

In Case 785/79

ADRIANO PIZZILOLO, an official on the scientific staff of the Commission of the European Communities, residing in Bologna, represented by Edmond Lebrun, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Tony Bieber, 83 Boulevard Grande-Duchesse Charlotte,

applicant,

v

COMMISSION OF THE EUROPEAN COMMUNITIES, represented by its Principal Legal Adviser, Raymond Baeyens, acting as Agent, with an address for service in Luxembourg at the office of its Legal Adviser, Mario Cervino, Jean Monnet Building, Kirchberg,

defendant,

APPLICATION for reinstatement of the applicant and for an order that the Commission should pay compensation for the damage suffered by him as a result of the delay in reinstatement and should reconstruct his career,

THE COURT (Second Chamber)

composed of: P. Pescatore, President of Chamber, A. Touffait and O. Due, Judges,

Advocate General: J.-P. Warner
Registrar: J. A. Pompe, Deputy Registrar

gives the following

JUDGMENT

Facts and Issues

The facts of the case, the course of the procedure and the conclusions, submissions and arguments of the parties may be summarized as follows:

I — Facts and written procedure

1. Mr Pizziolo, who holds a "laurea" in chemistry of the University of Pisa, entered the service of the Commission of the European Atomic Energy Community in 1959 and was posted to the Joint Research Centre at Geel. In March 1963 he was appointed an official in Grade A7 on the scientific staff and in 1964 he was promoted to Grade A 6. In the same year he was transferred to the Joint Research Centre at Karlsruhe.

2. From 1 March 1970 to 28 February 1971 Mr Pizziolo was granted leave on personal grounds.

3. According to information supplied by the Commission, the post held by Mr Pizziolo in the Ceramics and Metallurgy Department at Karlsruhe was the subject of a vacancy notice in February 1970 but no appointment was in fact made.

It appears from the information supplied by the Commission during the written procedure that, because of a redistribution of work within the department in question, the budgetary post vacated on

the applicant's departure was put at the disposal of another department. Subsequently a budgetary post was allocated to the Ceramics and Metallurgy Department for a limited period of two years in order to make it possible to deal with work for third parties which was substantial but of limited duration. A temporary employee, who started work on 15 January 1971, was engaged to carry out that work. In order to complete the work the temporary employee's contract was extended by one year. The employment of the temporary employee was terminated on completion of the work on 15 January 1974. The budgetary post was subsequently allocated to another department.

4. By letter of 24 March 1971 addressed to the Directorate-General for Personnel and Administration of the Commission, the applicant requested his reinstatement. By letter of 15 December 1972 addressed to the Administration and Personnel Division of the Joint Research Centre at Ispra, which was transmitted to the said Directorate-General, the applicant stated that he was available for reinstatement in a post paid from the operational budget. He submitted application forms on 20 March 1973, 5 October 1977 and 10 April 1978. By letter of 10 August 1976 he requested reinstatement at the Karlsruhe Centre and his request was transmitted to all other Joint Research Centres.

According to the applicant, the Individual Rights and Privileges Division of the Directorate-General for Personnel

and Administration brought vacant posts to his notice only after April 1978. He therefore applied, without success, for Vacancy Notices Nos COM/364 to 371/78 (DG XVII), No 514/78 (DG XII) and No 1237/78 (DG XVII).

By a note dated 23 October 1978 the applicant lodged a request under Article 90 (1) in which he asked for reinstatement in a vacant post in his category and grade, for compensation for the loss suffered as a result of the delay in reinstating him and also for reconstruction of his career, failing which, for compensation under that head.

By a second note of the same date the applicant submitted a complaint under Article 9C (2) of the Staff Regulations against the failure to appoint him to the posts which were the subject of Vacancy Notices Nos COM/364 to 371/78.

By a note dated 29 March 1979 the applicant submitted a complaint under Article 90 (2) of the Staff Regulations which had the same subject-matter as the request of 23 October 1978. In this second complaint and in his application to the Court the applicant cited several posts which had been declared vacant after the expiry of his leave on personal grounds and which, according to him, corresponded to his grade and qualifications, namely: COM/503/71 and COM/510/71 (JRC Karlsruhe), COM/515/73 (DG III), COM/531/74 (DG III), COM/507/75 (DG III), COM/1530/75 (JRC Petten), COM/1513/76 (JRC Karlsruhe), COM/1531/76 (JRC Karlsruhe), COM/364 to 371/78 (DG XVII), COM/R/514/78 (DG XII), and COM/1237/78 (DG XVII).

By decision of the Commission dated 11 June 1979 the complaint of 23

October 1978 was rejected on the ground that the applicant's degree and experience were not specifically related to the field of chemistry and did not correspond to the abilities or qualifications required for the vacant post in question.

The applicant received no reply to his complaint of 29 March 1979 and on 24 October 1979 brought the present action.

5. Upon hearing the report of the Judge-Rapporteur and the views of the Advocate General, the Court (Second Chamber) decided to open the oral procedure without any preparatory inquiry. The Court did, however, invite the Commission to answer a number of questions in writing before the hearing.

II — Conclusions of the parties

1. In his application the applicant claims that the Court should:

1. Declare that he should have been reinstated on 1 March 1971 and order the Commission to reinstate him in the first vacant post in his category corresponding to his grade with effect, for purposes of seniority in grade and step and of the pension scheme, from 1 March 1971;
2. Order the Commission to compensate the applicant for damage suffered by him as a result of his loss of salary between 1 March 1971 and the date of his reinstatement, or at least the date of the judgment of the Court,

such compensation being equal to the net emoluments which he would have earned during the period in question less net earnings actually received in other employment during that period, such damages being moreover increased by the addition of default interest at the rate of 8% per annum running from the due date of each salary payment;

3. Order the Commission to reconstruct his career since 1 March 1971 or, failing that, to compensate him for the loss suffered in the development of his career, that loss being estimated, subject to the right to amend the figure during the case, at BFR 150 000, together with default interest at the rate of 8% per annum from 23 October 1978;
4. Annul the implied decisions rejecting the request of 23 October 1978 and the complaint of 29 March 1979;
5. Order the Commission to pay the costs.

In his reply the applicant requests, in the alternative, that the Court should by way of interlocutory measure:

- Appoint an expert of a board of experts who, having been supplied with the parties' files and having gathered all pertinent information, would have the task of:
 - (a) Examining Vacancy Notices Nos COM/503/71, COM/510/71, COM/515/73, COM/531/74, COM/507/75, COM/1530/75, COM/1513/76 and COM/1531/76 or at least Vacancy Notices Nos COM/515/75, COM/507/75, COM/1513/76 and, if appropriate, COM/1531/76;
 - (b) Reporting whether the opinion that the applicant did not have

the necessary abilities to fill some or all of those posts is based on factually erroneous or irrelevant considerations, or whether it appears to be a question of judgment where arguments could validly be advanced on one side or the other;

- (c) Reporting whether it may be said that *prima facie* the applicant clearly does not have the necessary abilities for some or all of the posts;
- (d) Answering any relevant request made by the parties;
- (e) Submitting a report stating the reasons upon which it is based.

— In this event, reserve the decision on costs.

2. The *Commission* contends that the Court should:

1. Dismiss the application as unfounded;
2. Order the applicant to pay the costs.

III — Submissions and arguments of the parties

1. The *applicant* submits that the Commission has infringed Article 40 (4) (d) in the Staff Regulations and various principles and rules of law. In particular he relies on the principle according to which a wrongful act or omission renders the administration liable and gives a right to damages.

First, the Commission acted *ultra vires* in filling the applicant's post on 15 January 1971, one and a half months before the expiry of his leave on personal grounds on 1 March 1971 and at a time when the Commission knew that no application

had been made for an extension of that leave. Under Article 40 (4) (b) an application for such an extension would have had to be made before 1 January 1971. In the applicant's view, the Commission should have waited until his leave expired and then reinstated him in his post.

He further submits that filling his post was justified only if it could be shown that it was not possible to wait six weeks and that *ad interim* it was not possible to have the post temporarily filled by another employee. In the further alternative, he submits that even if it was essential to engage a temporary employee six weeks before the expiry of his leave, the employment should have been for a very limited duration or should not have been renewed at the expiry of its first term. The infringement was even clearer because of the fact that the temporary employee's contract was renewed at a time when the applicant's leave on personal grounds had come to an end and when it was known that he had applied to be reinstated.

2. The Commission's answer to the foregoing is that the budgetary post corresponding to the post formerly filled by the applicant had been used and filled by another department and any immediate possibility of reinstatement after the expiry of the leave on personal grounds was therefore precluded by virtue of the absence of a vacant post within the meaning of Article 4 (1) of the Staff Regulations. This was a matter of rational staff management dictated by the higher interests of the service, particularly at a time when the scientific staff was being substantially reduced.

3. Secondly, the *applicant* submits that several posts corresponding to his grade

and to his abilities have been available and declared vacant since the expiry of his leave. According to him, it is not apparent from the documents produced in the case whether his suitability for those posts was considered at the time when the posts fell vacant. Even if it is assumed that his qualifications were considered in the case of the vacant posts for which he expressly applied, that is to say the posts advertised under Nos COM/364 to 371/78, 514/78 and 1237/78, that is not necessarily so in the case of the other vacant posts. According to the applicant, this question is extremely important so far as concerns the extent of the judicial review which the Court of Justice is entitled to exercise.

The applicant states that if consideration was given to his qualifications, review by the Court would consist in an examination of the question whether the grounds upon which the appointing authority decided not to reinstate the applicant were not erroneous or irrelevant. If the answer to that question were to be in the negative, the Court would have to hold that the appointing authority was entitled to form the view that the applicant did not have the necessary qualifications, even if there were arguments to the contrary in the applicant's favour.

If the applicant's abilities were not examined at the time, the Court must consider whether the applicant's arguments are not manifestly erroneous or irrelevant. Assuming they are not, the applicant would be entitled to rely on the lack of examination when the posts in question fell vacant even if *ex post facto* the Commission produced arguments to the contrary, because it is impossible to tell how the competent authority would have decided if it had in fact carried out an examination of the applicant's abilities to fill those posts when they fell vacant.

4. On this point, the *Commission* considers that it has not failed to fulfil its obligations under Article 40 (4) (d) of the Staff Regulations because there were no vacant posts for which the qualifications required matched the applicant's abilities. The extremely specialized nature of research work, which was moreover subject to restrictions as a result of reductions in the number of posts, due to the lower level of budgetary appropriations and the re-orientation of Euratom's scientific programmes decided by the Council, had the consequence of considerably reducing the immediate opportunities for reinstating officials on the scientific staff who were on leave on personal grounds.

The Commission adds that it is essentially for the appointing authority to decide whether officials are qualified to fill a particular post, subject to review by the Court as to the correctness and relevance of the facts which form the legal basis for an official's being in the position of not having been reinstated.

5. In respect of the vacant posts for which the applicant did not expressly apply, the applicant and the Commission submit the following arguments in relation to the former's abilities:

6. In respect of Vacancy Notices Nos COM/503 and 510/71, the Commission states that restrictions on the number of posts prevented it from filling them.

In the applicant's view, arguments based on restrictions on the number of posts may not prevail over the duty to reinstate him.

7. As to Vacancy Notice No COM/1531/76, the Commission states that it was annulled.

The applicant submits that the Commission overlooked his prior claim to fill this post.

8. The applicant considers that he has the qualifications required by Vacancy Notice No COM/515/73, namely, apart from a university degree in *inter alia* chemistry, knowledge of the properties of materials. In view of the nature of the duties, the materials in question consisted of nuclear fuel elements. By having taken part in the manufacture of fuel elements for radiation tests the applicant had acquired knowledge of such materials in particular.

The applicant also considers that he has the qualifications required by Vacancy Notice No COM/507/75, that is to say, in addition to a university degree and thorough knowledge and experience of nuclear energy, wide experience of the technical management of research contracts relating to the programme of indirect actions concerned with plutonium recycling in light water reactors and of acting as scientific secretary to meetings of the advisory committee on the management of that programme. The applicant points out in this respect that he has been employed in the field of nuclear energy since 1957, either within the EAEC or in industry. He acquired knowledge of research contract management during his secondment to Belgonucléaire under a contract on plutonium use.

He therefore concludes that he has the qualifications required to fill these posts.

Assuming the appointing authority failed to consider his ability to fill these posts when they fell vacant, it should at least be accepted that it does not appear clearly and at first sight that he did not have those qualifications and that hence he cannot rely on the failure to consider his qualifications.

In regard to the posts which fell vacant in DG III, DG XII and DG XVII the Commission submits that the vacancy notices, namely Notices Nos COM/515/73, 531/74, 507/75, 514/78, 364 to 371/78 and 1237/78, and in particular the type of duties and the qualifications required, show that the applicant did not in any way have the very specialized abilities required for each of these posts.

9. Should the Court consider that the reasons which gave rise to the annulment of Vacancy Notice No COM/1531/76 may not prevail over the obligation to reinstate, the *applicant* reaches the same conclusion as regards that vacancy notice as for Notices Nos 515/73 and 507/75.

He has the knowledge and experience required for this post, namely a university degree in *inter alia* chemistry, extensive knowledge of solid state physics in the field of high temperature kinetics and experience of high temperatures, secondary vacuum and radiation spectroscopy. The applicant's study of the production of uranium and plutonium carbides and nitrides by oxide carbo-reduction in fact required knowledge of the thermodynamics of high temperature solid state reactions. Moreover, carbo-reduction of uranium and plutonium oxides is carried out

under secondary vacuum at high temperatures. Measuring these temperatures entailed a certain knowledge of radiation spectroscopy.

In regard to Vacancy Notice No COM/1531/76, the *Commission* states that the question of the applicant's having priority in the filling of this post does not arise inasmuch as the applicant could not be appointed since what was looked for was thorough knowledge of the field of solid state physics. That was absolutely necessary in order to be able to carry out measurements and to interpret the results of auto-diffusion in ceramic fuels. It was specific scientific knowledge which was demanded in these qualifications and not experience, however extensive, of the technology applied to high temperature reaction kinetics.

10. The applicant also considers that he has the qualifications required by Vacancy Notice No COM/1513/76, namely a university degree, experience in the preparative and analytical chemistry of radio-nuclides with high specific activity and knowledge of standard methods of crystallographical analysis.

He in fact gained experience in chemistry in the preparation of plutonium compounds, plutonium being a radio-nuclide with high specific activity. That experience involved knowledge of methods of checking the compounds obtained, in particular as regards chemical analysis and crystallography. Moreover he acquired experience in handling and measuring radio-nuclides of high specific activity during his work on decontamination of radioactive waste. Knowledge of standard methods of crys-

tallographical analysis was acquired during work on the production of uranium and plutonium carbides.

The *Commission* argues in respect of Vacancy Notice No COM/1513/76 that the description of tasks — “physico-chemical studies of very pure actinide compounds” — means compounds of transplutonium elements which are highly radioactive and rare, such as americium, curium, californium, but not plutonium which, whilst it is an actinide, is neither rare nor highly radioactive. The *Commission* points out, moreover, that in scientific circles it is usual to make a distinction between plutonium, which is an actinide, and “other” actinides. Mr Pizziolo’s experience at Karlsruhe was exclusively in the field of the manufacture and analysis of fuels based on plutonium. According to the *Commission*, production and analysis of those fuels require very different methods of chemical analysis from those used to determine the physico-chemical properties of actinide compounds.

IV — Oral procedure

In reply to a written question from the Court, the *Commission* stated that the post which had been temporarily put at the disposal of the Ceramics and

Metallurgy Department at the end of 1970 had been drawn from the general reserve of posts available to the Joint Research Centre.

The *Commission* conceded that Mr Pizziolo had the qualifications necessary to fill that post but added that the work would have constituted a diminution in his status. The *Commission* stressed that that appointment had been made for a limited period.

At the hearing on 15 January 1981. Adriano Pizziolo, represented by E. Lebrun of the Brussels Bar, and the *Commission*, represented by its Principal Legal Adviser, R. Baeyens, acting as Agent, assisted by G. Valsesia, Head of the Administrative Coordination Division of the Joint Research Centre, presented oral argument.

Mr Valsesia stated in reply to a question from the Court that the post made vacant by Mr Pizziolo’s departure was the subject of a vacancy notice before he left but no appointment was in fact made and the post was later transferred to the general reserve of posts at the Centre, in the same way as any other vacant budgetary post.

The Advocate General delivered his opinion at the hearing on 26 February 1981.

Decision

- 1 By application lodged at the Court Registry on 24 October 1979, Mr Pizziolo, an official of the Commission of the European Communities on leave on personal grounds, brought an action seeking, first, a declaration that the Commission should have reinstated him in accordance with Article 40 (4) (d) of the Staff Regulations of Officials at the date of expiry of

his leave, 1 March 1971, or at least in one of the posts mentioned by him which became vacant after that date and, secondly, damages for loss suffered as regards his salary and the progress of his career. In the alternative, he requests that, before final judgment is given, the Court should order an expert's report on his ability to fill the posts mentioned by him.

- 2 The applicant was granted leave on personal grounds from 1 March 1970 to 28 February 1971. Prior thereto he had been assigned to the Ceramics and Metallurgy Department of the Joint Research Centre in Karlsruhe as an official in Grade A 6 on the scientific staff. The applicant did not request any extension of his leave but as yet he has not been reinstated.

The claim for reinstatement with effect from 1 March 1971

- 3 The applicant submits in the first place that on the expiry of his leave he should have been reinstated in the post which he had held before his departure and which had apparently remained vacant until at least 15 January 1971; that is to say until a date when the Commission knew that his leave was not to be extended because, under Article 40 (4) (b) of the Staff Regulations, any application for an extension required to be made before 1 January 1971.
- 4 According to the Commission's explanations, which were given in particular at the oral hearing and which the applicant was not in a position to dispute, the post held by the applicant was the subject of a vacancy notice before his departure but no appointment was made. Like any other vacant budgetary post that post was subsequently restored to the general reserve of posts available to the Centre, so that it could be reassigned, if appropriate, in accordance with the needs of the various departments and the general priorities of the Centre. At the end of 1970 a post was taken from that reserve and temporarily allocated to the applicant's former department so that it could execute work of a limited duration for a third party. After being

extended, the contract of the temporary employee appointed to carry out this work lasted for three years, namely from 15 January 1971 to 15 January 1974. Thereafter the budgetary post was again returned to the reserve of the Centre. The Commission emphasizes that this very flexible form of management was made necessary by the budgetary difficulties which it met in the area of research after the end of the 1960s and which resulted in the abolition of a large number of posts.

- 5 Article 40 (4) (c) and (d) of the Staff Regulations provides that another person may be appointed to the post occupied by an official on leave on personal grounds but that on the expiry of his leave the official must be reinstated in the first post corresponding to his grade which falls vacant in his category or service, provided that he satisfies the requirements for that post. These provisions therefore mean that the official will not necessarily be reinstated in his former post but may be reinstated in a post which gives him a position equivalent to that which he occupied before being granted leave.
- 6 It follows that the applicant may not complain of the fact that the post vacated by his departure was returned to the reserve of vacant posts available to the Centre for further use in the interests of the service. It also follows that it would not have been possible for the Commission to fulfil its duty to reinstate the applicant by offering him a post which had only temporarily been put at the disposal of his former department in order to enable it to deal with work of a limited duration.
- 7 The applicant further submits that he should have been reinstated in a post, which might have been filled at about the same time as the above-mentioned events, in the technology and high temperature metallography department of the Joint Research Centre at Karlsruhe and which was the subject of Vacancy Notices Nos COM/503/71 and COM/510/71, which fixed 4 and 18 February 1971 respectively as the last date on which applications might be made.
- 8 In this respect the Commission replies in particular that restrictions on the number of posts prevented it from filling that post. The Commission has explained that more vacancy notices were published than budgetary posts were available so as to allow flexible management and to obviate financial

difficulties. It was for this reason that all the vacancy notices in question in the present case stated that "this post will be filled when funds become available". This step allowed the administration to take account, when assessing needs and priorities, of changes occurring after the publication of the vacancy notice. In the event the administration decided to have the duties mentioned in the aforementioned vacancy notices carried out by the existing staff.

- 9 In answer to those arguments, the applicant contends that such considerations may not prevail over the obligation to reinstate him.
- 10 That submission cannot be upheld. No provision of the Staff Regulations states that once a recruitment procedure has been initiated the appointing authority is obliged to pursue it by filling the post which has become vacant. If for legitimate reasons based in particular on the current requirements of its departments and the priority of the tasks to be carried out by it, the appointing authority has decided not to fill a post for which a vacancy notice has been published, an official on leave on personal grounds may not insist on being reinstated in that post. These considerations apply *a fortiori* in the case of the Joint Research Centre, whose posts have been considerably reduced thus making necessary even more careful management of the available posts.
- 11 It has not therefore been shown that at the time when the leave granted to the applicant expired there existed vacant posts in which the Commission could have reinstated him. The claim for reinstatement with effect from 1 March 1971 must therefore be dismissed.

The claim for reinstatement with effect from a date later than 1 March 1971

- 12 The applicant submits in the second place that he should have been reinstated in one of the posts which fell vacant after the expiry of his leave. In this respect, he refers to the posts for which were published Vacancy Notices Nos COM/515/73, 531/74, 507/75, 1530/75, 1513/76 and

1531/76. In regard to those posts he contends not only that he possessed the qualifications required by the notices but also that there is every reason for doubting whether the administration considered his qualifications before filling those posts since he did not expressly apply for them. In the alternative, he requests that his fitness for the posts should be the subject of an expert's report.

- 13 To that the Commission replies that all the relevant departments had been made aware of the applicant's wish to be reinstated and hence of their obligation to consider of their own accord his suitability for vacant posts but that, in view of the specialized nature of the scientific work in question, the applicant did not in fact satisfy the requirements for the posts mentioned by him. In the case of posts coming within the Centre, the Commission refers in this regard to the detailed explanations given by the Directorate of the Centre.
- 14 Since in relation to the question whether the applicant's abilities match those required by the vacancy notices both parties' arguments contain particulars of an extremely technical nature, it is appropriate to order an expert's report to enable the Court to decide this aspect of the dispute.
- 15 Before such a report is obtained, however, it is necessary to decide whether the report should include Vacancy Notice No COM/1531/76. The Commission states that this notice was annulled following Council Regulation No 2615/76 of 21 October 1976 amending Regulation No 259/68 as regards the conditions of employment of other servants of the European Communities (Official Journal 1976, L 299, p. 1). The purpose of that amendment was to replace by a system of recruitment on temporary contracts the system whereby persons remunerated from research appropriations were appointed as officials. The Commission submits that, in view of its obligation to recruit only temporary employees in the future, the annulment of this notice was justified as respects the applicant and anyone else.
- 16 On this point, however, the applicant is entitled to rely on the priority of his right to be reinstated. If when faced with a request for reinstatement by an

official on leave on personal grounds the Commission were allowed to rely on the fact that it now employed only temporary employees, whatever the nature of the work under consideration, the right of an official on leave on personal grounds to be reinstated, which is conferred by Article 40 (4) (d) of Staff Regulations, would be illusory. The vacancy notice mentioned above should therefore be included in the expert's report.

- 17 It follows that an order should be made for an expert's report on the question whether the applicant had the required qualifications and the necessary ability to carry out the duties contemplated by Vacancy Notices Nos COM/515/73, 531/74, 507/75, 1530/75, 1513/76 and 1531/76.

- 18 The parties should be asked to send to the Court, within two months from the date of delivery of the present judgment, the name of the expert whom they agree to appoint. Failing such agreement, the parties shall send to the Court, within the same period, the names of the experts whom they propose, setting out their reasons for refusing the other party's proposal.

On those grounds,

THE COURT (Second Chamber)

hereby:

1. Dismisses the applicant's claim to be reinstated with effect from 1 March 1971;

2. Directs that, before judgment is given on the claim for reinstatement at a later date, an expert's report shall be obtained on the question whether the applicant had the required qualifications and necessary abilities to carry out the duties contemplated by Vacancy Notices Nos COM/1515/73, 531/74, 507/75, 1530/75, 1513/76 and 1531/76;

For this purpose, directs the parties

- (a) to send to the Court, within two months from the date of delivery of the present judgment, the name of the expert whom they have agreed to appoint;
- (b) failing such agreement, to send to the Court, within the same period, the names of the experts whom they propose, setting out their reasons for refusing the other party's proposal;

3. Reserves the costs.

Pescatore

Touffait

Due

Delivered in open court in Luxembourg on 2 April 1981.

A. Van Houtte

Registrar

P. Pescatore

President of the Second Chamber

OPINION OF MR ADVOCATE GENERAL WARNER
DELIVERED ON 26 FEBRUARY 1981

My Lords,

The applicant in this case, Mr Adriano Pizziolo, is a Commission official, on the scientific staff, who, having had a year's unpaid leave on personal grounds which ended on 28 February 1971, has still not been reinstated.

Article 40 of the Staff Regulations provides, so far as material:

- "1. An official may, in exceptional circumstances and at his own request, be granted unpaid leave on personal grounds.
- 2. ... the duration of such leave shall not exceed one year.
Leave may be extended for two further periods of one year each.
- 3. ...