

ORDER OF THE COURT OF FIRST INSTANCE (Fourth Chamber)
1 July 1994

Case T-505/93

Glória Osório
v
Commission of the European Communities

(Officials – Internal competition – Notice of competition –
Interest in bringing proceedings – Inadmissibility)

Full text in Portuguese II - 581

Application for: annulment of the Commission's decision not to rectify the notice of Internal Reserve Competition COM/T/A/93 and for damages.

Decision: Application dismissed as inadmissible.

Abstract of the Order

The applicant, who had been engaged as a member of the temporary staff in Grade A 7, applied to sit Internal Reserve Competition COM/T/A/93 which had been organized for the purpose of constituting a reserve of officials in Grades 8 to 4 of category A.

The notice of competition states that ‘successful candidates will be appointed to the grade in which they are serving when the reserve list is drawn up, on condition that at the time of their initial recruitment they were graded on the basis of the criteria then in force; if this is not the case, they will be graded in accordance with the criteria in force on the date of their appointment as permanent officials’.

The competition comprised *inter alia* three written tests, one of which was a preliminary test, identical for all grades.

The applicant was admitted to the written tests for career bracket A 7/A 6. When the applicant requested that the Selection Board reconsider its decision not to admit her to the tests for career bracket A 5/A 4, she was informed that the only action the Selection Board could take without infringing the notice of competition was to confirm its original decision on the question of her admission, and that she had been unsuccessful in the preliminary test.

The applicant subsequently lodged a complaint against the notice of competition, alleging breach of the principle of non-discrimination and of Article 5 of the Staff Regulations on the ground that a member of the temporary staff with her level of experience could have been admitted to the written tests for career bracket A 5/A 4 if, unlike the applicant, that person had not been graded at the time of initial recruitment on the basis of the criteria then in force. The applicant sought in particular rectification of the relevant point in the notice of competition.

In reply to the applicant, the Commission stated that her complaint had been rendered nugatory by the fact that she had failed to obtain the minimum number of marks required to pass the common preliminary test, which meant that she could take no further part in the competition.

Admissibility

1. *The claim for annulment of the Commission's decision not to rectify the relevant point in the notice of competition*

In order first of all to determine the object of the claims for annulment, the Court of First Instance points out that the applicant's interest in bringing proceedings must be assessed in relation to the purpose of the application, that is, the upholding of the request for rectification of the notice of competition, submitted by the applicant in order to gain admission to the tests for career bracket A 5/A 4 (paragraph 25).

See: 117/81 *Geist v Commission* [1983] ECR 2191, para. 7

The Court of First Instance considers that, since the applicant was unsuccessful in the preliminary written test, she would have no chance in any event of being placed on the reserve list constituted for the purpose of filling vacancies in career bracket A 5/A 4. She therefore cannot establish any interest in bringing proceedings for annulment of the rejection of her request for rectification of the notice of competition (paragraphs 28 and 30).

2. *The claim for damages*

The Court of First Instance points out that, in order to comply with the requirements set out in Article 19 of the EEC Statute of the Court of Justice and in Article 44(1)(c) of the Rules of Procedure of the Court of First Instance, an application seeking compensation for damage caused by a Community institution must state the evidence from which the conduct alleged against the institution by the applicant may be identified, the reasons for which the applicant considers that there is a causal link between that conduct and the damage which she claims to have suffered, and the nature and extent of that damage. A claim for an unspecified form of damages, however, is not sufficiently concrete and must therefore be regarded as inadmissible (paragraph 33).

See: 5/71 *Zuckerfabrik Schöppenstedt v Council* [1971] ECR 975, para. 9; T-64/89 *Automec v Commission* [1990] ECR II-367, para. 73

The Court of First Instance finds that the application fails to quantify the amount of the damage alleged or to state the factual criteria on the basis of which the nature and extent of that damage might be assessed, or to establish or even invoke the existence of particular circumstances in view of which the applicant might have been exempted from the requirement to state in the application the precise extent of the damage and to quantify the amount claimed by way of compensation. Furthermore, the application has likewise failed to demonstrate the existence of any causal link between the alleged unlawfulness of the point at issue in the notice of competition and the damage purportedly suffered (paragraphs 34, 35 and 36).

See: *Automec v Commission*, cited above, paras. 75 to 77; T-37/89 *Hanning v Parliament* [1990] ECR II-463, para. 82

The Court of First Instance further points out that, where a close link exists between an action for annulment and a claim for damages, the inadmissibility of the action for annulment entails the inadmissibility of the claim for damages (paragraph 37).

See: 33/80 *Albini v Council and Commission* [1981] ECR 2141, para. 18; 346/87 *Bossi v Commission* [1989] ECR 303, para. 31; T-3/92 *Latham v Commission* [1994] ECR-SC II-83, para. 37

Operative part:

The application is dismissed as inadmissible.