

Appeal brought on 20 March 1998 by Mario Costacurta against the judgment delivered on 22 January 1998 by the Third Chamber of the Court of First Instance of the European Communities in Case T-98/96 between Mario Costacurta and the Commission of the European Communities

(Case C-75/98 P)

(98/C 166/07)

An appeal against the judgment delivered on 22 January 1998 by the Third Chamber of the Court of First Instance of the European Communities in Case T-98/96 between Mario Costacurta and the Commission of the European Communities was brought before the Court of Justice of the European Communities on 20 March 1998 by Mario Costacurta, represented by Albert Rodesch, Avocat-avoué, with an address for service in Luxembourg at 7—11 Route d'Esch.

The appellant claims that the Court should:

- annul the judgment delivered on 22 January 1998 by the Court of First Instance in Case T-98/96 Costacurta v Commission ⁽¹⁾;
- annul the appointing authority's decision of 31 May 1996 reassigning the appellant to the Office for Official Publications of the European Communities;
- order the Commission to pay the costs of proceedings before both the Court of Justice and the Court of First Instance;
- reserve to the appellant all other rights and entitlements, including the right to put forward pleas in law or bring proceedings, particularly regarding compensation for damage.

Pleas in law and main arguments:

- Lack of competence on the part of the appointing authority, infringement of Articles 2 and 4 of the Staff Regulations and of Article 5(4) of Decision 69/13/Euratom/EEC setting up the Office for Official Publications of the European Communities ⁽²⁾: the Court of First Instance erred in dismissing as irrelevant the plea in law alleging infringement of Article 4 of the Staff Regulations. Since the appointing authority which adopted the contested decision was in no way a budgetary authority and since it was not empowered to amend the lists of authorised posts, it could not assign the appellant to the Official Publications Office together with his post;
- Infringement of Article 6 of the Staff Regulations, infringement of the Council regulation on the budget of the European Communities: the Court of First Instance was wrong to state in paragraph 34 of the judgment under appeal that, as a matter of law, 'as the Commission has pointed out, the posts with the Office

for Official Publications are, in budgetary terms, part of the Commission's total staff', since that has not been the case since 1970;

- Infringement of Article 7 of the Staff Regulations;
- Contravention of the principle of the protection of legitimate expectations and the duty to have regard for the welfare of officials;
- Infringement of Articles 25 and 101a of the Staff Regulations.

⁽¹⁾ OJ C 94 of 28.3.1998, p. 20.

⁽²⁾ OJ L 13 of 18.1.1969, p. 19.

Appeal brought on 20 March 1998 by Ajinomoto Co. Inc. against the judgment delivered on 18 December 1997 by the Fifth Chamber (Extended Composition) of the Court of First Instance of the European Communities in joined Cases T-159/94 ⁽¹⁾ between Ajinomoto Co. Inc. and the Council of the European Union, supported by the Commission of the European Communities, and T-160/94 ⁽²⁾ between The NutraSweet Company and the Council of the European Union, supported by the Commission of the European Communities

(Case C-76/98 P)

(98/C 166/08)

An appeal against the judgment delivered on 18 December 1997 by the Fifth Chamber (Extended Composition) of the Court of First Instance of the European Communities in joined Cases T-159/94 between Ajinomoto Co. Inc. and the Council of the European Union, supported by the Commission of the European Communities, and T-160/94 between The NutraSweet Company and the Council of the European Union, supported by the Commission of the European Communities, was brought before the Court of Justice of the European Communities on 20 March 1998 by Ajinomoto Co. Inc., of 15-1, Kyobashi itchome, Chuo-ku, Tokyo 104, Japan, represented by Mario Siragusa, of the Rome Bar, Till Müller-Ibold, of the Frankfurt Bar, and Victoria Donaldson, *Solicitor* of the Supreme Court of England and Wales, instructed by Cleary, Gottlieb, Steen & Hamilton, Brussels, with an address for service in Luxembourg at the Chambers of Marc Loesch, 11, Rue Goethe.

The Appellant claims that the Court should:

- quash the judgment of the Court of First Instance in joined Cases T-159/94 and T-160/94 and annul Council Regulation (EEC) No 1391/91 ⁽³⁾ of 27 May 1991 in so far as it applies to the Appellant;