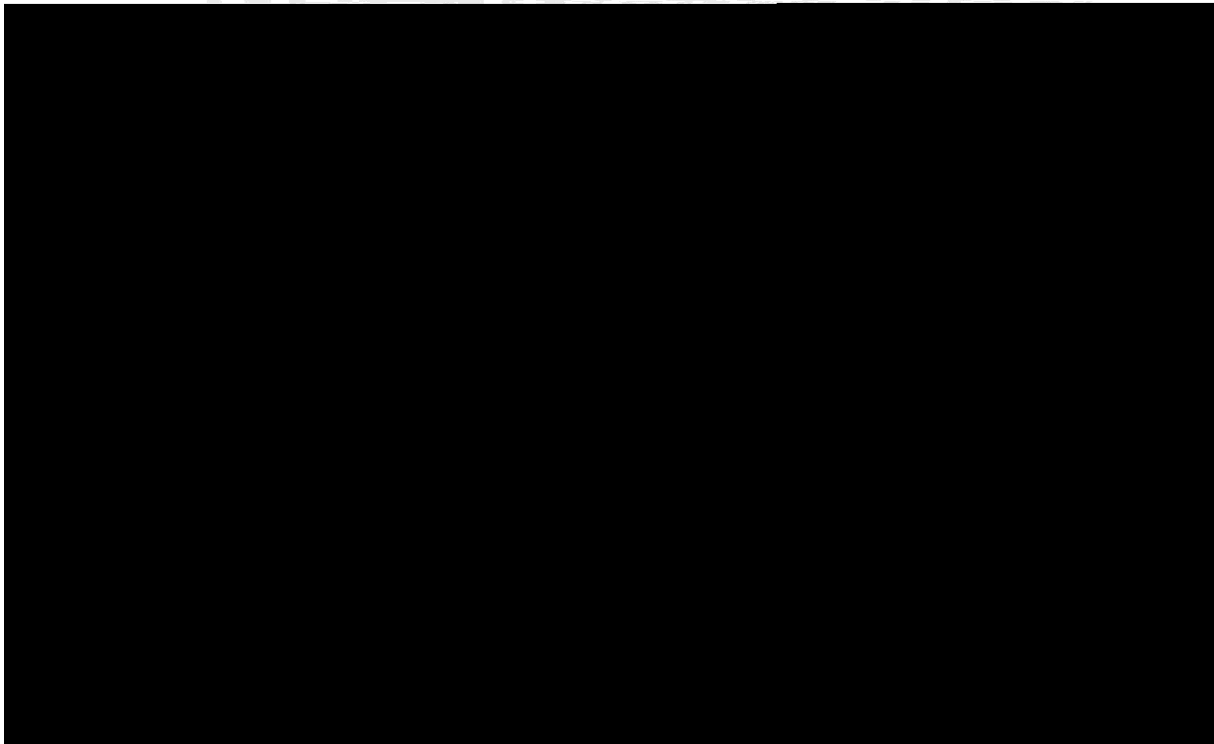




UNITED NATIONS A

Judgment No. 2018-UNAT-837



Counsel for Mr. Isteti:

Self-represented

Counsel for Commissioner-General:

Rachel Evers

JUDGE DIMITRIOS RAIKOS, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal against Judgment No. UNRWA/DT/2017/034, rendered by the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA DT or UNRWA Dispute Tribunal and UNRWA or Agency, respectively) on 6 November 2017, in the case of

... By letter dated 18 August 2016, [Mr. Isteti] was reminded of his retirement date of 18 September 2016.

... On 25 August 2016, [an] application was filed with the UNRWA Dispute Tribunal (...). The application was transmitted to the Respondent on 29 August 2016.

3. On 6 November 2017, the UNRWA DT issued its Judgment dismissing Mr. Isteti's application. The UNRWA DT held that the Agency was justified in refusing Mr. Isteti's second request for an extension beyond his retirement age because his post was already advertised long before his second request. Consequently, the Agency had already selected a candidate to fill the post. The UNRWA DT further held that Mr. Isteti's contentions that he should have been extended since he offered to work without pay was without legal merit as the Agency cannot appoint a staff member to a post and not pay the corresponding salary. Regarding Mr. Isteti's claim that he was discriminated against, the UNRWA DT noted such discrimination could only exist if he was treated differently from individuals in the same circumstance and thus, reviewed examples of other staff members that Mr. Isteti proffered. In this regard, the UNRWA DT found the staff members in these examples were not in situations similar to that of Mr. Isteti and thus, held that he failed to offer evidence that he was subject to discrimination. Lastly, the UNRWA DT held that Mr. Isteti's argument that Jordanian law permits staff to remain in service until age seventy was without legal merit as the Agency is not bound by the laws of member states, but is governed by its internal laws and regulations.

Submissions

Mr. Isteti's Appeal

4. Mr. Isteti's appeal form is not accompanied by a brief. His response to the appeal form titled, "Relief claimed" states as follows:

The review of [UNRWA DT] Judgment because it has:

[...] Erred on a question of fact, resulting in a manifestly unreasonable decision.

Before my retirement day of the job, I asked UNRWA to stay in my job for additional time (9 months) to complete the required period to transfer from associate professor rank to full professor rank, in any case they see it is suitable for the UNRWA, and I offered to work without pay as a volunteer in this extended period, but they refused despite they gave an extension to other persons. [...]

8. It follows from the above provisions that a party appealing a judgment of the first instance Tribunal (the UNDT or UNRWA DT) will not succeed in having the judgment reversed, modified or the case remanded, unless the appeal challenges the impugned judgment on one or more of the grounds referred to in Article 2(1)(a) to (e) of the Statute.

9. In the present case, Mr. Isteti's appeal form is not accompanied by a brief explaining the legal basis for his appeal. In his appeal form, in part IV, under the title, "Relief claimed", Mr. Isteti submits that,

Before my retirement day of the job, I asked to stay in my job for additional time (9 months) to complete the required period to transfer from associate professor rank to full professor rank, in case they see it is suitable for the UNRWA, and I offered to work without pay as a volunteer in this extended period, but they refused despite they gave an extension to other persons [...]

10. As the Commissioner-General properly notes, Mr. Isteti has failed to identify, by citation to any provision in Article 2(1) of the Statute, the grounds for his appeal, as he must. The appeal must be dismissed in light of the above, and of the fact that Mr. Isteti has simply reproduced an argument already submitted to the UNRWA DT, without explaining in what respect the UNRWA DT, has erred by rejecting this argument as unfounded, exceeded or failed to exercise its jurisdiction, erred on a question of law, committed an error in procedure or erred on a question of fact resulting in a manifestly unreasonable decision. Thus, Mr. Isteti's appeal is defective and is not allowed.²

² *Abdel Rahman v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2016-UNAT-610, para. 20; *Kovacevic v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-071, paras. 17-20; *Vangelova v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-046, paras. 19 and 20; *Tsoneva v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-045, paras. 10 and 11.

Judgment

11. The appeal is dismissed and Judgment No. UNRWA/DT/2017/034 is hereby affirmed.

Original and Authoritative Version: English

Dated this 22nd day of March 2018 in Amman, Jordan.

(Signed)

Judge Raikos, Presiding

(Signed)

Judge Thomas-Felix

(Signed)

Judge Halfeld

Entered in the Register on this 23rd day of May 2018 in New York, United States.

(Signed)

Weicheng Lin, Registrar