

2019-UNAT-971, Al-Refaea

UNAT Held or UNDT Pronouncements

UNAT held that the appeal was defective for failure to identify errors made by UNRWA DT. However, noting that the Appellant was self-represented, UNAT considered whether UNRWA DT erred in finding that UNRWA had properly exercised its discretion in transferring the Appellant. UNAT held that UNRWA DT did not err in jurisdiction, procedure, law, or in fact in dismissing the Appellant's application. UNAT upheld UNRWA DT's finding that the Appellant did not meet the burden of proving that the decision to transfer him to another post after the abolition of his post was exercised arbitrarily or capriciously, was motivated by prejudice or other extraneous factors, or was flawed by procedural irregularity or an error of law. UNAT held that UNRWA DT reasonably found that there was no obligation on UNRWA to ensure that every staff member involved in a restructuring process will be placed in their location of choice or that they would retain the same post for the rest of their employment. UNAT held that given the transfer had been accepted by the Appellant, and in the absence of any duress or undue influence at the time of his acceptance of that offer, it would be inequitable to allow the Appellant to go back on his acceptance. UNAT held that UNRWA DT's finding did not result in a manifestly unreasonable decision. UNAT held that there was no justification for an award of compensation given that no illegality had been found. UNAT dismissed the appeal and affirmed the UNRWA DT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to transfer him to another post as a result of the abolition of his post. UNRWA DT dismissed the application.

Legal Principle(s)

The Tribunals will only interfere and rescind or modify a sanction imposed by the Administration where the sanction imposed is blatantly illegal, arbitrary, adopted beyond the limits stated by the respective norms, excessive, abusive, discriminatory, or absurd in its severity.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Al-Refaea

Entity

UNRWA

Case Number(s)

2019-1272

Tribunal

UNAT

Registry

New York

Date of Judgement

25 Oct 2019

President Judge

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abolition of post

Alternative appointment

Applicable Law

Agreements, conventions, treaties (etc.)

- Special Agreement between the UN and UNRWA