



JUDGE INÉS WEINBERG DE ROCA

THE UNITED NATIONS APPTED

Mahdi's conduct "amounted to wil[l]ful and

18. Mahdi voluntarily produced the bill of the telephone extension and sent it to the FASO. He would not have done so if he had had any bad intention or any prior knowledge about the misuse of the telephone system.

19. Mahdi had no benefit from the deletion of calls from the billing system. It was Suheil Fasih who had provided to the third party the DISA number and authorization code to make profits. UNRWA took action to recover the financial loss caused by Suheil Fasih only from Suheil Fasih's separation benefits, and not from Mahdi's.

20. Mahdi did not conceal any information as alleged, because the UNRWA administration knew about the misuse before Mahdi did and none of his supervisors was available, since they were in Amman, Jordan, attending a training course.

UNRWA's Answer

21. The present appeal is not receivable because Mahdi lodged his appeal with the former Administrative Tribunal on 2 December 2008, more than two months beyond the 90-day statutory time limit. He received the decision of the Commissioner-General of UNRWA rejecting the JAB's recommendation and upholding the decision of summary dismissal on 24 June 2008. In accordance with article 7(4) of the Statute of the former Administrative Tribunal, Mahdi should have appealed on or about 24 September 2008.

22. The UNRWA administration recalls the broad discretionary power of the Commissioner-General of UNRWA in relation to disciplinary matters. The decision to summarily dismiss Mahdi represented a valid exercise of that discretionary authority. That discretionary authority will not normally be interfered with unless the Tribunal is satisfied that the decision was exercised arbitrarily or capriciously; was motivated by prejudice or other extraneous factors; was flawed by procedural irregularity or error of law; or was so disproportionate or unwarranted as to amount to injustice.

23. The facts on which the questioned decision was based were established. The BoI found that Mahdi had illegally enabled the DISA for use by Suheil Fasih; had altered records in the UNRWA billing system in such a manner as to obtain a reduced invoice and avert showing the numerous international calls; had failed to bring those issues to the attention of his supervisors; and had breached the fiduciary obligation entrusted to him.

24. Mahdi has failed to carry the burden of proving that the questioned decision was arbitrary or capricious, or was motivated by prejudice or other extraneous factors, or was

31. This challenged testimony is the one relied on by the JAB to disagree with the sanction, but it does not provide evidence contrary to the findings of the BoI. When interviewed by the BoI, Abdel Hakim Abu-Houli testified on 15 December 2002 that when Suheil Fasih requested him to reduce a bill from the billing system related to his extension, Abu-Houli asked Suheil Fasih to provide him with the bill. (“I asked him to provide me with this bill, he came to me with a three-paged bill. I told it is too much and he responded no I can decrease the three pages bill.”)

32. Moreover, whereas the JAB did not find evidence

38. Thus, the JAB, when making its recommendation, did not assess the totality of the evidence. The Commissioner-General did not err .

Judgment

39. For the foregoing reasons, the appeal is dismissed.

