

Case 26/85

Louis Vaysse

v

Commission of the European Communities

(Officials — Annulment of a decision appointing an official)

Report for the Hearing	3132
Opinion of Mr Advocate General Lenz delivered on 26 June 1986	3137
Judgment of the Court (Third Chamber), 23 October 1986	3147

Summary of the Judgment

1. *Officials — Posting — A 2 and A 3 posts — Consultative body not provided for in the Staff Regulations — Freedom of the administration to determine its composition and responsibilities*
2. *Officials — Promotion — Discretion of the administration — Judicial review — Limits (Staff Regulations of Officials, Art. 45)*

1. Decisions on promotion and transfer are a matter for the appointing authority alone. If, on its own initiative and without being required to do so by the Staff Regulations, the appointing authority involves a consultative committee, such as a committee responsible for considering applications for posts in Grades A 2 and A 3, in the preparation of certain such decisions, it may determine the composition and responsibilities of that committee as it sees fit. In particular, it may provide that the committee shall include represen-

tatives of the administration and not representatives of the staff.

2. In evaluating the interests of the service and the merits to be taken into account in connection with a promotion decision under Article 45 of the Staff Regulations the appointing authority has wide discretion, and in that respect the Court's review must be confined to the question whether, having regard to the various considerations which have influenced the

administration in making its assessment, it has remained within reasonable bounds and has not used its authority in a manifestly incorrect manner. It is for the

institution alone, in the exercise of its discretion, to judge whether the health of the successful candidate allows him to carry out his duties properly.

REPORT FOR THE HEARING delivered in Case 26/85 *

I — Facts and written procedure

The applicant joined the Language Service of the Commission on 20 October 1958 as a reviser in the grade of auxiliary translator.

By a decision of 3 November 1959 he was established, with effect from 1 January 1959, in Grade LB 3, a provisional post in the organizational structure of the period before the adoption of the Staff Regulations.

By a decision of 3 December 1962 the applicant was appointed in Grade L/A 5, fifth step, with effect from 1 January 1962, and by a decision of 23 September 1963 he was promoted to Grade L/A 4 with effect from 1 February 1962. With effect from 1 February 1981 he was appointed head of a section.

By a decision of 7 February 1984 the Commission appointed the applicant temporary head of Division IX C 7 (French translation) for the periods from 1 May 1981 to 30 September 1981 and 1 June 1982

to 24 October 1982. The applicant also carried out the duties of head of the division from 20 January to 16 May 1984.

On 17 February 1984 the Commission published Vacancy Notice No COM/407/84 concerning the post of head of the French Translation Division (Grade L/A 3) in the Directorate General for Personnel and Administration (IX C 7). The vacancy notice called for the following qualifications:

- (1) University degree or equivalent professional experience;
- (2) Thorough knowledge of the problems associated with the management of a large translation division;
- (3) Very extensive experience in translation and revision.'

By a decision of 16 May 1984 the Commission promoted Henry Dubois, who had until then been head of the section

* Language of the Case: French.