict, within the Police
 10 Law. For that reason, he invited us to upset the judgment of the trial Court on the implications of Law 29/66 and its impact on the provisions of s. 10 of the Police Law, unmerited because of the reconcilability between the two sections of the law. At the score of his submission is the
 15 argument that the expression “όροι προαγωγής” (conditions of promotion) in s. 13(3) in its amended form has a limited meaning, confined to the terms of promotion and not the prerequisites for promotion, as the Court found. Building upon this premise he suggested there is no conflict between
 20 the provisions of s. 13(3) confined to the conditions that may be imposed upon promotion and the rule-making power conferred by s.10 to make Regulations in relation to the requisites for promotion. The meaning attributed by counsel to the words “όροι” (conditions) is incompatible
 25 with the ordinary meaning of the word in Greek, as well as its synonym in English, “conditions”. The word “όροι” and the corresponding word in English “conditions”, connotes, in the ordinary acceptation of the word, the necessary prerequisites for the achievement or accomplishment of
 30 something else¹. The word “όροι” in Greek may, in an appropriate context, mean “terms”, as in the case of ‘terms of service’ (όροι υπηρεσίας). The meaning of “όροι” in the latter context is more restricted, and refers to the state of affairs subsequent to the appointment or promotion to
 35 a particular position. Unless we are constrained by the text of subsection 3 of s. 13 to read the expression “conditions of promotion” as encountered in the Police Law in the limited sense suggested by counsel, we must give effect to

¹ (Σεμ. Λεξικόν της Δημοτικής (Εταιρεία Ελληνικών Εκδόσεων), σελίδα 505, and the Concise Oxford Dictionary, New Edition, 6th ed., p. 211).

its ordinary meaning that encompasses substantive and procedural prerequisites for promotion.

Counsel for the appellants submitted we are under such constraint as the two sections of the law are designed to regulate separate aspects of promotion, that is, s. 10—the substantive and procedural matters leading to promotion. and s. 13 subsection 3—matters incidental to promotion. In aid of his argument he referred us to the Police Law—Cap. 285 before amendment, suggesting that ‘conditions of promotion’ in s. 13 subsection 3 in the original text of the law bore the meaning of matters incidental to promotion upon juxtaposition of its provisions with those of s. 10(2) of the Law. We are unable to uphold the submission for the following reasons:- Section 13(3) in its original form aimed to indicate the body of regulations that would govern appointment, enlistment, promotion, service and discharge, of police officers belonging to different ranks. It did not purport to regulate any matters pertinent to such appointments or promotions. These matters were subject to “regulations” in the case of police officers below the rank of gazetted officers to be made under the Police Law, as provided in s. 2 (see meaning of ‘Regulations’), and in the case of gazetted officers by the colonial Regulations and the Cyprus General Orders. Far from reinforcing the submission for the appellants perusal of the provisions of the two sections of the law, strengthens the view that the expression “conditions of promotion” in s. 13(3), in its un-amended form, referred to the prerequisites for promotion. For the conditions of promotion were, inter alia, left to be regulated by the rule-making power, vested originally in the Chief Constable acting with the approval of the Governor, to make Regulations governing all matters relevant to promotions.

Section 13(3), as amended by s. 2 of Law 29/66, expressly provides that conditions for the promotion of all members of the force should be governed by Regulations made by the Council of Ministers, “on the basis of s. 13 of the Law”. Thereafter, Regulations governing the conditions, inter alia, of promotion of members of the force could only be made under s. 13(3) and laid before the

House of Representatives, as provided in subsection 4 of s. 13 of the Law. The power earlier vested under s. 10 of the Law to make Regulations in relation, inter alia, to the conditions of promotion of non gazetted officers in the manner envisaged therein, was expressly taken away and vested in the Council of Ministers subject to and in accordance with the provisions of s. 13(3) (as amended by Law 29/66). Reconciliation between the two provisions was no longer possible. However hard we may strive to reconcile the provisions of the two sections of the law, s. 10(2) and s. 13(3), conflict is unavoidable. The only way to resolve it is by holding that the 1966 legislation amended by necessary implication, the rule-making power vested under s. 10(2) confining competence to regulate promotions to the Council of Ministers in accordance with and subject to the provisions of subsections 3 and 4 of s. 13 of the law. The specific reference made in subsection 3 to rules made under that particular section of the law confirms beyond doubt the intention of the legislature to confine rule-making power under s. 10 to matters other than those specified in s. 13(3).

The appeal is dismissed. There will be no order as to costs.

*Appeal dismissed.
No order as to costs.*

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