

2016-UNAT-685, Beidas

UNAT Held or UNDT Pronouncements

UNAT considered the Appellant's appeal of both UNRWA DT decisions. UNAT noted that UNRWA DT gave full consideration to the Appellant's claim that the transfer was a disguised disciplinary measure following allegations of her corporal punishment of students. UNAT noted that there was evidence that, prior to her transfer, the Chief, Field Education Programme had dismissed these allegations as unsubstantiated and it was not until almost two months after the transfer that the Jordan Field Office authorised an investigation. UNAT held that UNRWA DT therefore correctly concluded that the Appellant's transfer was prompted by a failed working relationship with the SP, and not on the basis of the corporal punishment allegation. Moreover, UNAT held that UNRWA DT's decision that the performance evaluation did not affect the terms and conditions of her contract, and was thus not an appealable administrative decision, was correct. UNAT noted that UNRWA DT considered that in the present case, the one competency recording a negative rating did not detract from the overall rating of "completely meets expectations," which was a correct application of the relevant law. UNAT dismissed the appeal and affirmed UNRWA DT's judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the Agency's decision to transfer her from Nazzal First Preparatory School for Girls (Nazzal Prep) to Taj Preparatory School for Girls (Taj Prep), as well as her performance evaluation for the period from 1 September 2013 to 31 August 2014. UNRWA DT found that the decision to transfer her to Taj Prep was made in the interests of both the Agency and the students of Nazzal Prep and that the Applicant had not established that the decision to transfer her was improperly motivated. With respect to the Applicant's performance evaluation, UNRWA DT found that she did not contest an appealable administrative decision. UNRWA DT dismissed both applications.

Legal Principle(s)

As a matter of general principle, in exercising its judicial review, UNRWA DT will not lightly interfere with the exercise of managerial discretion in matters such as staff transfers. The key characteristic of an administrative decision subject to judicial review is that the decision must produce direct legal consequences affecting a staff member's terms and conditions of appointment; the administrative decision must "have a direct impact on the terms of appointment or contract of employment of the individual staff member."

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Beidas

Entity

UNRWA

Case Number(s)

2016-907

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Oct 2016

Language of Judgment

Arabic

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Reassignment or transfer

Applicable Law

UNRWA Area Staff Regulations

- Regulation 1.2

Related Judgments and Orders

2014-UNAT-481

2013-UNAT-328

2015-UNAT-503

2012-UNAT-194

2014-UNAT-482