

1987 May 2
[STYLIANIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

SOTERIS ANASTASSIADES AND ANOTHER,

Applicants,

v.

ELECTRICITY AUTHORITY OF CYPRUS,

Respondents.

(Cases Nos. 173/85 and 174/85).

Constitutional Law — Public Services — Constitution, Articles 122-125 — Competency of the Public Service Commission — Does not include competency to make provisions or regulations relating to retirement benefits — The Public Corporations (Regulation of Personnel Matters) Law 61/70 — As retirement benefits of «public officers» in the sense of Article 122 were outside the competency of the Public Service Commission, the issue of constitutionality of the said law does not arise in this case, where the matter in issue concerns the retirement benefits of employees of the respondent Authority.

Constitutional Law — Law of Necessity — The Public Corporations (Regulation of Personnel Matters) Law 61/70 — Conferment of power entrusted by Art. 125.1 of the Constitution to the Public Service Commission on the respondent Authority — Justified by Law of Necessity. 10

Constitutional Law — Equality — Constitution, Art. 28 — Discrimination — The elements, which if found to exist, establish discrimination — Pension scheme differentiating between employees, who had retired before a certain date, and those retiring thereafter — In the circumstances the distinction was reasonable — Differences between retirement benefits of civil servants and retirement benefits of employees of the respondent Authority — Such «differences» do not constitute different treatment, but assuming they constitute such a treatment, the distinction is reasonable — Same principles apply as regards differences between retirement benefits of the employees of one public corporation and the benefits of those of another. 15 20

Pensions — The Pensions Law, Cap. 311, as amended by Law 2/81 — Section 17 — Applicable only to Civil Servants — Not applicable to employees of Public Corporations. 25

The applicant in case 173/85 is the retired Chief Engineer and General Manager and the applicant in Case 174/85 the retired Financial Controller of the respondent Authority. They retired on 30 11 80 and 28 2 81 respectively.

5 After the retirement of the applicants and the expiration of a Collective Agreement on 31 12 81, negotiations between the Authority and the Trade Union of its employees resulted in an agreement for a new pension scheme, which would cover the employees of the respondent, who have not retired before 1 1 82.

10 On 17 12 83 the applicants requested the right to elect to be members of such new Pension Scheme. As their request was turned down, they filed these recourses. The grounds on which these recourses are based are:

15 (a) The applicants are «public officers» in the sense of Art 122 of the Constitution and, therefore, in virtue of Art 125, the Public Service Commission was the only organ vested with competence to deal with applicants' pension rights. The applicants are entitled to the same pension rights as the other «public officers».

(b) Even if Law 61/70 confers competence on the respondent Authority, this Law is not valid, as the requirements of the Law of Necessity are not satisfied.

20 (c) Discriminatory treatment in violation of Art 28 1 of the Constitution.

The applicant in recourse 174/85 seeks, also, the annulment of the refusal to recognise as pensionable the period of his service with the British Army as provided by *The Pensions (Amendment) Law 2/81*.

25 It must be noted that the relevant part of this Law, namely the new paragraph 2 of section 17 of the Pensions Law, Cap 311, was adopted by the Cyprus Telecommunications Authority (CYTA) in respect of its own employees by incorporating it in Reg 5(2)(b) of Regulations 124/83. The Respondent Authority, however, did not adopt the said provision.

30 Held, *dismissing the recourse*: (1) The competence of the Public Service Commission envisaged by the Constitution was restricted (i) to make the allocation of public offices between the two Communities, and (ii) appoint, confirm, emplace on the permanent or pensionable establishment, promote, transfer, retire and exercise disciplinary control over, including dismissal or removal from office, of public officers.

35 (2) The applicants are public officers in the sense of Art 122 of the Constitution, but they were always members of the personnel of the respondent Authority and not Government Civil Servants.

(3) By Law 61/70 the power entrusted by Article 125 1 of the Constitution to the Public Service Commission as regards the personnel of the respondent

Authority was conferred on the latter.

(4) The Public Service Commission envisaged by the Constitution had no competence to make any provisions or regulations for retirement benefits. It follows that in this case the constitutionality of Law 16/70 does not arise.

(5) In any event, it may be said that Law 61/70, though repugnant to the Constitution, it is justified and saved by the law of necessity. 5

(6) Article 28 of the Constitution does not forbid every difference in treatment. The principle of equality is violated, if the distinction has no objective and reasonable justification. Discrimination under Art. 28 is established, where the following elements are found to exist, namely, (a) the facts found disclose different treatment, (b) the distinction does not have a legitimate aim, and (c) there is no reasonable proportion between the means employed and the aim sought to be related. 10

(7) In these cases the facts are clear. Employees of the respondent Authority, who retired before 1.1.82, such as the applicants, received different treatment. The relevant collective agreement was reached after applicants failed to discharge the burden cast on them of showing that the differentiation between employees who had retired before 1.1.82 and those retired thereafter is essentially arbitrary. 15

(8) The Pensions Law, Cap. 311 and its amendment (Law 2/81) are applicable only to State servants and not to personnel of the respondent Authority. «Public service» under s. 2(1) of Cap. 311 means service in a civil capacity under the Government. The non adoption by the respondent Authority of the provisions of Law 2/81, which was adopted by another public corporation, C.Y.T.A., does not constitute a different treatment, merely because the respondent Authority has not extended the relevant benefit to any member of its employees. 20
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(9) Assuming that there is a differential treatment, the position between State Civil Servants and an employee of E.A.C. is reasonably different and, therefore, the differentiation reasonable. Furthermore, the different treatment by different public corporations of their employees cannot be held unreasonable or unjustifiable. It cannot be validly said that any benefit granted by one corporation to its employees automatically should be granted to the employees of another corporation. 30

Recourses dismissed. 35
No order as to costs.

Cases referred to:

Rossides v. The Republic, 3 R.S.C.C. 95;

Rouhi v. The Republic, 2 R.S.C.C. 84;

3 C.L.R.

Anastasiades v. E.A.C.

- Alkidas v The Republic* (1967) 3 C L R 191,
Georghiou v C B C (1985) 3 C L R 2007,
HjiGeorghiou v Cyprus Tounsm Organization (1986) 3 C L R 111),
5 *Pavrides and Others v Cyprus Broadcasting Corporation* (1986) 3 C L R
1332,
Cyprus Tounsm Organisation v HadjiDemetrou (1987) 3 C L R 780,
Kontemeniots v C B C (1982) 3 C L R 1027,
Mavrommats and Others v The Land Consolidation Authority (1984) 3
C L R 1006,
10 *Paphitis and Others v The Republic*, (1983) 3 C L R 255,
Mikrommats v The Republic, 2 R S C C 125,
The Republic v Arakian and Others (1972) 3 C L R 294,
Papaxenophontos and Others v The Republic (1982) 3 C L R 1037,
Apostolides and Others v The Republic (1984) 3 C L R 233,
15 *Levy v Louisiana*, 391 U S 68, 20 L ed 2d 436

Recourses.

Recourses against the refusal of the respondents to emplace applicants in the new pension scheme.

- 20 *A S. Angelides with M. Spanou-Anastassiou(Mrs)*, for the applicants.

E. Liatsou (Mrs.) for G. Cacoyannis, for the respondents.

Cur. adv. vult.

- 25 **STYLIANIDES J.** read the following judgment. The applicants in these cases are the retired Chief Engineer and General Manager and the Financial Controller of the respondent Authority. They retired on 30.11.80 and 28.2.81, respectively.

- 30 By these recourses they seek the annulment of the decision of the respondents whereby the latter rejected their claim contained in a letter of their counsel dated 17.12.83 for emplacement in the new pension scheme which is identical to that obtaining for Government public servants. The applicant in Recourse No. 174/85 seeks also the annulment of the decision of the respondents whereby they refused to compute in his years of service with the

Authority the period he served in the British Army, as provided by The Pensions (Amendment) Law No. 2/81, and further that such omission is arbitrary and constitutes an abuse and excess of power and what has been omitted should have been performed.

The applicant in Case No. 173/85 joined the service of the Authority on 1.11.50 and he served continuously without interruption until his retirement as Chief Engineer and General Manager on 30.11.80. The applicant in Case No. 174/85 was appointed by the Authority on 1.1.56 and retired as Financial Controller on 28.2.81. 10

Before 1.1.78 the Authority was keeping a Provident Fund for its employees. By virtue of a Collective Agreement with the trade union, of which the present applicants were not members, being the top officials of the Authority, a Pension Scheme was introduced with effect from 1.1.78, similar to the one applying to the personnel of C.Y.T.A. As no Regulations were made, an Interim Trust Deed was formed pending the issuing of the relative Regulations so as to enable the payment of the benefits to the employees who would retire after 1.1.78. The employees who would retire after 1.1.78 were entitled to opt either the Provident Fund or the new Pension Scheme. 15 20

On 29.11.80 a table showing the entitlement of applicant in Case No. 173/85 under the Provident Fund and the Pension Scheme as well as the various provisions of the Pension Scheme already approved by the Authority was sent to him. 25

On the same day by letter, exhibit No. 2, he elected to avail himself of the benefits of the Pension Scheme and chose the type of reduced pension.

On 18.4.81 the applicant in Case No. 174/85 was asked to make his own election and he also elected reduced pension with gratuity - (See exhibit No. 2 dated 21.4.81). 30

The Regulations for the said Pension Scheme were made later by the Authority under s. 44 of the Electricity Development Law, Cap. 171, as amended, approved by the Council of Ministers and published in the Official Gazette on 6.4.85 under K.Δ.Π 111/85 - (See Official Gazette (1985), Supplement III(I), page 347). 35

After the retirement of these two applicants and the expiration

of a Collective Agreement, on 31.12.81 negotiations between the trade union E.Π.Ο.Π.Α.Η. and the Authority reached an agreement for putting into effect a new Pension Scheme which would cover the employees of the Authority who have not retired before 1.1.82. The negotiations were for the terms and conditions of service, including pension of the employees who were in the service on 1.1.82. This new Pension Scheme is not a contributory one and any amount paid by an employee covered by this new scheme would be refunded to him with compound interest. An identical scheme was agreed upon and put into effect by C.Y.T.A. It is similar to the one applicable under the Pensions Law, Cap. 311, to Government servants.

In virtue of the Pensions (Amendment) Law, 1981 (No. 2 of 1981), which amended section 17 of the Pensions Law for State, Cap. 311, the following two paragraphs were added:-

«(2) Ανεξαρτήτως των διατάξεων του παρόντος Νόμου, εις περίπτωσιν καθ' ἣν υπάλληλος, ο οποίος διορισθείς εις την δημοσίαν υπηρεσίαν κατά ἢ μετά την 3ην Σεπτεμβρίου, 1939, κατετάγη εις τας Ενόπλους Δυνάμεις της Μεγάλης Βρετανίας ἢ το Κυπριακόν Σύνταγμα ἢ την Κυπριακὴν Εθελοντικὴν Δύναμιν μεταξύ της 3ης Σεπτεμβρίου, 1939, και της 15ης Αυγούστου, 1945, αμφοτέρων των ημερομηνίων περιλαμβανομένων, και υπηρέτησεν εις αὐτάς καθ' οἰονδήποτε χρόνον εις τον Δεύτερον Παγκόσμιον Πόλεμον, ἢ τοιαύτη στρατιωτικὴ υπηρεσία αὐτοῦ λογίζεται ως συντάξιμος υπηρεσία:

Νοεῖται ὅτι εἰάν ο υπάλληλος απεστρατεύθη μετά την 15ην Αυγούστου, 1947 και διωρίσθη εις την δημοσίαν υπηρεσίαν μετά την 1ην Σεπτεμβρίου, 1948, ἡ περίοδος της στρατιωτικῆς υπηρεσίας αὐτοῦ πέραν της 15ης Αυγούστου, 1947 δεν λογίζεται ως συντάξιμος υπηρεσία, δεν θεωρεῖται ὅμως διακοπὴ της συνεχείας της υπηρεσίας του.

(3) Εἰς περίπτωσιν καθ' ἣν δημόσιος υπάλληλος, εις τον οποίον ἐφαρμόζεται το ἐδάφιον (2), ἀφυπηρέτησε προ της ημερομηνίας ἐνάρξεως της ἰσχύος του περί Συντάξεων (Τροποποιητικῆς) Νόμου του 1981, ἡ εις αὐτόν καταβαλλομένη ετησία σύνταξις

αναπροσαρμόζεται, απο της ως ειρήται ημερομηνίας, εφαρμοζομενων των διαταξεων του ρηθέντος εδαφίου (2)».

«(2) Notwithstanding the provisions of this Law, in case where an employee, who was appointed in the public service on or after the 3rd September, 1939, enlisted in the armed forces of Great Britain or the Cyprus Regiment or the Cyprus Volunteer Force between the 3rd September, 1939, and the 15th of August, 1945 both dates inclusive, and served therein at any time in the Second World War, such military service is deemed as pensionable service

Provided that if the employee was released from such service after the 15th August, 1947, and was appointed in the public service before the 1st September, 1948, the period of military service after the 15th of August 1947 shall not be deemed as pensionable service, but shall not be considered as an interruption of the continuity of his service

(3) In case where an employee to whom sub-section (2) is applicable, retired before the coming into operation of the Pensions (Amendment) Law 1981, the annual pension payable to him shall be, as from such date, readjusted by applying the provisions of the aforesaid sub-section (2)».

The provisions of the new paragraph 2 of s 17 of the Pensions Law were adopted by CY T A for its own employees and were incorporated in Regulation No 5(2)(b) of the Pensions Regulations for the Employees of CY.T A - (See official Gazette, 1983, Supplement No III, page 335, Notification No 124/83)

The applicant in Application No 174/85 served for a period in the British Army during the Second World War

Counsel for the applicants on 17 12 83 requested that applicants be given the right to elect to be members of the new Pension Scheme, which is similar to the Government one, and recognition as pensionable service of the service of the applicant in Case No. 174/85 in the British Army during the Second World War, as provided in the Pensions (Amendment) Law No 2/81. This request was rejected by the Authority - (See letter dated 27 2 84, appendix «B»). Hence this recourse

The grounds on which this recourse is founded, as emerging from the addresses of their counsel, are:-

5 1. The applicants are public officers in the sense of Article 122 of the Constitution and, therefore, the respondent Authority was not the appropriate organ to determine their pension rights as by Article 125 exclusive competence was entrusted to the Public Service Commission. The applicants are entitled to the same pension benefits as the other «public officers»;

10 2. Even if Law No. 61/70 conferred competence on the respondent Authority, this Law is not valid as it does not satisfy the requirements of the law of necessity;

15 3. The treatment of the applicants both with regard to the pension rights and the recognition as pensionable of the period of service until 15.8.45 of one of them is discriminatory and violates Article 28.1 of the Constitution. The discrimination is the different treatment between the applicants and the employees of the Authority who did not retire before 1.1.82 and between the applicant Demetriou on the one hand and the civil servants and the employees of CY.T.A. on the other.

25 The Constitution in Articles 122-125 made general provision about the public service for the incorporation in the Constitution of the provisions of Article 11 of the Zurich Agreement which provided that the civil service shall be composed as to 70% of Greeks and as to 30% of Turks. It is understood that this quantitative distribution shall be applied as far as practicable in all grades of the civil service.

30 Article 122 is a definition article. The expression «Public service» was given a very wide meaning.

Article 123 reproduces Article 11 of the Zurich Agreement.

Article 124 provides for the establishment and composition of a Public Service Commission and Article 125 provides for the competence of such Commission.

35 The competence of such Commission is subject to two qualifications: (a) Where no other express provision is made in the Constitution and (b) subject to the provisions of any Law. The competence of that Public Service Commission was restricted to

(i) make the allocation of public officers between the two Communities and (ii) to appoint, confirm, emplace on the permanent or pensionable establishment, promote, transfer, retire and exercise disciplinary control over, including dismissal or removal from office of, public officers. 5

This chapter of the Constitution provided for the allocation of the seats between the two communities and the establishment of a body independent of other powers and authorities in the State.

In *Rossides v. The Republic*, 3 R.S.C.C. 95, the applicant, an employee of the Electricity Authority, contended that because the employees of the Authority are covered by the definitions of «public officer» and «public service» in Article 122 of the Constitution and because, therefore, the provisions of Article 125 of the Constitution apply to such employees, the applicant, being such an employee, became a permanent officer in the public service since the coming into operation of the Constitution and his services could no longer be terminated by the giving of a month's notice under his contract of employment. 10 15

The Supreme Constitutional Court said:-

«The Court considers that there is no substance in the contention of the applicant. It was not, and could not have been, the intention of the Constitution to give to employees of the Authority, who under Article 125 came under the competence of the Public Service Commission for certain purposes, greater security of tenure than that possessed by them before the Constitution came into operation». 20 25

In *Mehmed Ali Rouhi v. The Republic*, 2 R.S.C.C. 84, it was said at p. 87:-

«Paragraph 1 of Article 125 of the Constitution is a provision defining the competence of the Public Service Commission. The taking of a decision is an essential ingredient of the notion of competence. A provision of a law not requiring the taking of a decision does not involve the exercise of competence. It follows, therefore, that provisions such as those contained in the Pensions Law, Cap. 311, making retirement automatic by operation of law on reaching a specified age limit are not inconsistent with the competence of the Public Service Commission to deal with matters relating to retirement and requiring the taking of a specific decision. In 30 35

the circumstances the said provisions of Cap 311 continue in force, without any modification in this respect under Article 188 of the Constitution, and they, therefore, come within the expression subject to the provisions of any law in paragraph 1 of Article 125»

In *Costas Alkidas v The Republic*, (1967) 3 C L R 191, the applicant, an employee of CY T A , was an officer whose retirement was governed, because of the history of his employment by special provisions namely those of the Eastern Pension Fund The fact that he had come in relation to his retirement, under the competence of the Commission by virtue of Article 122 and 125 of the Constitution, did not entail also the alteration of the provisions regarding his tenure of office Once the applicant's retirement continued to be governed by the provisions of the said Fund, his position was different from that of other employees of CY T A who were not members of that Fund

In *Georgiou v C B C* (1985) 3 C L R 2007, it was held that as is stated in Article 122 of the Constitution, the definitions in that Article are for the purposes of Articles 122-125, that is to say, in relation to the competence of the Public Service Commission It would be wrong to generalize and apply these definitions to all instances and in particular to questions of pensions and provident fund schemes The claim of the applicant - an employee of the Cyprus Broadcasting Corporation - that the provisions of Law No 2/81 relating to the service in the Army, was rejected as the Pensions Law, Cap 311, makes provision for pensions, gratuities and other allowances only to officers who have been in the service under the Government of Cyprus which does not certainly include service with C B C

This was a judgment of one of the Judges of this Court Appeal was taken against this judgment before the Full Bench but having regard to the observations made by the Judges in the course of the hearing the applicant-appellant withdrew his appeal which was consequently dismissed

The applicants are public officers in the sense of Article 122 but they were always members of the personnel of the respondent Authority and not Government civil servants; the State servants

That Public Service Commission ceased to exist and function A new Public Service Commission was established by the Public Service Law, 1967 (No 33 of 1967) with limited powers for the

civil servants who worked under the Government of the Republic.

The respondent Authority under the Electricity Development Law, Cap. 171, was empowered to establish schemes for the payment of superannuation allowances and gratuities to the members, officers and servants of the Authority upon such terms and conditions as may be specified in the Regulations. (See, inter alia, Section 44 both before and after its repeal and replacement by s. 2 of the Electricity Development (Amendment No. 2) Law, 1960 (No. 16 of 1960)).

The Public Service Commission envisaged by the Constitution had only competence to allocate the seats in the proportion of 70-30 to the two communities and appoint ... promote, transfer, retire and exercise disciplinary control over, including dismissal or removal from office of, public officers including members of the personnel of the respondent Authority, but not to make any provision or regulations for the retirement benefits. By the Public Corporations (Regulation of Personnel Matters) Law, 1970 (No. 61 of 1970) the power entrusted by Article 125.1 of the Constitution to the Public Service Commission was conferred on the Authority.

The Pensions Law, Cap. 311, does not apply to the applicants. This Law does not create any rights for them as its scope and application is limited to the «public service» as defined in s. 2(1) thereof, i.e. those serving under the Government of Cyprus in a civil capacity.

In view of the above the constitutionality of Law No. 61/70 does not arise. It may, however, be said that though repugnant to the Constitution, it is justified and saved by the law of necessity - (See *Krinos Hji-Georghiou v. The Cyprus Tourism Organisation*, (1986) 3 C.L.R. 1110; *Pavrides and Others v. Cyprus Broadcasting Corporation*, (1986) 3 C.L.R. 1332; *The Cyprus Tourism Organisation v. Agni HadjiDemetriou*, Revisional Appeal No. 665, not yet reported)*.

Collective Agreements are not a source of rights in the domain of public law — (*Kontemeniotis v. C.B.C.*, (1982) 3 C.L.R. 1027; *Mavrommatis & Others v. The Land Consolidation Authority*, (1984) 3 C.L.R. 1006; *Paphitis & Others v. The Republic*, (1983) 3 C.L.R. 255).

The principle of equality, which is enshrined and safeguarded in

* Reported in (1987) 3 C.L.R. 780

Article 28.1 of the Constitution, has been judicially considered by this Court in a number of cases — (See, inter alia, *Mikrommatis v. The Republic*, 2 R.S.C.C. 125; *The Republic of Cyprus v. Nishan Arakian and Others*, (1972) 3 C.L.R. 294; *Papaxenophontos and Others v. The Republic*, (1982) 3 C.L.R. 1037; *Apostolides and Others v. The Republic*, (1984) 3 C.L.R. 233).

Article 28.1 of the Constitution reads as follows:-

«All persons are equal before the Law, the administration and justice and are entitled to equal protection thereof and treatment thereby».

Article 28 does not forbid every difference in treatment. The principle of equality of treatment is violated if the distinction has no objective and reasonable justification. The existence of such a justification must be assessed in relation to the aim and effect of the measures under consideration regard being had to the principle which normally prevails in democratic societies.

In *Levy v. Louisiana*, 391 U.S. 68, 20 L.ed. 2d. 436. Mr. Justice Douglas pointed out on p. 439:-

«In applying the Equal Protection Clause to social and economic legislation, we give great latitude to the legislature in making classifications».

Discrimination under Article 28 is established where the following elements are found to exist in the case concerned, namely, (a) the facts found disclose a different treatment; (b) the distinction does not have a legitimate aim, i.e. it has no objective and reasonable justification having regard to the aim and effect of the measure under consideration; and (c) there is no reasonable proportionality between the means employed and the aim sought to be related.

In *The Republic v. Nishan Arakian & others*, the Full Bench said that the status of a serving public officer and that of a pensioner public officer are obviously essentially different both factually and legally; they may be similar or analogous to each other in certain respects but the differences outweigh definitely any similarities or analogies. The refusal of the Minister of Finance to pay to the respondents, who were pensioners public officers, a cost of living allowance tied to the cost of living index in the same manner as such allowance was being paid to serving public officers, was found to have reasonable basis and not to be essentially arbitrary

and not contrary or inconsistent with Article 28.1 of the Constitution.

In the present case the facts are clear. Employees of the respondent Authority, who retired before 1.1.82, such as the present applicants, received different treatment. The agreement to introduce this new pension scheme was reached on 23.12.82 and it was formed into Regulations, published in the Gazette, on 6.4.85 — (Electricity of Cyprus Scheme for Pensions and Benefits to the Employees of the Electricity Authority of Cyprus and their Dependants (Similar to the Government Pension Scheme) Regulations, 1985).

The applicants were already retired members of the personnel of the Authority, having retired on 30.11.80 and 28.2.81, respectively. The burden of showing that this classification does not rest upon a reasonable basis but it is essentially arbitrary rests on the applicants. They failed to discharge this burden. The aim of the new Pension Scheme was to improve the pension benefits of those who have not retired before the expiration of the Collective Agreement on 31.12.81, i.e. the members of the personnel of the Authority who had not retired before 1.1.82.

There is a different treatment with regard to retirement benefits between the applicants and those who were in the actual service on 1.1.82 as the new Pension Scheme agreed upon and finally incorporated into the 1985 Regulations makes better provision. This differentiation, however, is neither unreasonable nor unjustifiable as the applicants were already retired and the classification was a reasonable one and not essentially arbitrary.

With regard to the Army service during World War II, the Pensions Law, Cap. 311, and its amendment by Law No. 2/81, whereby Section 17 was amended, is applicable only to civil servants, State servants and not to personnel of the respondent Authority. «Public service» under s. 2(1) of Cap. 311 means service in a civil capacity under the Government. The applicant Demetriou is not included in that definition as it does not apply to the employees of the respondents who had their own Provident Fund and retirement schemes. The non-adoption by the respondent Authority of the provisions of Law No. 2/81, which was adopted and applied by another public corporation, CY.T.A., does not constitute a different treatment as the respondent

Authority has not extended this benefit to any member of its personnel.

5 Assuming that there is a differential treatment, the position between a state civil servant and an employee of E.A.C. is reasonably different and the differentiation is justifiable. The different treatment by different corporations of their employees cannot be held to be unreasonable or unjustifiable. The case was regulated by a Collective Agreement between C.Y.T.A. and the trade union of its employees. Though there appear to be 10 similarities and analogies between the employees of C.Y.T.A. and E.A.C., nevertheless, a different treatment extended by any of these corporations to its employees cannot be held to be unreasonable or unjustifiable. They are different bodies with 15 different lines of work, different budgets, different financial and other commitments and implications, different managements and it cannot be validly said that any benefit granted by one corporation to its employees, automatically should be granted to the employees of another corporation. In this country there are so many public corporations that it would not be possible to find 20 otherwise.

The respondent Authority by refusing to accept the request of the applicant acted in accordance with the relevant Laws and Regulations and having exercised its discretion, reached the sub- 25 justice decisions which were reasonably open to it within its powers.

30 Before concluding, however, it may be observed that it is desirable that the respondent Authority approaches the War service of its personnel in the same way as the Government did. Certainly this is within its power. The financial repercussions, having regard to the period that elapsed - over 40 years - since the end of the War, I imagine would not be prohibitive to this Corporation.

For the foregoing reasons both recourses fail and are hereby dismissed with no order as to costs.

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*Recourses dismissed.
No order as to costs*