

2016-UNAT-687, Mohanna

UNAT Held or UNDT Pronouncements

UNAT dismissed the Appellant's request for an oral hearing prior to consideration of the appeal. UNAT also rejected the Appellant's claim that UNRWA DT was biased in ordering that the five applications be consolidated into a single judgment. With respect to the appeal itself, UNAT held that the appeal of the decisions denying disability benefits and finding the non-payment of termination claim not receivable, had no legal basis. Regarding the Appellant's challenge to the Commissioner-General's decision to render the findings of the medical board moot and not to pay him a disability benefit, UNAT held that UNRWA DT correctly found he did not meet the qualification for entitlement to a disability benefit prescribed by Area Staff Rule 109. 7, in that his appointment was not terminated for reasons of health as required, but rather was terminated due to his poor performance. UNAT further held that UNRWA DT committed no error when it determined that the Appellant's challenge to the decision not to pay him a termination indemnity was not receivable on the basis that he had not first sought timely decision review within the prescribed time limits. UNAT dismissed the appeal and affirmed UNRWA DT's judgment.

Decision Contested or Judgment/Order Appealed

UNRWA DT judgment: The Applicant contested the following decisions: the decision not to confirm his appointment during the probationary period; the decisions to render the findings of the medical board moot and not to pay him a disability benefit; the decisions regarding the non-payment of a termination indemnity and the calculation of his leave encashment payment; and the decision relating to his period of service. UNRWA DT dismissed all applications, except for the application challenging the calculation of the applicant's period of service. UNRWA DT found this application receivable and concluded that, as it had already determined that the Applicant continued to be in service of the Agency until 31 December 2014, ordered the Agency to amend the certificate of service accordingly.

Legal Principle(s)

A party cannot merely repeat on appeal arguments that did not succeed in the lower court. Rather, he or she must demonstrate that the court below has committed an error of fact or law warranting intervention by the Appeals Tribunal. Management evaluation or decision review is a mandatory first step in the appeals process and is a prerequisite to invoke the Dispute Tribunal's jurisdiction.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Mohanna

Entity

UNRWA

Case Number(s)

2016-917

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Oct 2016

Language of Judgment

Arabic
English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45
Jurisdiction / receivability (UNAT)
Temporal (ratione temporis)
Termination (of appointment)
Unsatisfactory service

Applicable Law

Agreements, conventions, treaties (etc.)

- Special Agreement between the UN and UNRWA

UNAT RoP

- Article 18.1

UNRWA Area Staff Rules

- Rule 109.7
- Rule 111.2

UNRWA DT RoP

- Article 14

Related Judgments and Orders

2015-UNAT-564
2013-UNAT-299

2015-UNAT-502
2014-UNAT-414
2013-UNAT-340
2015-UNAT-593