

Case T-140/89
(Publication by way of extracts)

Hilaire Della Pietra
v
Commission of the European Communities

(Official — Medical Committee — Fixing of the partial permanent
invalidity rate — No need to give a decision)

Summary of the Judgment

Procedure — Amicable settlement of the dispute confirmed during the personal appearance of the parties — No need to give a decision

JUDGMENT OF THE COURT of First Instance (Third Chamber)
27 November 1990*

In Case T-140/89,

Hilaire Della Pietra, an official of the Commission of the European Communities, residing in Brussels, represented by Pierre Gerard, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Christiane Goerens, 54 avenue de la Liberté,

applicant,

* Language of the case: French.

v

Commission of the European Communities, represented by Sean Van Raepenbusch, a member of its Legal Department, acting as Agent, with an address for service in Luxembourg at the office of Guido Berardis, also a member of the Commission's Legal Department, Wagner Centre, Kirchberg,

defendant,

APPLICATION for the annulment of the Commission's decision, notified to the applicant on 4 January 1989, to close definitively the medical file concerning the recognition of the partial permanent invalidity suffered by the applicant as a result of his accident on 10 August 1982, so that a properly constituted medical committee could be appointed to fix the rate of that invalidity,

THE COURT OF FIRST INSTANCE (Third Chamber),

composed of: C. Yeraris, President of Chamber, A. Saggio and K. Lenaerts, Judges,

Registrar: B. Pastor, Administrator,

having regard to the written procedure and following the oral procedure on 8 November 1990,

gives the following

Judgment

(omissis)

³⁸ At that hearing, the Court requested the parties to state precisely what was in their view the real subject of the dispute, in order to enable it to determine whether the dispute could be settled amicably.

- 39 The applicant's representative stated that the applicant 'wished to have the rules applied strictly' and, according to the conclusions in his application 'to have the medical committee appointed and that it should carry out its task'; as regards costs, he deferred to the wisdom of the Court.
- 40 The Commission's representative pointed out that, in the interests of arriving at an amicable settlement to the dispute, with a view to a judgment stating that there is no need to give a decision and 'taking account of the strict conclusions of the opposing party', the Commission would not oppose the appointment of a medical committee to give its opinion on the medical assessment made by the institution's doctor. However, he pointed out that this position in no way prejudged the attitude which the Commission might take in respect of the legal issues outlined in the application and which might re-emerge at the conclusion of the proceedings before the medical committee.
- 41 It is apparent from the declarations made by each of the parties and not contradicted by the other that they have reached agreement on the only subject of the present proceedings, namely the appointment of the medical committee to give its opinion on the medical assessment made by the institution's doctor.
- 42 It is therefore not necessary to give a decision on the applicant's application.

Costs

- 43 Under Article 69(5) of the Rules of Procedure of the Court, costs are at the discretion of the Court of First Instance where a case does not proceed to judgment. In view of the conduct of the parties both before and after the application was made in the present case, the Court takes the view that the Commission should be ordered to pay, in addition to its own costs, three-quarters of the costs incurred by the applicant. The applicant should be ordered to pay the remaining quarter of his own costs.

On those grounds,

THE COURT OF FIRST INSTANCE (Third Chamber)

hereby rules as follows:

- (1) It is unnecessary to give a decision in Case T-140/89.**
- (2) The Commission is ordered to pay its own costs and three-quarters of the applicant's costs. The applicant is ordered to pay the remaining quarter of his own costs.**

Yeraris

Saggio

Lenaerts

Delivered in open court in Luxembourg on 27 November 1990.

H. Jung
Registrar

C. Yeraris
President