

ORDER OF THE COURT OF FIRST INSTANCE (Fourth Chamber)
16 May 1994

Case T-37/93

Dimitrios Stagakis
v
European Parliament

(Manifest inadmissibility of the application)

Full text in Greek II - 451

Application for: Annulment of the reserve list in Competition PE/149/LA for the recruitment of Greek language translators by reason of the irregular conduct of the tests.

Decision: Application dismissed.

Abstract of the Judgment

On 6 June 1992 the applicant received a letter from the Chairman of the Selection Board, informing him that he had been unsuccessful in the compulsory written tests of an open competition and would not be admitted to the further stages in the competition.

In his action brought on 27 May 1993 and directed against that decision the applicant alleged that he had made what he described as a ‘quasi-legal’ application ‘before 6 November 1992’.

In response to the objection of inadmissibility raised by the European Parliament on the ground that the applicant’s action is out of time, the Court points out, first, that, although the applicant is not a member of the Community staff, he has the capacity to bring proceedings by virtue of Article 179 of the EC Treaty and Articles 90 and 91 of the Staff Regulations. As an unsuccessful candidate in an open competition, he claims the status of an official and thus acquires, in accordance with Article 90(1) of the Staff Regulations, the status of a person to whom those regulations apply (paragraph 16).

See: T-60/91 *Mrs C. v Commission* [1991] ECR II-1395, para. 12

Since the conditions of admissibility of an action laid down by Articles 90 and 91 of the Staff Regulations are a matter of public policy, the Community judicature may consider them of its own motion. To be admissible, the action must have been brought against the act adversely affecting the applicant within the period of three months laid down by Article 91(3) or Article 90(2) of the Staff Regulations, according to whether the person affected by the conduct of a competition chooses to bring an action directly or after first lodging an administrative complaint (paragraph 17).

See: T-130/89 *B. v Commission* [1990] ECR II-761; T-34/91 *Whitehead v Commission* [1992] ECR II-1723, paras 18 and 19

The Court finds that the Selection Board’s decision to eliminate the applicant is the only act adversely affecting him. It directly and immediately affects his legal position by finally eliminating him from the further stages of the competition, so that all subsequent decisions, including the drawing up of the reserve list, are no longer capable of affecting his interests (paragraph 18).

The fact that that decision was notified to the applicant by a letter from the Chairman of the Selection Board does not deprive it of its character as an act adversely affecting the applicant. The Chairman is empowered to sign and send that letter because the authority conferred upon the Selection Board by the first paragraph of Article 30 of the Staff Regulations to draw up a list of suitable candidates necessarily implies authority to draw up a list of unsuccessful candidates and, moreover, the process of informing candidates of the results of their tests is a simple act of routine administration which the chairman of a selection board is empowered to undertake (paragraph 19).

Whether the action is to be regarded as having been brought directly or as having been preceded by an administrative complaint, the Court holds that, in either event, it was brought after the expiry of the prescribed periods and is therefore out of time (paragraphs 21 and 22).

That outcome is not inconsistent with the previous order of the Court rejecting the applicant's application for legal aid. There is no connection between that application and the action for annulment of such a kind that the order, which was moreover unfavourable to the applicant, might prejudice the admissibility of the action, since the application for legal aid does not have the same subject-matter as the action for annulment and may even be made before it, in accordance with the first paragraph of Article 94(2) of the Rules of Procedure of the Court of First Instance (paragraph 23).

Since the purpose of the action is to enable the applicant to become a member of the Community staff, the Court hereby applies Article 88 of its Rules of Procedure, whereby, in proceedings between the Communities and their servants, the institutions are to bear their own costs (paragraph 24).

Operative part:

The application is dismissed as inadmissible.