



JUDGE RICHARD L

... By memorandum to Ms. Burton dated 29 September 2011 and titled

... By e-mail dated 12 September 2012, Ms. Burton asked the Applicant to confirm whether or not he would accept the offer, noting that if he chose not to accept, the Agency would have no other option but to declare him redundant.

... The Applicant did not respond to that e-mail but on 14 September 2012, through a visit to Mr. Abu-Khalil from the Applicant's sister, the Agency became aware that the Applicant had reported for duty at one of the schools at which he had been offered a post.

... By letter dated 27 September 2012, Ms. Burton advised the Applicant of his new terms of employment, which included grade protection at Grade 8, Step 19.

... By memorandum dated 16 October 2012 and addressed to the Officer-in-Charge, UNRWA Affairs, Lebanon, the Applicant requested review of the decision to transfer him to the post of Clerk 'B' and not to appoint him as Recreation Officer. The Applicant noted that his placement at Grade 8, Step 19 had resulted in a lower salary than that which he had previously collected.

... By letter dated 15 November 2012 Ms. Ann Dismorr, the DUA/L, responded to the Applicant's request for decision review, noting that the Applicant had been advised on numerous occasions that he was not qualified for the position of Recreation Officer. Ms. Dismorr found that all relevant Regulations, Rules and issuances had been complied with and that the Agency had exerted "reasonable effort"

Submissions

Mr. Al-Moued's Appeal

4. Mr. Al-Moued submits that UNRWA's findings regarding the Audio-Visual Maintenance Course had not been shared with him and the lack of consultation rendered the decision to cancel the course improper.

5. Subsequently, UNRWA offered him positions which he was not qualified for, denied him the post of Recreation Officer which was the "closest to [his] qualifications", and reassigned him to a post with "lower salary, lower pension [c]ontributions, and increased transport costs".

6. Mr. Al-Moued also contends that the DUA/L did not review his case and that the response to his request for decision review was "mere rubber stamping".

7. As a result of the Administration's action, he suffered from frustration, stress, and

Mr. Al-Moued's Observations

11.

accordance with PD A/9. It went on to examine Mr. Al-Moued's claim of prejudice against him by the Lebanon Field Office and concluded that there was no evidence to establish any prejudice. Finally, the UNRWA DT found that the record showed that the response to his

20. Mr. Al-Moued did not identify any of these grounds in his appeal. However, after receiving the Commissioner-General's answer to the appeal, Mr. Al-Moued stated in his observations that had he been asked to identify the grounds of appeal set out in Article 2(1) he would have done so, but since the matter was not raised, he had addressed the merits of the case. He disagreed with the Commissioner-General where the Commissioner-General cited a decision by the Appeals Tribunal that the appeals procedure is not an opportunity to reargue a case. According to him, "the whole reason for raising a case to a higher body is to argue the case".

21. Nevertheless, Mr. Al-Moued states that even though he had not been requested at any stage by the Commissioner-General to identify the grounds of appeal, the application is based on:

- (i) the failure to exercise jurisdiction, "i.e. to provide a suitable post based on equivalency and training";
- (ii) an error in procedure, such as to affect the decision of the case; and
- (iii) errors of fact, resulting in a manifestly unreasonable decision; "i.e. provided a post not suitable with qualifications".

22. It appears that in naming these grounds, Mr. Al-Moued is referring to errors by the Commissioner-General, not the UNRWA DT.

24. Mr. Al-Moued has failed to demonstrate th at the UNRWA DT committed any error of

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2014-UNAT-458