

# **2015-UNAT-564, El-Shobaky**

## **UNAT Held or UNDT Pronouncements**

UNAT held that, while it may be argued that the Appellant did not request her transfer to Amman, she consented to it, and the transfer was effected for her personal convenience. UNAT held that the text of UNRWA Area Staff Rule 107. 9 was clear and that UNRWA DT correctly concluded that she was not entitled to the payment which she sought. UNAT held that, contrary to the Appellant's submissions, UNRWA DT did not exclude her evidence. Recalling the broad discretion of UNRWA DT to ascertain the weight to attach to the evidence before it, UNAT noted that UNRWA found that the Appellant's evidence did not demonstrate, in and of itself, that the Appellant had a right to payment of the entitlements. UNAT agreed with UNRWA DT's finding that the Appellant had not demonstrated how the circumstances or conditions of employment of other staff members were relevant to her situation and UNAT held that UNRWA DT did not err in this regard. UNRWA DT found no error of law or error of fact, manifest or otherwise, on the part of UNRWA DT. UNAT held that UNRWA DT correctly found that the Appellant's claims for payment of outstanding travel subsistence allowance (TSA) as well as the additional issues she raised had not been the subject of decision review and thus were not receivable. UNAT dismissed the appeal and upheld the UNDT judgment.

## **Decision Contested or Judgment/Order Appealed**

The Applicant contested, inter alia, the decision not to pay her entitlements upon her change of duty station, her exclusion from the short-list for three posts and alleged abuse of power by human resources. UNDT dismissed the application.

## **Legal Principle(s)**

An appealable decision is one that has a direct impact and produces direct legal consequences on a staff member, affecting his or her terms of appointment or

contract of employment.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

El-Shobaky

## Entity

UNRWA

## Case Number(s)

2014-656

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

2 Jul 2015

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Benefits and entitlements

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Subject matter (*ratione materiae*)

## Applicable Law

UNRWA Area Staff Rules

- Rule 107.9

UNRWA DT RoP

- Article 13.1

## Related Judgments and Orders

2015-UNAT-521

2013-UNAT-299

2013-UNAT-300

2011-UNAT-123

2013-UNAT-340

2014-UNAT-434