

(1988)

1988 November 4

[A. LOIZOU, P.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

GEORGHIOS SAVVIDES,

Applicant,

v.

THE CYPRUS TELECOMMUNICATIONS AUTHORITY,

Respondent.

(Case No. 915/87).

Cyprus Telecommunications Authority—Promotions—Effected by Personnel Committee and confirmed by General Manager—The Cyprus Telecommunications Authority (Personnel) General Regulations, 1982, Regs. 10(5) (e), 7(a) and 24 A (7) and (8)—Ultra vires section 43 of the Telecommunications Service Law, Cap. 302—Authority to regulate by rules the exercise of a power vested in a body does not import power to delegate the power itself to organs subordinate to that body.

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The facts of this case sufficiently appear in the judgment of the Court.

Sub judice decision annulled.

No order as to costs.

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Cases referred to:

Polycarpou and Another v. CYTA (1988) 3 C.L.R. 1461;

Demetriades and Others v. CYTA (1988) 3 C.L.R. 1034;

Ioannides and Another v. CYTA (1988) 3 C.L.R. 1549;

HadjiVassiliou and Another v. CYTA (1988) 3 C.L.R. 1655.

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Recourse.

Recourse against the refusal and/or omission of the respondents to promote applicant to the post of Inspector of Office.

A.S. Angelides, for the applicant.

5 *A. Hadjiannou*, for the respondent.

Cur. adv. vult.

A. LOIZOU P. read the following judgment. By the present recourse the applicant seeks:

10 (a) The annulment of the refusal and or omission of the respondent Authority to promote the applicant to the post of Inspector of Office of the Authority, and

15 (b) A declaration that the decision taken on the 2nd September 1987 by the respondent Authority to reject the objection of the applicant against their act by which they promoted Kyriakos HadjiKyriakou, Eleni Avraamidou, Christothea Kenta, Rena A. Kosma and Anastassia Kyriakidou to the post of Inspector of Office instead of himself is null and void and of no legal effect.

The facts of the present case are briefly the following:

20 The applicant has long been in the service of the respondent Authority. The interested parties were selected in the first place by the Personnel Board and their selection for promotion was confirmed by the General Manager of the Authority, (Appendices "A" and "B"), by virtue of Regulations 10(5)(b), (7)(a) and 24 A
25 (7) and (8) of the Cyprus Telecommunications Authority (Personnel) General Regulations 1982, published under Notification No. 220, in Supplement No. 3(I) of the Official Gazette of the Republic of the 26th July 1982.

The ground relied upon on behalf of the applicant is that the said organs of the Authority that effected the promotions in question had no competence in the matter inasmuch as the relevant Regulations by virtue of which they acted are ultra vires the enabling Section 43 of the Telecommunications Service Law, Cap. 302, as amended by Laws No. C. 20/60, 34/62, 25/63, 54/77, 61/70, and the powers in that respect are vested under the relevant law to the Authority. 5

This point came up for consideration in four other cases *Polycarpou and another v. C.Y.T.A.* (1988) 3 C.L.R. 1461; *Demetriades and Others v. C.Y.T.A.* (1988) 3 C.L.R. 1034; *Ioannides and another v. C.Y.T.A.* (1988) 3 C.L.R. 1549; and *HadjiVassiliou and Another v. C.Y.T.A.* (1988) 3 C.L.R. 1655. In all these judgments, it was held that these Regulations are ultra vires the enabling Law. 10 15

In the case of *Polycarpou* (supra) Pikis, J., had this to say:

"Did s. 43 of Cap. 302, as amended by s.3 of Law 61/70, confer power to delegate by regulations the competence vested in CYTA to make appointments and promotions of personnel? Neither s.43 nor any provision of Cap. 302 does confer such a power explicitly or implicitly. Power to delegate authority to a body other than that nominated by law must be found in the provisions of the law itself. Authority to regulate by rules the exercise of power vested in a given body does not import power to delegate authority to subordinate organs of that body. Therefore, the respondents acting with the approval of the Council of Ministers exceeded their authority in making provision for the exercise of the power to appoint and promote by a body other than the Board of the respondents. I am, therefore, driven to the conclusion that Reg. 10(5) and 24 are ultra vires the law and the promotions here under review, made under the provisions of the subject Regulations, must likewise be invalidated as illegal and an improper exercise of the power vested in the respondents." 20 25 30 35

I have no reason to depart from the judicial precedent set up by my brethren. I accordingly find that the said Regulations by virtue of which the Personnel Board and the General Manager acted in the present case, are ultra vires the Law and therefore the sub judice decision is null and void and of no legal effect and a declaration is made to that effect, accordingly.

In the circumstances, however, there will be no order as to costs.

*Sub judice decision annulled.
No order as to costs.*

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