
UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Judgment No. 2021-UNAT-1139



Jihad AbdulGhani On eis, Diab El-Tabari
and Walid Abdullah

(Appellant s)

v.

Commissioner -General
of the United Nations Relief and Works Agency
for Palestine Refugees in the Near East

(Respondent)

Counsel for Appellants: Diab El-Tabari

Counsel for Respondent Rachel Evers

JUDGE GRAEME COLGAN , PRESIDING .

1. Jihad AbdulGhani Oneis, Diab El-Tabari and Walid Abdullah, current staff members with the Lebanon Field Office (LFO) of the United Nations Relief and Works Agency for Palestine in the Near East (UNRWA or the Agency), appeal the decision of the UNRWA Dispute Tribunal (UNRWA DT) dated 3 June 2020 declining to receive their challenges to UNRWA's refusal or failure to pay salary allowances to them.¹ The UNRWA DT concluded that because the Appellants had failed to prove that they had requested payment of the allowances from UNRWA, the Agency had not made a reviewable administrative decision, which is a necessary prerequisite to recovery of these unpaid allowances. The UNRWA DT did not deal with the merits of the Appellants' claims to the relevant allowances which are contested by the Respondent.

2. We note at this point that although other appeals addressing payments of these allowances to LFO staff have been dealt with at the same time and by the same panel of Judges, those other cases involve different staff members and raise different issues for decision. ale t -0.031 Tw -

same level. They as staff in the latter categories, assert they should have been paid this additional allowance as were the Account Officers.

11. The Appellants take issue with the process and results of the salary survey. They say that UNOPS should not have been the entity to conduct the survey, but rather it should have been UNRWA's Compensation Division. UNOPS was used because its people were personal friends/colleagues of the Chief of Staff (who was later placed on special leave without pay) which breached rules and constituted a conflict of interest. The allowance should have been a salary increase not an allowance. The allowance was notified to staff members via the Chief of Staff, and it should have been a communication from the Commissioner-General. The Chief of Staff responded to their complaints about the process via a Facebook message that the al

- (f) Messers. Oneis and Abdullah to receive the same allowances of USD 16000 monthly to equate them with Account Officers, effective January 2019, plus interest;
- (g) moral damages for the frustration of doing more work in Budget than in A ccounts while being compensated less.

Secretary -General's Answer

15. The Respondent requests the appeal be dismissed and the impugnpouount (e 3.2 y)]TJ -. (ar)-10.168 Tw

Considerations

19. Although the Appellants advance many diverse grounds of appeal, our task is relatively narrow. That is because the claims were dismissed on a threshold jurisdictional point that had nothing to do with the merits of the claims. Our task is to ascertain whether the UNRWA DT erred in its Judgment on this point. It is not competent for us to determine the substantive issues as the Appellants claim in the grounds of appeal just set out. That is because they have not been examined by the UNRWA DT the correctness of whose decision can be reviewed on appeal.

20. All except two of the Appellants' multiple grounds of appeal fall outside those permitted by the Appeals Tribunal's Statute. We will summarise briefly those extra-jurisdictional grounds of appeal. The Appellants seek to have this Tribunal examine the fairness of the claimed disparity between certain staff who received additional allowances, and the Appellants who did not. They complain about the propriety of the survey by which the increased allowances came to be allocated to staff. They claim that their salaries should have been increased rather than allowances paid selectively. They argue that the wrong official advised them of the allowances. These are all grounds of appeal which do not avail the Appellants. Because of our conclusion on the receivability ground of appeal, there is no need to examine the other viable ground which alleges that the UNRWA DT failed or refused to advise the Appellants of communications it had with the Respondent. We suspect that, in any event, the Appellants have identified the wrong paragraphs of the impugned Judgment which they say illustrate this failing by the Dispute Tribunal, but we do not need to determine that ground. We will only say that it is axiomatic that all significant communications between the Tribunal and a party should always be shared with other parties as a matter of natural justice and procedural fairness.

21. The Appellants' strongest argument is that the UNRWA DT erred in law in failing to address the Appellants' claims and thereby concluded that the Chief of Staff's response via 1 (p)-4-2 (a)A

them and that if there was further disputation about the allowances, payment of all additional allowances would be suspended. Although our decision of this appeal does not turn on the threat to penalise applicants contained in the final sentence of the Facebook post, we note that it identifies two forensic elements in the case. First, it emphasises the Organisation's stance of non-negotiability of the Appellants' requests. Second, it reinforces the strong inference that this was an administrative decision that affected the Appellants' employment entitlements including, as they did, to seek to be paid equally with their colleagues who received the additional allowances, for what they contended was their equal work. That employment right is embedded as deeply as in Article 23(2) of the General Assembly's 1948 Universal Declaration of Human Rights upon which the

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Judgment

30. For the foregoing reasons, we dismiss the appeals and uphold the UNWRA DT's Judgment No. UNRWA/DT/2020/029.

Original and Authoritative Version: English

Dated this 25th day of June 2021.

(Signed on 31/06/2021 by [Name] for the Tribunal)