

JUDGE MARK P. PAINTER, Presiding.

Synopsis

1.

regulations did occur when awarding contracts by WSTC during the years 1999, 2000 and 2001; and/or [i]rregularities relating to internal control were committed”.

5. Later in January 2003, the Deputy Commissioner-General extended the scope of the investigation to include the year 2002. On 17 February 2003, the Board submitted its report to the Commissioner-General. The Board’s report stated that Maslamani had been involved in the awarding of contracts that did not comply with the Agency’s regulations, rules, and procedures regarding service contracts. The report also indicated that Maslamani had failed to properly report cheating in state examinations at WSTC in 2001.

6. On 24 March 2003, the Commissioner-General reconvened the Board to conduct further investigations into matters raised in the Board’s first report. On 17 April 2003, the Board submitted its second report to the Commissioner-General, confirming the conclusions reached in its first report. The Board also concluded with respect to Maslamani:

Mr. Maslamani was [the Deputy Principal], WSTC when Mr. Aqeel was [the Principal], WSTC. It is the view of the Board that he was fully aware of all Service Contract-related issues, including [Oxy-Acetylene System / Refrigeration and Air-Conditioning]. Moreover, he had full knowledge of cheating having taken place in the Comprehensive Examinations during Mr. Aqeel’s tenure as P/WSTC. Despite this, he chose not to inform [the Deputy Chief], [Field Education Programme], [the Chief], [Field Education Programme], or any other superior officer in the field of such serious issues. His argument that as [Deputy Principal], WSTC, his ‘ceiling’ for reporting was [the Principal], WSTC and hence he could not approach other superiors, is unacceptable and could imply gross negligence if not collusion. Commonsense would dictate that he needed to go at least one level above his immediate supervisor, to report such issues of grave misconduct. Regrettably, he did not do so. The Board believes that cheating also took place during the 2002 Comprehensive State Examinations and that Mr. Maslamani as [Principal,] WSTC along with Mr. Mustapha Hashem, Dean/WSTC instigated the cheating. The Board is also of the view that Mr. Maslamani and Mr. Hashem tried to cover up their role in the cheating through threats made against staff members of WSTC who were aware of their misconduct.

7. Having reviewed the Board’s reports dated 17 February and 17 April 2003, the Director of Administration and Human Resources sent Maslamani a letter dated 20 May 2003, setting out the allegations of misconduct against him as well as the supporting

Commissioner-General delegated his authority to terminate a staff member in the interest of the Agency and to impose disciplinary measures to the Director of Administration and Human Resources, HQ/Gaza with respect to the investigation at the WSTC. The same day, the Director of Administration and Human Resources dismissed Maslamani from service of the Agency for misconduct, under Area Staff Regulation 10.2 and Rule 110.1, with immediate effect. The grounds of misconduct were stated as follows:

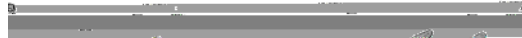
1. You knowingly and irresponsibly failed to perform your assigned duties and responsibilities as Deputy Principal, [WSTC], Jordan, by failing to apply Agency rules, regulations, and procedures regarding Service contract WS/00/007 (specifically Organisation Directive No. 10 and the Manual of Supply Procedure No. 3), and by failing to properly supervise your staff in completion of such contracts. In reaching this conclusion I note that in your statement to the Board of Inquiry dated 26 January 2003, pages 7 and 12, you specifically admit your failure to follow proper procedures regarding the awarding of this contract.
2. With respect to Service Contract WS/11/01, you have been guilty of wilful misconduct and/or irresponsible conduct and/or wilful failure to perform your assigned duties and responsibilities. The evidence in support of this charge, which you have been unable to refute, confirms that you were instrumental in the awarding of WS/11/01 for the repair of the Oxy-acetylene system at the Refrigeration and Air-Conditioning workshop to a company called 'Zahran for Refrigeration' whereas the work was at all times known by you to be carried out by two instructors employed at [WSTC], Mohammed Abu Eid and Husni Saleh, in breach of Organisation Directive No. 10.
3. As Deputy Principal, [WSTC], you knowingly and irresponsibly failed to report cheating in state examinations at the Centre in the year 2001 involving the Principal, [WSTC] and others, to more senior UNRWA officials including the Chief, Field Education Programme, Jordan and the Director of UNRWA Operations, Jordan. Your explanations for failing to take this action, which include your concern for following 'proper channels' and ... maintaining a 'ceiling' of reporting, are wholly inadequate given your duty and responsibility as a senior staff member to maintain the integrity of the Agency.
4. In your capacity as Principal, [WSTC], you knowingly committed serious misconduct by organizing the distribution of answers to students taking state examinations at [WSTC] in 2002. You have been unable to refute the evidence in support of this charge.

8. On 24 July 2003, Maslamani sent a letter to the Director seeking reconsideration of the decision to terminate his appointment. On 28 August 2003, the OiC, Administration and Human Resources Department sent a letter to Maslamani, denying his request for reconsideration. On 15 September 2003, Maslamani appealed the decision to the Joint Appeals Board (JAB). By letter dated 1 December 2004, Maslamani was notified of the constitution of the JAB. Upon Maslamani's request, the letter was delivered to Dr. Mustafa Hashim on 19 December 2004. The JAB convened on 15 February 2005 to consider the appeal. In its report, the JAB concluded that "Maslamani '[a]s admitted by himself' has committed a gross negligence by not properly reporting the case of cheating and failed to comply with the Agency contracting procedures". It recommended, by majority vote, to uphold the Administration's decision and to dismiss the appeal. One member of the JAB attached a dissenting opinion, acknowledging that Maslamani had made "mistakes", but stating that, in his view, the disciplinary measure was "severe" and "not commensurate with the level of the mistakes". The Commissioner-General approved the JAB majority recommendation to uphold the decision to dismiss Maslamani.

THE UNITED NATIONN

Judgment

22. This Court affirms UNRWA's decision to terminate Maslamani's service.



Judge Painter, Presiding

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Judge Weinberg de Roca

A handwritten signature in black ink, appearing to read "Weinberg de Roca", written over a series of horizontal lines.

Judge Courtial

Dated this 30th day of March 2010 in Geneva, Switzerland.

Original: English

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