

# **2010-UNAT-021, Asaad**

## **UNAT Held or UNDT Pronouncements**

In reviewing the Appellant's appeal, UNAT found that the decision to terminate the Appellant's position was based on generalized reasons, as opposed to specific facts, and found no real justification for the decision. UNAT held that this was inconsistent with the jurisprudence of the former Administrative Tribunal, which provides that an Administration must act in good faith and not make decisions based on erroneous, fallacious, or improper motivation. UNAT noted that when an administrative decision concerns termination, it shall set an amount of compensation that the respondent may elect to pay as an alternative to the specific performance resulting from the rescission. In this regard, UNAT set the alternative compensation at an amount equivalent to six months' salary at grade 14, which was the salary grade held by the appellant as Area Officer for North Lebanon. UNAT also held that the Appellant had grounds for requesting compensation for loss of earnings resulting from his demotion from the position of Area Officer for North Lebanon, grade 14, to that of Head Teacher of a school, grade 8. UNAT accordingly ordered the Agency to pay compensation equivalent to the difference between the two salaries for the period from 1 July 2003 to 20 January 2004, the date on which the probationary appointment as Area Officer for North Lebanon should have ended in the normal course of events and on which a decision should have been taken on the Appellant's professional competence. UNAT lastly held that the delay in the consideration of the appeal violated the Appellant's right of recourse and held that compensation equivalent to one month's salary at grade 14 was an equitable remedy for the harm suffered by the Appellant in this regard. UNAT rescinded the Commissioner-General's decision to terminate the Appellant and ordered that the Appellant be paid compensation equivalent to six months' salary at grade 14 as an alternative. UNAT also ordered compensation equivalent to the difference between the salary which he received as Head Teacher of a school (grade 8) and the salary which he should have received as Area Officer for Lebanon North (grade 14) for the period from 1 July 2003 to 20 January 2004 and also compensation equivalent to one month's salary at grade 14.

## Decision Contested or Judgment/Order Appealed

UNRWA JAB decision: The Applicant submitted an application contesting the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East's decision to uphold the termination of his probationary appointment as Area Officer for North Lebanon. The Applicant also requested that the Agency be ordered to offer him an officer-level job and to pay him \$14,000 compensation for loss of earnings resulting from his demotion from the position of Area Officer to that of Head Teacher of a school and \$12,000 for the harm caused to him by the delay in the Agency's consideration of his appeal against its administrative decision. Since the Administrative Tribunal did not have time to rule of the appeal before it was abolished on 31 December 2009, the application was transferred to UNAT in accordance with GA resolution 63/253 of 17 March 2009.

## Legal Principle(s)

The jurisprudence of the former Administrative Tribunal provides that the Administration must act in good faith and respect procedural rules. Its decisions must not be arbitrary or motivated by factors inconsistent with proper administration.

## Outcome

Appeal granted

## Outcome Extra Text

Only financial compensation; Only financial compensation.

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Asaad

## Entity

UNRWA

## Case Number(s)

2010-026

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

30 Mar 2010

## President Judge

Judge Courtial

## Language of Judgment

English

French

## Issuance Type

Judgment

## Categories/Subcategories

Compensation

In-lieu compensation

Loss of chance

Pecuniary (material) damages

Separation from service

Termination of appointment (see also, Termination of appointment)  
Termination (of appointment)

## Applicable Law

UNAT Statute

- Article 9.1