

2017-UNAT-779, Abu Hweidi et al.

UNAT Held or UNDT Pronouncements

ArUNAT held that UNRWA DT's decision not to hold an oral hearing was a shortcoming since the parties had not agreed to the case being decided on the papers and the facts needed to be established by witnesses and/or further documentary evidence. On the question of bias and its possible bearing on the outcome of the selection process, UNAT held that UNRWA DT should have engaged in a thorough examination of the facts, rather than drawing an inference. UNAT held that the inference drawn by UNRWA DT, that it was realistic to conclude that not all of the posts could be filled by suitable candidates, was not reasonable in the circumstances. UNAT held that a number of facts were not sufficiently established before UNRWA DT, such as whether answers given in Arabic were translated. UNAT held that there was not an adequate fact-finding exercise by UNRWA DT, which would have enabled UNAT to review whether the administrative decision was lawful. UNAT held that UNRWA DT's determinations that there was no bias, prejudice, and unlawfulness and that there was fair and adequate consideration were not supported by the facts. UNAT held that the fact-finding exercise was incomplete, which constituted a clear error of procedure and violation of due process such as to affect the decision of the case. UNAT granted the appeal, vacated the UNRWA DT judgment, and remanded the cases for a hearing de novo before a different UNRWA DT Judge and adjudication on the merits.

Decision Contested or Judgment/Order Appealed

The Applicants contested the decisions not to select them for a number of posts. UNRWA DT dismissed the applications.

Legal Principle(s)

Although broad discretion in case management is afforded to the trial judge, there are some facts that are so essential that they need to be established in the interest of justice, particularly when they are related to core aspects of the dispute. Due process requires that both parties be given an opportunity to present their case, produce evidence, and file submissions and/or motions.

Outcome

Appeal granted

Outcome Extra Text

No relief ordered

Full judgment

[Full judgment](#)

Applicants/Appellants

Abu Hweidi et al.

Entity

UNRWA

Case Number(s)

2017-1060

Tribunal

UNAT

Registry

New York

Date of Judgement

14 Jul 2017

Language of Judgment

Arabic

English

Issuance Type

Judgment

Categories/Subcategories

Procedure (first instance and UNAT)

Oral hearings

Staff selection (non-selection/non-promotion)

Full and fair consideration

Applicable Law

UNAT RoP

- Article 10

UNAT Statute

- Article 2.4(b)

UNRWA DT RoP

- Article 11
- Article 12
- Article 13
- Article 14

UNRWA DT Statute

- Article 9

UNRWA Personnel Directives

- PD A/4/Part II/Rev.7