JUDGMENT OF THE COURT (Third Chamber)
17 May 1988 *

In Case 28/87

Edgard Arendt, an official of the European Parliament, residing at 30 Val Fleuri, Wasserbillig, represented by Victor Biel, of the Luxembourg Bar, 18A rue des Glacis,

applicant,

v

European Parliament, represented by Francesco Pasetti Bombardella, Jurisconsult, and Manfred Peter, Head of Division, assisted by Alex Bonn, of the Luxembourg Bar,

defendant,

APPLICATION for the annulment of the Decision of 27 May 1989 of the Selection Board in Internal Competition No B/161 rejecting the applicant's candidature and for an order that the European Parliament pay him damages of one unit of account,

THE COURT (Third Chamber)

composed of: J. C. Moitinho de Almeida, President of Chamber, U. Everling and Y. Galmot, Judges,

Advocate General: M. Darmon
Registrar: D. Louterman, Administrator

having regard to the Report for the Hearing and further to the hearing on 9 February 1988,

* Language of the Case: French.

after hearing the Opinion of the Advocate General delivered at the sitting on 20 April 1988,

gives the following

Judgment

1 By application lodged at the Court Registry on 30 January 1987, Mr Arendt, an official in Category C at the European Parliament, brought an action for the annulment of the decision of 27 May 1986 whereby the Selection Board in Internal Competition No B/161 rejected his candidature for a post of administrative assistant (B 5-B 4) in the Finance-Accounts-Treasury sectors and for an order that the European Parliament pay him damages of one unit of account.

2 The notice of competition, published by the European Parliament on 18 November 1985 concerned 3 'sectors' covering the following three areas of activity from which candidates had to choose:

'1. Supervisory duties to ensure sound management and the regularity of the implementation of the budget and introduction of data-processing procedures;

2. Application of the Financial Regulation and treasury and accounting work; verification of accounting documents and bank accounts and funds; contacts with banks and coordination of accounting and treasury work;

3. Computer processing of the payment of monies to staff and calculation of Members' pension and insurance entitlements.'

3 According to point A of section IV of the notice of competition, the Selection Board was to draw up the list of candidates admitted to the tests by assessing the

qualifications of each of the candidates which were directly relevant to the duties involved. This assessment was to be marked from 0 to 40, any candidate scoring less than 24 marks being eliminated.

4 By a letter of 27 May 1986, Mr Arendt was informed that his candidature had not been accepted on the ground that he had not obtained the required minimum of 24 marks. He had scored too few marks in connection with two of the various criteria adopted by the board, namely 'general education' and 'specific experience', in other words experience aquired in the particular area of activity referred to in the notice of competition.

5 Reference is made to the Report for the Hearing for a fuller account of the facts, the relevant provisions and the submissions and arguments of the parties, which are mentioned or discussed hereinafter only in so far as is necessary for the reasoning the Court.

6 The applicant claims that the disputed decision is vitiated by the contradictions in the reasons on which it was based and by a manifest error of asssessment and that the Selection Board acted in breach of its duty to have regard to his interests and the rules of good administration.

Submission that the reasons on which the Selection Board based its decision were contradictory

7 The applicant argues in this respect that whereas the letter of 27 May 1986 communicating the contested decision stated that he had failed to obtain sufficient marks in relation to 'general education' and 'specific experience', an additional explanatory letter from the Chairman of the Selection Board, dated 17 December 1986, referred only to insufficient 'specific experience'.

8 It should however be noted that this last letter merely replied, in detail, to a complaint made by the applicant in letters of 3 June and 20 June 1986 in which he stressed the fact that since 1 August 1984 he had been carrying out accountancy duties in the Social Affairs Division of the European Parliament which, he maintained, had helped to provide him with sufficient specific experience in the field of accountancy. Far from being contradictory, the explanation given merely clarified,

at the applicant's request, the reasons which led the Selection Board to reject his candidature.

9 The first submission must therefore fail.

Submission that the Selection Board's reasoning with regard to the applicant's specific experience was erroneous

10 The applicant claims that the Board committed a manifest error in considering that his experience in the field of accountancy was insufficient for the duties described in the notice of competition.

11 It should be noted that, in order to assess objectively the candidate's experience, the Board had decided to award two marks for each year of experience in the field of accountancy, up to a maximum of 12 marks. The applicant does not criticize that method as such. However, he does complain that the Board refused to take into consideration under this head the two years which he spent in the Social Affairs Division, and as a result awarded him only four marks for his experience, for the period during which he was employed in the Treasury and Accounts Division of the European Parliament from 1 October 1982 to 31 May 1984.

12 This submission therefore raises the question as to whether the duties which Mr Arendt has performed in the Social Affairs Division since 1 August 1984 should be taken into account as specific experience in the field of accountancy.

13 On this point, it should be noted, in the first place, that although Vacancy Notice No 4330, pursuant to which Mr Arendt was assigned to the Social Affairs Division, refers under the heading 'qualifications and experience required' to a 'proven knowledge of accountancy', a description is given therein of the duties to be carried out which does not correspond to accountancy duties. The Selection Board could not nevertheless regard itself as bound by this single item of evidence but had to seek to determine the actual nature of Mr Arendt's duties in this post, as indeed it did.

14 In this respect, it appears from the documents before the Court and in particular the description of the duties actually carried out by Mr Arendt, supplied by the European Parliament in reply to the question put by the Court, that in the Social Affairs Division the applicant did not carry out accountancy duties or duties requiring him to apply the rules of public accounting. He was in fact responsible for the application to members of the auxiliary staff and to certain members of the temporary staff of the social security legislation of the different Member States.

15 The wording of Vacancy Notice No 4330 and the nature of the duties actually carried out by the applicant in the Social Affairs Division therefore justified the Selection Board's decision not to take into consideration the duties which he has carried out since 1 August 1984 as specific experience in the field of accountancy or of applying the Financial Regulation.

16 Accordingly, the second submission must fail.

Submission based on the breach of the duty to have regard to officials' interests and the rules of good administration

17 The applicant claims that, in view of the information provided to it showing his experience in the field of accountancy, the Selection Board ought, before taking its decision, to have sought additional information.

18 However, it follows from the foregoing that the Board, which had at its disposal the various components of Mr Arendt's file, was entitled to consider itself sufficiently well informed and thus was under no duty to make further enquiries. The applicant therefore cannot claim that the Board acted in breach of the duty to have regard to his interests, which is incumbent on it as it is on any other administrative authority.

19 The last submission and the application as a whole must therefore be dismissed.

Costs

20 Under Article 69 (2) of the Rules of Procedure the unsuccessful party is to be ordered to pay the costs. However, Article 70 of those Rules provides that the institutions are to bear their own costs in proceedings brought by servants of the Communities.

On those grounds,

THE COURT (Third Chamber)

hereby:

(1) Dismisses the application;

(2) Orders the parties to bear their own costs.

Moitinho de Almeida Everling Galmot

Delivered in open court in Luxembourg on 17 May 1988.

J.-G. Giraud
Registrar

J. C. Moitinho de Almeida
President of the Third Chamber