

Decision of the European Ombudsman on complaint 378/2000/(IJH)BB against the European Commission

Decision

Case 378/2000/(PB)BB - Opened on 18/05/2000 - Decision on 14/05/2001

Strasbourg, 14 May 2001

Dear Ms M.,

On 17 March 2000, you made a complaint to the European Ombudsman concerning your participation in Commission recruitment procedures.

In your complaint you allege:

- (i) age discrimination, in that you were not allowed to participate in a competition because you are over 35 years of age;
- (ii) that you have not been paid expenses for participation in Commission recruitment procedures (a) in Brussels on 7 October 1998 and (b) in the United Kingdom on 6 February 1999;
- (iii) that a Commission official who telephoned you about your expenses claims made rude and sexist remarks and has deliberately set out to make difficulties for you.

As regards point (i) of your complaint, Article 2.4 of the Statute of the European Ombudsman provides:

"A complaint shall be made within two years of the date on which the facts on which it is based came to the attention of the person lodging the complaint."

After a careful examination of your complaint, it appeared that this condition was not met. Therefore, the Ombudsman was not entitled to deal with this aspect of your complaint. For your information, however, I enclosed a copy of the Ombudsman's decision of 4 November 1998, closing his own-initiative inquiry into the use of age-limits in recruitment competitions.

On 18 May 2001, I forwarded the complaint to the President of the European Commission. The Commission sent its opinion on 5 October 2001 and I forwarded it to you with an invitation to make observations, if you so wished. No observations appear to have been received from you.



I am writing now to let you know the results of the inquiries that have been made.

THE COMPLAINT

In her complaint the complainant alleges that she has not yet been paid expenses for participation in Commission recruitment procedures: (a) in Temporary Agent competition 10T/V/98 held in Brussels on 7 October 1998 and (b) in Open Competition COM/A/11/98 held in the United Kingdom on 6 February 1999. Furthermore, the complainant alleges that a Commission official who telephoned her about her travel expenses made rude and sexist remarks and has deliberately set out to make difficulties for her.

THE INQUIRY

The Commission's opinion

(i) The Commission clarified the position regarding the payment of travel and subsistence expenses to the complainant. For the Temporary Agent competition 10T/V/98 held in Brussels on 7 October 1998, the complainant was entitled to receive the following payment, based on common criteria for all candidates:

A daily subsistence rate of \approx 50 (£ 34.32 at the exchange rates for that period) travel from her home address (Suffolk) to Brussels and back of £ 41.00 (Suffolk to London and back) and £ 53.20 (London to Brussels and back).

The total entitlement was £ 128.52, which was sent for payment on 18 March 1999 into the complainant's bank account. The delay in payment was partially caused because the complainant did not have her train ticket with her on the date of the interview.

The complainant was also candidate for COM/A/11/98, and attended the pre-selection tests held in Wembley on 14 September 1998. Her address at this time was given on her application form (Essex), which is why she was invited to the London test centre. The Guide to Candidates published in the Official Journal stated clearly that « travel and subsistence expenses for participation in the pre-selection test will not be reimbursed » (Section D.1).

These tests later had to be annulled, and were subsequently re-held on 6 February 1999. In view of the exceptional circumstances surrounding the earlier annulment, the Commission undertook to pay a certain compensation for all candidates present at the February tests who, in September, had had to travel over 300 kms from their address (as notified in their application forms) to the test centre to which they had been convened. The complainant was not eligible for any such payment, since the distance between her registered address and the test centre was under 300 kms.

As for the September tests, travel and subsistence expenses for participation in the February pre-selection tests would not be reimbursed. The complainant would not therefore have been



eligible for any payment. Again, the complainant was invited to attend the London centre, because the Recruitment Unit had received no notification of any change of address.

(ii) The Commission expects all staff to deal courteously with members of the public. It regrets the allegations made by the complainant, but cannot undertake further action on the basis of the currently available information.

The complainant has not sent observations on the Commission's opinion.

THE DECISION

1 Alleged age discrimination

1.1 The complainant alleged age discrimination in point (i) of her complaint. As regards this allegation, Article 2.4 of the Statute of the European Ombudsman provides:

"A complaint shall be made within two years of the date on which the facts on which it is based came to the attention of the person lodging the complaint."

After a careful examination of the complaint, it appeared that this condition was not met. Therefore, the Ombudsman was not entitled to deal with this aspect of the complaint.

1.2 The European Ombudsman informed the complainant of the results of the Ombudsman's own initiative inquiry on age limits by sending her a copy of the Ombudsman's decision of 4 November 1998, closing his own-initiative inquiry into the use of age-limits in recruitment competitions.

2 Alleged unpaid travel expenses for participation in Temporary Agent competition 10T/V/98

2.1 The complainant alleged that she has not yet been paid travel expenses for participation in Temporary Agent competition 10T/V/98 held in Brussels on 7 October.

2.2 The Commission in its opinion explained that the complainant's total entitlement £ 128.52 was sent for payment on 18 March 1999 into the complainant's bank account. According to the Commission, the delay in payment was partially caused because the complainant did not have her train ticket with her on the date of the interview.

2.3 Based on the Ombudsman's inquiries it appears that the Commission has paid travel expenses for participation in Temporary Agent competition 10T/V/98 and therefore, there is no maladministration with regard to this allegation.

3 Alleged unpaid travel expenses for participation in Open Competition COM/A/11/98

3.1 The complainant alleged that she has not yet been paid travel expenses for participation in Open Competition COM/A/11/98 held in the United Kingdom on 6 February 1999.

3.2 The Commission in its opinion explained that the complainant attended the pre-selection tests held in Wembley on 14 September 1998. Her address at this time was given on her application form (Essex), which is why she was invited to the London test centre. The Guide to



Candidates published in the Official Journal stated clearly that "travel and subsistence expenses for participation in the pre-selection test will not be reimbursed" (Section D.1). These tests later had to be annulled, and were subsequently re-held on 6 February 1999. In view of the exceptional circumstances surrounding the earlier annulment, the Commission undertook to pay a certain compensation for all candidates present at the February tests who, in September, had had to travel over 300 kms from their address (as notified in their application forms) to the test centre to which they had been convened. The complainant was not eligible for any such payment, since the distance between her registered address and the test centre was under 300 kms.

3.3 The Ombudsman considers that the Commission has given a satisfactory explanation as to the reasons why it considered that the complainant was not eligible for any compensation of her travel expenses. On the basis of the elements available, the Ombudsman finds no maladministration with regard to this allegation.

4 Alleged lack of courteousness during a phone call made by a Commission official

4.1 The complainant alleged that a Commission official who telephoned her about her expenses made rude and sexist remarks and has deliberately set out to make difficulties for her.

4.2 The Commission stated in its opinion that it expects all staff to deal courteously with members of the public. It regretted the allegations made by the complainant, but stated that could not undertake further action on the basis of the available information.

4.3 The Ombudsman considers that the Commission was entitled to take the view that it could not undertake further action on the basis of the available information. Thus, the Ombudsman finds no instance of maladministration with regard to this allegation.

5 Conclusion

On the basis of the Ombudsman's inquiries into this complaint, there appears to have been no maladministration by the European Commission. The Ombudsman therefore closes the case.

The President of the European Commission will also be informed of this decision.

Yours sincerely,

Jacob SÖDERMAN