



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2023-1798

Qasem Abdelilah Mohammed Qasem

(Appellant)

v.

Commissioner-General

**of the United Nations Relief and Works Agency
for Palestine Refugees in the Near East**

(Respondent)

Order No. 519 (2023)

1. On 28 February 2023, the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA DT and UNRWA, respectively) issued Summary Judgment No. UNRWA/DT/2023/010 (the impugned Judgment) in the matter of *Qasem v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, whereby the UNRWA DT found not receivable Mr. Qasem's applications challenging the decisions to place him on administrative leave with pay (ALWP) until further notice pending an investigation, and with regard to various investigations to which Mr. Qasem had been subjected.
2. On 27 April 2023, Mr. Qasem filed an appeal with the United Nations Appeals Tribunal (Appeals Tribunal) challenging the impugned Judgment.
3. On 11 May 2023, Mr. Qasem received a letter from the Acting Director, UNRWA Affairs informing him that his ALWP was no longer considered necessary, and that he would be transferred to the post of Head Health Centre at Sukneh Health Centre. The letter further stated that he was to report to his new duty station on 14 May 2023 failing which he would be considered to have abandoned the post.

4. That same day, Mr. Qasem filed a motion for interim measures requesting that the Appeals Tribunal “act decisively and swiftly against the orders contained in the letter” because “[n]o formal letter was issued to determine the causes for ending” the ALWP, the transfer decision did not clarify the purpose and his circumstances, and the decision in the resumption letter was taken on short notice. He says the decision in the resumption letter was unfair and unjust and a flagrant violation of Rules and Regulations, that after 17 months of ALWP, the Administration’s swift administrative decisions contained in the resumption letter were unwarranted, and that Mr. Qasem would suffer irreparable harm because of this unfair and unjust resumption letter. Mr. Qasem submits that the letter has not assured him that the conflict and threats by the other UNRWA employee had been settled or resolved and the resumption letter fails to give any assurances for Mr. Qasem’s “Physical safety” concerns.

5. On 20 May 2023, the Commissioner-General filed his comments opposing the motion. The Commissioner-General submits that the motion does not meet the requirements for temporary relief under Article 9(4) of the Statute of this Tribunal. Given that the UNRWA DT did not determine Mr. Qasem’s application on the merits and in his favour, it remains that Mr. Qasem does not seek an interim measure which is consistent with the Judgment of the UNRWA DT under appeal.

6. Article 9(4) of the Statute provides that “[a]t any time during the proceedings, the Appeals Tribunal may order an interim measure to provide temporary relief to either party to prevent irreparable harm and to maintain consistency with the judgement of the Dispute Tribunal”.

7. Moreover, the Appeals Tribunal has consistently held that “an interim measure of relief is subject to very strict requirements; such relief is available to protect a litigant from the likelihood of irreparable harm, who the Dispute Tribunal believes is likely to succeed at trial or the Appeals Tribunal believes is likely to succeed on appeal.”¹

8. The Appeals Tribunal has previously held that it may make an interim order for temporary relief, pending the outcome of the appeal, on two cumulative conditions: “(i) It must be satisfied on a balance of probabilities that there is real likelihood of irreparable

¹ *Nadine Kaddoura v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Order No. 409 (2021), para. 6.

harm which can be prevented if temporary relief is granted; and (ii) The temporary relief granted is consistent with the judgment of the Dispute Tribunal.”²

9. In the present case, Mr. Qasem’s motion for interim measures for temporary relief is not consistent with the Judgment of the UNRWA DT. Rather, his motion concerns new administrative decisions as contained in the resumption letter, namely the ending of his ALWP status and his transfer to a new duty station. The impugned Judgment concerned a challenge to the contested decision to place him on ALWP until further notice pending an investigation. These are two different decisions. As such the temporary relief request is not consistent with the Judgment of the UNWRA Dispute Tribunal as contemplated in Article 9(4). Mr. Qasem can challenge the resumption letter decision before the UNRWA DT. Further, there is insufficient evidence provided of a “real likelihood of irreparable harm”. Therefore, the conditions under Article 9(4) of the Statute are not fulfilled.

10. For the foregoing reason, Mr. Qasem’s request for interim measures is denied

IT IS HEREBY ORDERED that Mr. Qasem’s “Motion for Interim Measures” pending proceedings is **DENIED**.

Original and Authoritative Version: English

Dated this 12th day of June 2023
in Vancouver, Canada.

(Signed)
Judge Kanwaldeep Sandhu,
President

Entered in the Register on this 12th day of
June 2023 in New York, United States.

(Signed)
Juliet Johnson, Registrar

² *Nwuke v. Secretary-General of the United Nations*, Order No. 100 (2012), para. 5; *Koumoin v. Secretary-General of the United Nations*, Order No. 3 (2010), para. 9.