

2014-UNAT-431, Mousa

UNAT Held or UNDT Pronouncements

UNAT held that the Appellant had failed to establish any error in fact or law which would warrant the reversal of the UNRWA DT judgment under appeal. UNAT held that UNRWA DT had correctly characterized the contested administrative decision subject to its judicial review as a demotion and subsequent transfer, which was taken after disciplinary proceedings. UNAT held that UNRWA DT had not erred when, after conducting an adequate review of the requirements for the adoption of a disciplinary measure, it concluded that there had been misconduct and that the sanction was legal and proportionate to the offence. UNAT held that even though it was not established that the Appellant himself had benefitted from the irregular connections or that the situation existed on the watch of the previous Head Teachers, the Appellant could not use this to negate the basis of the findings made at the administrative level and by the judicial first instance. UNAT held that the Appellant had demonstrated negligent inactivity with regards to protecting UNRWA's property and premises. UNAT held further that there was no merit in the claim of lack of guidance and training. UNAT held that the level of the relevant position involved what was required of the Appellant, as Assistant Head Teacher for many years and as Acting Head Teacher. UNAT held that the imposed sanction was well within the legal discretion of the UNRWA Administration, as it did not appear to be absurd, arbitrary, or tainted by extraneous reasons or bias, which, if proven, would otherwise be grounds for judicial review. UNAT dismissed the appeal and affirmed the UNRWA DT judgment.

Decision Contested or Judgment/Order Appealed

UNRWA DT Judgment: The Applicant contested the decision to reassign him to an Assistant Head Teacher position outside of Mar Elias Camp for failing to ensure that the Organisation's properties and resources were not abused. UNRWA DT dismissed the application in its entirety, finding 1) that the facts on which the disciplinary measure was based had been reasonably established; 2) that the facts legally supported the characterisation of misconduct; 3) that the disciplinary measure was proportionate to the offence; and 4) that the Respondent's discretionary authority was not tainted by evidence of procedural irregularity, prejudice or other extraneous factors, or error of law.

Legal Principle(s)

It is the duty of an appellant to demonstrate that the UNDT's Judgment is defective.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Mousa

Entity

UNRWA

Case Number(s)

2013-492

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Jun 2014

President Judge

Judge Simón

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Disciplinary measure or sanction

Reassignment or transfer

Discretion

Applicable Law

UNRWA Area Staff Regulations

- Regulation 1.2
- Regulation 10.2
- Regulation 4.3

UNRWA Area Staff Rules

- Rule 110.1

UNRWA DT Statute

Related Judgments and Orders

2011-UNAT-110

2010-UNAT-040