

2018-UNAT-884, Orabi

UNAT Held or UNDT Pronouncements

UNAT considered whether UNRWA DT erred in finding that the Agency correctly decided not to transfer the Appellant to the post in question. UNAT held that the issue of whether the Agency has an obligation to contact all staff members who made a transfer request is not receivable because it was not raised before UNRWA DT. UNAT held that the Appellant's complaint required factual findings in order to ascertain whether the claim was meritorious, and UNRWA DT did not make such findings. UNAT upheld the appeal, vacated UNRWA/DT/2018/026, and remanded the issue of whether the Administration fulfilled its obligation to balance conflicting interests and provide a reasoned and sound basis of its final choice, to UNRWA DT for consideration.

Decision Contested or Judgment/Order Appealed

The Applicant sought review of the decision not to transfer him to the post of Clerk "B" in the North Lebanon Area and the Director of UNRWA Affairs, Lebanon affirmed the decision. The Applicant filed an application with UNRWA DT. UNRWA DT rejected the Applicant's claim that his seniority had been miscalculated. UNRWA DT rejected the Applicant's claim that it had been verbally confirmed to him that he would be transferred to the post in question in the absence of any evidence to support the claim. The application was dismissed.

Legal Principle(s)

In the event there are one or more transfer requests on the Transfer Register in respect of the same post, the Administration must arrive at a reasonable, fair, and rational decision, after having balanced all compelling humanitarian and personal interests, and provide a reasoned and sound basis for its final decision.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Orabi

Entity

UNRWA

Case Number(s)

2018-1177

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Oct 2018

President Judge

Judge Raikos

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Reassignment or transfer

Discretion

Applicable Law

Other UN issuances (guidelines, policies etc.)

- FTI 01/2016

UNRWA Area Staff Regulations

- Regulation 4.3