

1987 October 8

(PIKIS J)

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

DEMETRIS FACONTIS,

Applicant.

v

THE REPUBLIC OF CYPRUS, THROUGH

1. THE MINISTRY OF COMMUNICATIONS AND WORKS,
2. THE REVIEW PERMITS AUTHORITY,
3. THE PERMITS AUTHORITY,

Respondents

(Case No. 801/85).

Motor Transport — The Motor Transport Regulation Law 9/82, section 5(9) — Cars hired without a driver — Whether licensing of, within ambit of section 5(9) — Question determined in the affirmative (L. P. Loucaides Ltd. v Republic (1987) 3 C.L.R. 1511 adopted).

The issues in this case are:

(a) Whether section 5(9) of Law 9/82 is applicable to «Z» cars, and

(b) Whether the sub judice decision is liable to be set aside for misconception of facts.

Held, *dismissing the recourse*: (1) For the reasons expounded in *L.P. Loucaides Ltd v. The Republic* (1987) 3 C.L.R. 1511 the licensing of Z cars is within the ambit of the aforesaid section.

(2) In the light of the material before the Permits Review Authority it was at the least open to them to find that applicant failed to meet the relevant requirements of section 5 sub-section 9 of the law.

Recourse dismissed.

Cases referred to:

L. P. Loucaides Ltd. v. The Republic (1987) 3 C.L.R. 1511.

Recourse.

Recourse against the refusal of the respondents to grant applicant a licence to own, manage and run a number of cars for the purpose of hiring them to others

- 5 *Chr Clendes*, for the applicant
 St Ioannides (Mrs) for the respondents

Cur adv vult

- 10 PIKIS J read the following judgment As in Recourses 800/85*
 in which judgment was given earlier today the first issue calling for
 resolution is the applicability of Section 5 sub-section 9 of The
 Transport Regulation Law, 1982 (9/82) to cars designated for hire
 to third parties, commonly known as «Z» cars For the same
 reasons to those indicated in the judgment in the aforementioned
 15 case the answer is in the affirmative, and the requisites laid down
 therein must be satisfied before a person is licensed to acquire «Z»
 cars I need not repeat the content of that decision, it is sufficient if
 a copy is appended hereto and is read as an integral part of this
 judgment Consequently the argument raised on behalf of the
 applicant that the decision of the respondents, the Permits Review
 20 Authority is bad for misconception of the law fails It remains to
 decide whether their decision is vulnerable to be set aside for
 misconception of the facts, specially those relevant to the business
 or occupation of the applicant and his future intentions with regard
 to his occupation
- 25 The inquiry of the respondents revealed that at the time of the
 application the main occupation of the applicant was that of
 importer and trader of cars and machinery The hire of cars was a
 wholly secondary activity, independent from his principal
 occupation He was hiring the one «Z» car he owned to a firm of
 30 professional transporters on a yearly or periodical basis Hardly
 any concrete evidence was adduced before the respondents
 establishing a plan on the part of the applicant to make the
 transport business his main occupation in the future In the light of
 the material before the Permits Review Authority it was at the
 35 least open to them to find that applicant failed to meet the relevant
 requirements of Section 5 sub-section 9 of the law In view of this
 finding the application must be dismissed and I so direct The sub

* Reported in (1987) 3 C L R 1511

judice decision is hereby confirmed pursuant to the provisions of Article 146.4(a) of the Constitution.

Recourse dismissed.