

2019-UNAT-937, Alhawi

UNAT Held or UNDT Pronouncements

UNAT held that while the UNRWA DT decision could have had an indirect impact on the Appellant's terms of appointment or contract, a direct effect is needed in order to allow a staff member to contest an adverse administrative decision. UNAT held that the fact that UNRWA granted the change of modality of contract to the other individual did not have any bearing on the outcome of the UNRWA DT decision, because the application was dismissed on receivability grounds. UNAT held that UNRWA DT did not err in any of its factual findings resulting in a manifestly unreasonable decision. UNAT held that UNRWA DT did not err in its legal conclusion that the administrative decision of UNRWA to change the modality of the contract of a third party was a discretionary one, having no direct impact on the Appellant's terms of appointment or contract, and thus led to the finding that the application was not receivable. UNAT dismissed the appeal and upheld the UNRWA DT judgment.

Decision Contested or Judgment/Order Appealed

UNRWA DT judgment: The Applicant contested the decision to grant an Individual Service Provider contract for the position of Assistant Professor English Literature and Linguistics to an individual who had been employed on a limited-duration contract as an Assistant Professor – English Language. The Appellant was serving against the post of Assistant Professor English Literature and Linguistics on an acting basis and applied as soon as the vacancy was announced; however, after having gone through the recruitment process, he was made the second priority candidate for the post. UNRWA DT found that the decision not to advertise the post, but rather to hire another individual for the post, was a discretionary decision, which did not have any direct consequence for the Applicant's terms of appointment of contract. UNRWA DT ultimately held that the Applicant's expectation that a post, for which he wanted to apply, would become vacant did not give him legal standing to contest the decision. UNRWA DT held that the application was not receivable.

Legal Principle(s)

UNAT is not an instance for a party to reargue a case without identifying the defects and demonstrating on which grounds an impugned first instance tribunal judgment is erroneous.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Alhawi

Entity

UNRWA

Case Number(s)

2019-1233

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Jun 2019

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Selection decision

Applicable Law

UNAT Statute

- Article 2.1