

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fifth Chamber)
6 March 2001

Case T-100/00

Franco Campoli
v
Commission of the European Communities

(Officials – Transfer/Reassignment – Statement of reasons – Misuse of powers
– Interests of the service)

Full text in French II - 347

Application for: first, annulment of the decision of the Commission transferring the applicant from the ‘Foodstuffs – Legislation and scientific and technical aspects’ unit 1 to the ‘Food production and biotechnology’ unit 2 of Industry Directorate E of DG III as well as the decision to appoint another official to the ‘Foodstuffs – Legislation and scientific and technical aspects’ unit as deputy-head and, secondly, for damages.

Held: The application is dismissed. Each of the parties is ordered to bear its own costs.

Summary

*1. Officials – Transfer – Reassignment – Distinguishing criteria
(Staff Regulations, Arts 4 and 29)*

*2. Officials – Organisation of departments – Assignment of staff –
Administration's discretion – Extent – Review by the Court – Limits – Interests
of the service – Observance of equivalence of posts
(Staff Regulations, Art. 7)*

*3. Officials – Decision adversely affecting an official – Obligation to state reasons
– Scope
(Staff Regulations, Art. 25)*

4. Officials – Actions – Pleas in law – Misuse of powers – Definition

1. There is a transfer in the strict sense of the term only where an official is transferred to a vacant post so that any such transfer is subject to the formalities prescribed by Articles 4 and 29 of the Staff Regulations. In contrast, those formalities do not apply when an official is reassigned because that transfer does not give rise to a vacant post.

(see para. 29)

See: C-398/93 P *Rasmussen v Commission* [1994] ECR I-4043, para. 11; T-23/96 *De Persio v Commission* [1998] ECR-SC I-A-483 and II-413, para. 79

2. The institutions enjoy a broad discretion to organise their departments to suit the tasks entrusted to them and to assign staff available to them in the light of such tasks, on condition, however, that the staff are assigned in the interests of the service and in conformity with the principle that assignment must be to an equivalent post. Having regard to the extent of the institutions' discretion in evaluating the interests of the service, the review undertaken by this Court must be confined to the question whether the appointing authority remained within the bounds of that discretion and did not use it in a manifestly wrong way.

Where they cause tensions prejudicial to the proper functioning of the service, internal relationship difficulties may justify the transfer of an official in the interests of the service. In such a situation, it is, moreover, irrelevant who was responsible for the incidents at issue or even whether the complaints made are well founded.

(see paras 41, 45)

See: T-80/92 *Turner v Commission* [1993] ECR II-1465, para. 53; C-294/95 P *Ojha v Commission* [1996] ECR I-5863, paras 41 and 43; T-98/96 *Costacurta v Commission* [1998] ECR-SC I-A-21 and II-49, para. 36

3. The reasons given for a decision adversely affecting an official are sufficient if the measure was adopted in circumstances known to the official concerned which enable him to understand its scope.

(see para. 53)

See: T-78/96 and T-170/96 *W. v Commission* [1998] ECR-SC I-A-239 and II-745, para. 141

4. The concept of misuse of powers has a precisely defined scope and refers to cases where an administrative authority has used its powers for a purpose other than that for which they were conferred on it. A decision may amount to a misuse of powers only if it appears, on the basis of objective, relevant and consistent evidence, to have been taken for purposes other than those stated.

Provided that a decision has not been judged to be contrary to the interests of the service, there can be no question of any misuse of power.

(see paras 62-63)

See: T-59/91 and T-79/91 *Eppe v Commission* [1992] ECR II-2061, para. 57; T-118/95 *Anacoreta Correia v Commission* [1996] ECR-SC I-A-283 and II-835, para. 25; T-112/96 and T-115/96 *Séché v Commission* [1999] ECR-SC I-A-115 and II-623, para. 139