



JUDGE DIMITRIOS RAIKOS , PRESIDING .

1. The United Nations Appeals Tribunal (Appeals Tribunal or UNAT) has before it an appeal against Judgment No. UNRWA/DT/2021/019 by which the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees (UNRWA DT or UNRWA Dispute Tribunal, and UNRWA or Agency, respectively) dismissed as non-receivable *ratione materiae* Ms. Reem Khaled Matahen's application challenging the decision of UNRWA not to grant her request for Early Voluntary Retirement (EVR).
2. Ms. Matahen filed an appeal on 23 June 2021, which was forwarded to the Commissioner-General of UNRWA for an answer by 31 August 2021. But the Commissioner-General did not submit an answer before the deadline. His motion for a waiver of the time limit and for leave to file an answer was rejected.
3. For the reasons set out below we dismiss the appeal.

#### Facts and Procedure

4. Effective 2 April 2000, Ms. Matahen joined the Agency. She held the post of Technical Instructor on a temporary indefinite appointment, Grade 12, Step 8, at the Education Department, Amman Training Centre, Jordan Field Office (JFO).
5. In 2018, Ms. Matahen requested Special Leave Without Pay (SLWOP) in order to work as Assistant Professor/Accounting at Iman Abdulrahman Bin Faisal University, in Damman, Saudi Arabia. The Agency granted her request. Ms. Matahen's SLWOP was extended several times at her own request (o)-88g (ah)-7.1 (5.4 p (o)-88a)-19 (he)- u5.4 p-3.1 (i) (o)-88atMn rp ,

9. In an e-mail also dated 13 January 2020 addressed to the Director of Human Resources (DHR), UNRWA, Ms. Matahen reiterated her request to be granted an EVR on the grounds that she did not have a residence in Amman and therefore she needed to stay in Saudi Arabia to secure a decent residence as she had no other source of support than her current salary. She stated that the Agency's suggestion for her to resign was not desirable as she would lose a lot by resignation. Ms. Matahen followed up with a reminder e-mail on 15 January 2020, but did not receive any response.

10. Ms. Matahen resigned on 19 January 2020.

11. In an e-mail dated 20 January 2020 addressed to the Acting Commissioner-General (A/CG) copying inter alia the DHR, Ms. Matahen sought the A/CG's intervention in support of her request for EVR.

12. In an e-mail also dated 20 January 2020, the A/CG informed Ms. Matahen that "the Agency is in very dire financial circumstances at present so I am afraid I cannot countenance EVR at this time". The A/CG encouraged her to remain at Al Imam Abdulrahman Bin Faisal University.

13. The DHR responded on 21 January 2020. Echoing the A/CG, the DHR advised Ms. Matahen that granting an EVR was not within the financial resources of the Agency, and that the Agency could not



exercising her right of appeal”.<sup>1</sup> On merits, the UNRWA DT concluded that Ms. Matahen’s application was not receivable *ratione materiae*, because the two emails that she had sent to the DHR and the A/CG were “informal attempts to resolve her issue”, and they were not “an unambiguous written request”<sup>2</sup> for decision review, and neither of them made any reference to a request for decision review, or was perceived as such. Furthermore, her request for decision review should have been submitted to the Director of the JFO since Ms. Matahen was a JFO staff member. Since the 60-day time limit for submitting her request for decision review began to run on 13 January 2020, and Ms. Matahen did not submit such a request before or on 13 March 2020, the UNRWA DT concluded that her application was not receivable *ratione materiae*.

22. On 23 June 2021, Ms. Matahen appealed the UNRWA DT Judgment to the Appeals Tribunal. But as noted above, the Commissioner-General did not file an answer to the appeal before the deadline.

23. On 3 September 2021, the Commissioner-General filed a motion requesting a waiver of the time limit and for leave to file a motion for a stay of execution of the appeal. The motion was filed on 3 September 2021, which is within the 60-day time limit for submitting a request for decision review. The motion was filed on 3 September 2021, which is within the 60-day time limit for submitting a request for decision review. The motion was filed on 3 September 2021, which is within the 60-day time limit for submitting a request for decision review.

25. Ms. Matahen refers to “a similar case”, in which the UNRWA DT found for the staff member.<sup>3</sup>

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35. With regard to Ms. Matahen's written request for an extension of time to file an application, the UNRWA DT did not err in finding that her allegation that she had only found out on 17 August 2020 that another similar request for EVR had been granted by the Agency did not come within the parameters set out in Article 8(3) of the UNRWA DT Statute. Indeed, even assuming *arguendo* that the alleged fact was true, this did not constitute an exceptional circumstance, namely



39. As the UNRWA DT found:<sup>5</sup>

... In her application, the Applicant refers to her 13 January 2020 email to the DHR, as well as her 20 January 2020 email to the A/CG as requests for decision review

...

... It is clear that the Applicant's requests to the DHR and to the A/CG were informal attempts to resolve her issue with the Agency and cannot be considered as "an unambiguous written request which clearly identifies the staff member and the contested decision". Furthermore, neither of the two emails makes any reference to a request for decision review. The DHR's and the A/CG's responses also show clearly that the Applicant's emails were not perceived as a request for a decision review. Lastly, since the Applicant was a JFe001 Tc-b file wde pr.1 3 DHR-nt2 Tw TpD [(p)TD [(th)7 (e)250 (s)2.3c(r)4.DHRt ( ( w)(r)4.d

41. In the light of the foregoing, the appeal falls to be dismissed.

Judgment

42. Ms. Matahen's appeal is dismissed, and Judgment No. UNRWA/DT/2021/019 is affirmed .

Original and Authoritative Version: English

Decision dated this 1<sup>st</sup> day of July 2022 in New York, United States.

(Signed)

Judge Raikos Presiding

(Signed)

Judge Sandhu

(Signed)

Judge Halfeld