Action brought on 25 September 2002 by Miguel Vicente-Núñez against Commission of the European Communities

(Case T-294/02)

(2002/C 289/64)

(Language of the case: French)

An action against the Commission of the European Commission was brought before the Court of First Instance of the European Communities on 25 September 2002 by Miguel Vicente-Núñez, residing in Krainem (Brussels), represented by Marc-Albert Lucas, lawyer.

The applicant claims that the Court should:

— annul the decision of 17 October 2001 of the appointing authority to promote the applicant to Grade A5/3+1 with effect from 1 April 2000 rather than to Grade A5/2+6 on 1 April 1998;

— order the Commission to pay to the applicant by way of compensation for the harm done to his career arising from the contested decisions an amount corresponding to the difference between the total remuneration received since 1 April 2000 until the judgment in the present case is delivered and the total remuneration which he should have received during the same period if he had been reclassified to Grade A5/2+6 on 1 April 1998, minus, if appropriate, the compensation already paid to the applicant for the same reason;

— order the Commission to pay to the applicant default interest at the rate of 8 % per annum on that amount, with effect from the date on which that remuneration should have been paid to him until full payment.

In the alternative:

— annul the decision of 11 June 2002 of the appointing authority following the administrative complaint of 30 January 2002 inasmuch as it grants the applicant compensation of EUR 1 000 for non-material damage and harm to his career which leaves in place its decision of 17 October 2001 to promote him to Grade A5/3+1 on 1 April 2000 rather than to Grade A5/2+6 on 1 April 1998;

— order the Commission to pay to the applicant, by way of making good the non-material damage caused to him as a result of the contested decisions, an amount corresponding to the difference between the total of the amounts he has or will have received since 1 April 2000 as pay and subsequently as retirement pension, in view of his classification as Grade A5/3+1 on 1 April 2000, and the total of the amounts which he should have received, on the same grounds and during the same period had he been reclassified in Grade A5/2+6 on 1 April 1998, minus, if appropriate, the compensation already paid to the applicant for the same reason;

In any event:

— order the Commission to pay to the applicant EUR 5 000 as compensation for the non-material damage caused to him by the unlawful nature of the contested decisions;

— order the Commission to pay the costs.

Pleas in law and main arguments

The applicant in the present case, like the applicant in Case T-10/99 [1], challenges the manner in which, in compliance with the judgment delivered in that case, the appointing authority finally decided to appoint him to Grade A 5, Step 3, while fixing his period of service in that grade by reference to 1 March 2000 rather than to 1 April 1998.

In support of his arguments, the applicant puts forward a single plea in law in which he alleges breach of the obligation to comply with the aforementioned judgment and of the principles of equal treatment and that officials should have reasonable career prospects, inasmuch as the contested decision leaves in place, for the period between 1 April 1998 and 1 March 2000, certain unlawful aspects criticised by the Court of First Instance, by placing him in a less favourable position than his colleagues who were promoted to Grade A 5 during the 1998 promotion procedure for promotion from one career bracket to the next and by reducing his chances of being promoted earlier to a higher grade.

[1] T-10/99 Vicente Núñez v Commission [2000] ECR-SC I-A-47; II-203.

Action brought on 27 September 2002 by Koninklijke BAM NBM N.V. v Commission of the European Communities

(Case T-295/02)

(2002/C 289/65)

(Language of the case: Dutch)

An action against Commission of the European Communities was brought before the Court of First Instance of the European