

2014-UNAT-482, Abdullah

UNAT Held or UNDT Pronouncements

As a preliminary matter, UNAT denied the Appellant's request for an oral hearing and considered his grounds of appeal. With respect to the claimed errors of procedure, UNAT found no merit in the Appellant's arguments. UNAT was not persuaded that the Appellant suffered prejudice by UNRWA DT admitting the Commissioner-General's late reply, failing to translate the reply into Arabic, failing to lift the confidentiality order, or by failing to hold an oral hearing. However, UNAT found that UNRWA DT exceeded its jurisdiction in finding that the Appellant had an unhealthy working relationship with other colleagues. UNAT upheld UNRWA DT's finding that the Appellant's allegation of bias was not substantiated, yet it found that UNRWA DT erred in law and made a manifest error of fact in determining that the transfer was free of infirmity. UNAT found that the pre-judgment, concerning the Appellant's future performance as a teacher, was a breach of his terms and conditions of employment sufficient, in and of itself, to merit an award of moral damages. Conversely, UNAT held that the Appellant did not adduce evidence of financial loss before UNRWA DT and dismissed his appeal in that regard. UNAT upheld the appeal in part, vacated the UNRWA DT judgment in part and awarded the Appellant compensation in the amount of three months' net base salary.

Decision Contested or Judgment/Order Appealed

The Applicant contested the Commissioner-General's decision to transfer him to another school. UNRWA DT held that this decision was not a disciplinary measure, rather it was made in the interest of the agency. UNRWA DT also held that the Applicant failed to prove his claim that he suffered stress or incurred financial expense as a result of his transfer such as would merit an award of compensation. UNRWA DT dismissed the application.

Legal Principle(s)

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Outcome

Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Abdullah

Entity

UNRWA

Case Number(s)

2014-556

Tribunal

UNAT

Registry

New York

Date of Judgement

17 Oct 2014

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Jurisdiction / receivability (UNDT or first instance)

Manifest excess of jurisdiction

Reassignment or transfer

Discretion

Applicable Law

Administrative Instructions

- ST/AI/2010/3/Section 2.5

UNRWA Area Staff Regulations

- Regulation 1.2
- Regulation 4.3

Related Judgments and Orders

2013-UNAT-309

2012-UNAT-266

2012-UNAT-194

2013-UNAT-363

2014-UNAT-406