

2015-UNAT-580, Kalil

UNAT Held or UNDT Pronouncements

UNAT considered an appeal against Order No. 057 (UNRWA/DT/2014) and judgment No. UNRWA/DT/2014/027. UNAT rejected the Appellant's request for confidentiality and for the redaction of his name from the UNRWA DT judgment and affirmed UNRWA DT's reasoning. UNAT denied the Appellant's request to submit new evidence to UNAT on the basis that the Appellant did not offer any explanation as to why he was precluded from filing them previously, exceptional circumstances did not exist, and its content would not have affected the decision of the case. UNAT held that it was for UNRWA DT to consider that it had before it sufficient information to enable it to reach its decision without holding an oral hearing and there was no error in this regard. UNAT rejected the Appellant's contentions that his due process rights to seek production of documents and build his case were violated by reason of the Commissioner-General's allegedly limited reply and that UNDT erred in rejecting his motion for production of documents. UNAT held that it discerned no error in procedure in UNRWA DT's rejection of the Appellant's motion for production of document. UNAT held that the argument that UNRWA DT erred in granting the Commissioner-General leave to participate in the proceedings after he had failed to file his reply with the time limits was without merit. UNAT held that there was no error in the manner in which UNRWA DT exercised its discretion allowing the Commissioner-General to participate and accepting his late filing. UNAT held that, while it did not condone ex parte communications, it did not accept that the practice amounted to underhanded behaviour and was satisfied that no prejudice was caused to the Appellant. UNAT held that the Appellant did not establish any procedural errors warranting the reversal of the UNRWA DT judgment. UNAT held that there was no merit in the Appellant's argument that UNRWA DT failed to consider that it was a case of constructive dismissal. UNAT noted that UNRWA DT was not satisfied that the actions of the Appellant's supervisors forced the Appellant to leave his job as he never filed a formal complaint in that regard and UNRWA DT determined that it was the Appellant who voluntarily tendered his resignation just one month after being further extended for an additional one year. UNAT further noted that there was no evidence that the fact his appointment was only extended for one year, as opposed to three years, was motivated by ill will or was intended to harass the Appellant. UNAT disagreed with the Appellant's contention that UNRWA erred in fact and law in finding that he did not have any expectancy of renewal for a three-year period. UNAT held that there was no evidence of a firm commitment to renew the Appellant's contract for three years. UNAT considered all of the other claims of the Appellant and found them to be without merit. 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 renew his contract for one year, rather than three years. Order No. 057 (UNRWA/DT/2014) ruled on a number of motions. UNRWA DT granted the Commissioner-General's request to participate in the proceedings and file his reply, as well as the Applicant's request to submit a rejoinder. With the exception of the Applicant's request for confidentiality, consideration of which was deferred to the judgment, UNRWA DT denied the remainder of the requests. In judgment No. UNRWA/DT/2014/027, UNRWA DT dismissed the application.

Legal Principle(s)

Personal embarrassment and discomfort are not sufficient grounds to grant confidentiality. UNAT will not lightly interfere with the broad discretion of UNRWA DT in the management of its cases. In order for a staff member's claim of legitimate expectation of a renewal of appointment to be sustained, it must not be based on mere verbal assertion, but on a firm commitment to renewal revealed by the circumstances of the case.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Kalil

Entity

UNRWA

Case Number(s)

2014-675

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Oct 2015

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Due process

Evidence

Non-renewal

Arbitrary or improper motive

No expectancy of renewal

Procedure (first instance and UNAT)

Admissibility of evidence

Confidentiality

Production of documents

Applicable Law

Laws of other entities (rules, regulations etc.)

- UNRWA ISC No.1/4/97

UNAT RoP

- Article 18.1

UNAT Statute

- Article 10.9
- Article 2.5
- Article 8.2

UNRWA DT RoP

- Article 11.1
- Article 14
- Article 6.1

UNRWA DT Statute

- Article 9.1
- Article 9.2

Related Judgments and Orders

2015-UNAT-522

2011-UNAT-153

2011-UNAT-138

2011-UNAT-130

2010-UNAT-041

2015-UNAT-546

2014-UNAT-454