

ORDER OF THE COURT OF FIRST INSTANCE

of 3 April 2001

in Joined Cases T-95/00 and T-96/00: Tamara Zaur-Gora and Danielle Dubigh v Commission of the European Communities⁽¹⁾

(Officials — Competition — Non-admission — Age limit — Request for review — Time-limit for lodging a complaint — Admissibility — Misuse of powers — Discrimination — Action manifestly unfounded)

(2001/C 227/37)

(Language of the case: French)

In Joined Cases T-95/00 and T-96/00: Tamara Zaur-Gora, a member of the auxiliary staff of the Commission of the European Communities, residing at Lodelinsart (Belgium), and Danielle Dubigh, residing in Brussels, represented by J.-N. Louis and V. Peere, avocats, with an address for service in Luxembourg, v Commission of the European Communities (Agents: J. Currall and C. Berardis-Kayser) — application for annulment of the decisions of the selection board in competition COM/C/2/99 not to admit the applicants to that competition — the Court of First Instance (Third Chamber), composed of: J. Azizi, President, and K. Lenaerts and M. Jaeger, Judges; H. Jung, Registrar, has made an order on 3 April 2001, the operative part of which is as follows:

1. *The actions are declared admissible;*
2. *The actions are dismissed as manifestly unfounded;*
3. *The parties are to bear their own costs, including those relating to the objections of inadmissibility.*

⁽¹⁾ OJ C 163 of 10.6.2000 and OJ C 176 of 24.6.2000.

Action brought on 20 April 2001 by Claude Willeme against the Commission of the European Communities

(Case T-89/01)

(2001/C 227/38)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 20 April 2001 by Claude Willeme, residing in Brussels, represented by Georges Vandersanden and Laure Levi, avocats.

The applicant claims that the Court should:

- annul the decision of the appointing authority of 19 June 2000, notified on 26 June 2000, imposing on the applicant, with effect from 1 July 2000, the disciplinary measure of downgrading from grade A3, step 3, to grade A6, step 6, as provided for in Article 86(2)(e) of the Staff Regulations and, in so far as may be necessary, annul the implicit decision rejecting the complaint submitted on 11 September 2000;
- order the defendant to pay EUR 50 000 by way of compensation for the damage suffered as a result of that decision, that sum being provisionally quantified on an equitable basis;
- order the defendant to pay all the costs.

Pleas in law and main arguments

Disciplinary proceedings had been initiated against the applicant when the administration of the defendant institution learned that his wife had been awarded an employment contract with one of its contractors and had been paid for six months despite the fact that she only worked for two weeks.

In the context of those disciplinary proceedings, the appointing authority decided that the applicant should be suspended. That decision was subsequently annulled by the Court of First Instance. Following delivery of the judgment annulling the decision, the appointing authority concluded the disciplinary proceedings by imposing on the applicant the disciplinary measure of downgrading from grade A3 to grade A6, that being a more severe penalty than the one recommended by the Disciplinary Board. The present action is directed against that decision.

In support of his claim for annulment, the applicant argues that the defendant failed to discharge its obligation to establish the veracity of its complaints — the onus of proof being incumbent on it in that regard. It likewise disregarded the presumption of innocence. According to the applicant, his wife's employment contract was perfectly regular and there was no connection between the duties performed by him and the conclusion of his wife's employment contract. In addition, he pleads, *inter alia*, violation of the right to a fair hearing, a manifest error of assessment and the disproportionate nature of the sanction imposed.

Lastly, the applicant asserts that the appointing authority is liable for the damage suffered by him as a result of the unlawful acts invoked.