

2020-UNAT-1046, Ashhab

UNAT Held or UNDT Pronouncements

UNAT held that, although no performance evaluation process was legally required for termination, an appropriate procedure should have been followed. UNAT held that UNRWA failed to indicate that the contract would be terminated before its expiration date if the staff member did not improve his performance, and the lack of fair warning rendered the decision to terminate unlawfully. UNAT granted the appeal in part, rescinded the termination decision, and ordered reinstatement, with an in-lieu compensation of two months' net base salary.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to terminate his limited-duration contract for poor performance. UNRWA DT decided that UNRWA had acted in accordance with the regulatory framework and had established an adequate basis for the termination decision.

Legal Principle(s)

The UNRWA Commissioner-General has broad discretion to terminate a limited-duration contract in the interest of UNRWA before its expiration date. UNRWA must act in good faith and its decision must not be arbitrary or motivated by factors inconsistent with proper administration.

Outcome

Appeal granted in part

Outcome Extra Text

Reinstatement or financial compensation; Reinstatement or financial compensation

Full judgment

[Full judgment](#)

Applicants/Appellants

Ashhab

Entity

UNRWA

Case Number(s)

2019-1331

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Oct 2020

President Judge

Judge Neven

Language of Judgment

Arabic

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Appointment of Limited Duration

Performance management

Performance evaluation

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Unsatisfactory service

Applicable Law

UNRWA Area Staff Regulations

- Regulation 9.1
- Regulation 9.2
- Regulation 9.3
- Regulation 9.4

Related Judgments and Orders

2010-UNAT-084

2020-UNAT-1011