

JUDGMENT OF THE COURT OF FIRST INSTANCE (Third Chamber)
15 February 1996

Case T-125/95

Hassan Belhanbel
v
Commission of the European Communities

(Officials – Competitions – Decision of the selection board finding that a candidate has been unsuccessful in the oral test – Extent of the obligation to state reasons)

Full text in French II - 115

Application for: annulment of the decision of the selection board in competition COM/B/765 awarding the applicant a mark lower than the required minimum for the oral test and refusing to include his name on the reserve list.

Decision: Application dismissed.

Abstract of the Judgment

The applicant was a member of the Commission's temporary staff from 1 January 1990 to 31 December 1994. Following his participation in open competition

COM/B/765, he was informed that he had been unsuccessful in the oral test and that it had thus not been possible to include his name on the list of successful candidates. The Commission also informed him of the marks he had obtained in the tests.

The applicant then sent a letter to the chairman of the selection board, requesting to be informed of the criteria or reasons on the basis of which the selection board had reached its decision. Only after reiterating that request and bringing the present action was the applicant informed that a re-examination of his file had shown that no material error had been made concerning him and that, as regards the oral test, his knowledge had been judged insufficient, in particular by comparison with that of the other candidates.

Substance

Breach of the obligation to state reasons

The purpose of the obligation set out in Article 25 of the Staff Regulations, to state the grounds on which any individual decision adversely affecting an official is based, is both to enable the Court to review the lawfulness of the decision and to give the official concerned the information necessary to ascertain whether the decision is well founded or not (paragraph 21).

See: T-291/94 *Pimley-Smith v Commission* [1995] ECR-SC II-637, para. 60

A distinction must be drawn between decisions of a selection board refusing to allow a candidate to take part in the tests and those finding that a candidate has been unsuccessful in the tests. As regards the latter, the selection board has been held to enjoy a wide discretion when assessing the results of tests in a competition, and

the Community judicature has no jurisdiction to review its value judgments unless the rules which govern the proceedings of selection boards have been obviously infringed. Moreover, communication of the detailed marks obtained by the candidate in the various tests forms a sufficient statement of the reasons on which the selection board based its value judgment. Nevertheless, a candidate who expressly so requests is entitled to receive explanations regarding points other than the judgment of the value of his performance, such as, for example, the conduct of the procedure (paragraph 22).

See: *Pimley-Smith v Commission*, cited above, paras 63 to 67

The Court considers that the applicant's letter, seen as a whole, was a request for further information regarding the assessment of the value of his performance. Before bringing the present application, however, the applicant had not submitted any request requiring the selection board to give any further grounds for its decision finding that he had failed the oral test (paragraphs 23 and 24).

Nor, even if such a request could still be made in an application to the Community judicature, does the application contain any request that the applicant should be informed of the general criteria laid down by the selection board for the assessment of candidates' performance. Since the applicant made express reference to the request contained in his letter, the indications given in the application cannot be interpreted as forming a further request in addition to the request already made (paragraph 25).

The applicant's argument, first raised in his reply and maintained at the hearing, that the general criteria used to assess candidates' performance during the oral test should have been communicated to him at his request, cannot be accepted. It is ineffective, since he never requested, within the proper time, that those general criteria should be communicated to him. The plea must therefore be dismissed (paragraphs 26 and 27).

Manifest error of assessment

A selection board enjoys a wide discretion when assessing the results of tests in a competition, and the Community judicature has no jurisdiction to review its value judgments unless the rules which govern the proceedings of selection boards have been obviously infringed. The applicant has not even alleged any such infringement. The plea cannot, therefore, be accepted (paragraph 32).

In addition and in any event, neither the marks obtained by the applicant in the written tests nor the assessments of him in his staff reports or the alleged correspondence between the work which he performed as a member of the Commission's temporary staff and that involved in the post in competition are sufficient to establish a manifest error in the assessment of the applicant's performance in the oral test (paragraph 33).

See: T-46/93, *Michaël-Chiou v Commission* [1994] ECR-SC II-929, para. 50

Operative part:

The application is dismissed.