

2015-UNAT-594, El Saleh

UNAT Held or UNDT Pronouncements

UNAT considered appeals of both judgment Nos. UNRWA/DT/2014/026 (judgment on the merits) and UNRWA/DT/2014/051 (judgment on revision). UNAT held that the appeal against the judgment on the merits was filed out of time and was not receivable. UNAT held that the judgment on revision failed to identify a ground of appeal, expressed disagreement, and repeated arguments already considered and rejected by UNRWA DT. UNAT held that the appeal constituted an impermissible attempt to reargue the merits of the case. UNAT held that the fact upon which the Appellant had based his revision application did not meet the strict test set out in the UNRWA DT Statute and that UNRWA DT was correct to reject it. UNAT held that the Appellant had not persuaded it that UNRWA DT erred in any way in dismissing his revision application. UNAT held that the appeal against judgment No. UNRWA/DT/2014/026 was not receivable *ratione temporis*, dismissed the appeal against judgment No. UNRWA/DT/2014/051 and affirmed judgment No. UNRWA/DT/2014/051.

Decision Contested or Judgment/Order Appealed

UNRWA DT judgment: The Applicant contested the decisions to reclassify his post at Grade 16, rather than Grade 17. In judgment No. UNRWA/DT/2014/026, UNRWA DT held that the decision to reclassify to Grade 16 was a positive decision and therefore could not be the subject of a challenge. UNRWA DT held that there had been no refusal decision to contest as the Applicant had never formally asked UNRWA to upgrade his post to Grade 17. UNRWA DT found the application was not receivable and dismissed the case. Subsequently, the Applicant submitted a motion for revision of judgment, claiming that an annex to his UNRWA DT application showed he had made an official request for his post to be classified at Grade 17, but that the text was illegible. UNRWA DT issued judgment No. UNRWA/DT/2014/051 dismissing the application for revision.

Legal Principle(s)

It is the staff member's responsibility to ensure that he or she is aware of the applicable procedure in the context of the administration of justice at the UN; ignorance cannot be invoked as an excuse.

Outcome

Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

El Saleh

Entity

UNRWA

Case Number(s)

2015-692

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Oct 2015

President Judge

Judge Simón

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Classification (post)

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Applicable Law

Agreements, conventions, treaties (etc.)

- Special Agreement between the UN and UNRWA

UNAT Statute

- Article 2.1
- Article 7.1(c)

UNRWA DT Statute

- Article 12.1

Related Judgments and Orders

2014-UNAT-484

2015-UNAT-579

2015-UNAT-504

2012-UNAT-275

2015-UNAT-552