

2019-UNAT-927, Jafari

UNAT Held or UNDT Pronouncements

UNAT agreed with UNRWA DT that the legal framework did not establish an automatic right of the staff member to the extension of his or her service beyond the age of retirement upon the submission of the pertinent application, even if she or he satisfied those two conditions. However, UNAT held that, contrary to UNRWA DT's finding, the Administration has the discretion to deny a request to extend a staff member's service beyond retirement only in exceptional cases and on account of the interests of UNRWA, which must be reflected clearly and precisely in the reasoning for the decision. UNAT held UNRWA did not specify in precise and equivocal terms in what way the continuation of the Appellant's service constituted an obstacle to its internal succession plans, rendering UNAT unable to review whether exceptional circumstances existed. UNAT held that the decision was unreasonable and thus, unlawful. UNAT held that UNRWA's failure to provide adequate reasons for the contested decision and the exercise of its discretion resulted in an unlawful decision. UNAT held that there could be no award of compensation because the Appellant had not presented any evidence that he suffered material or moral injury. UNAT partly upheld the appeal by modifying the UNRWA DT judgment to rescind the impugned decision (with an alternative in-lieu compensation in the amount of six months' net base salary). UNAT dismissed the appeal in all other respects and affirmed the UNRWA DT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to extend his service beyond retirement age. UNRWA DT dismissed his application on the merits. UNRWA determined that the relevant rules authorised UNRWA to grant an extension of service beyond retirement age, but they did not entitle a staff member to such a right, UNRWA had properly exercised its discretionary authority and there was no evidence of arbitrariness, prejudice, procedural irregularity or error of law which could have tainted the impugned decision.

Legal Principle(s)

Judicial review is more concerned with examining how the decision-maker reached the impugned decision and not the merits of the decision-maker's decision. Due deference is always shown to the decision-maker. As part of its judicial review, it is necessary to determine whether the decision was vitiated by bias or bad faith, that is if it was taken for an improper purpose. An administrative decision must be reasoned for the Tribunals to have the ability to perform their judicial duty to review administrative decisions and to ensure the protection of individuals. A harmful administrative decision must be fully and adequately motivated with reasoning, which is sufficiently clear, precise, and intelligible; generic reasoning befitting every case is not enough and renders the decision unlawful.

Outcome

Appeal granted in part

Outcome Extra Text

Reinstatement or financial compensation.

Full judgment

[Full judgment](#)

Applicants/Appellants

Jafari

Entity

UNRWA

Case Number(s)

2019-1222

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Jun 2019

President Judge

Judge Raikos

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Reasons

Applicable Law

UNAT Statute

- Article 9.1(a)

UNRWA Area Staff Rules

- Rule 109.2

UNRWA DT Statute

- Article 10.5(b)

UNRWA Personnel Directives

- PD A/9/Rev.10