

2020-UNAT-1047, Orabi

UNAT Held or UNDT Pronouncements

UNAT considered an appeal of judgment No. UNRWA/DT/2019/070 by the Commissioner-General of UNRWA. UNAT held that UNRWA DT did not commit any error when it concluded that UNRWA had failed to consider the Applicant's personal and humanitarian reasons in the impugned decision. UNAT held that UNRWA DT correctly concluded that relevant matters (personal and humanitarian reasons) had been ignored in the exercise of the Commissioner-General's discretion. UNAT dismissed the appeal and affirmed the UNRWA DT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to transfer him to another post and to transfer another colleague instead. The Applicant had requested the transfer for humanitarian and personal reasons. In judgment No. UNRWA/DT/2018/026, UNRWA DT dismissed the application, considering that UNRWA had correctly applied the relevant rules in granting the request for transfer to another colleague based on her seniority. In judgment No. 2018-UNAT-884, UNAT vacated judgment No. UNRWA/DT/2018/026 and remanded the matter back to UNRWA DT. In judgment No. UNRWA/DT/2020/070, UNRWA DT held that UNRWA clearly failed to fulfill its obligation to balance the conflicting interests arising from the humanitarian or personal reasons for the transfer requests of the concerned staff members and that the Applicant's personal and humanitarian reasons had not been taken into consideration by UNRWA. UNRWA DT concluded that the impugned decision was unlawful, ordered it to be rescinded, and for a new decision to be taken on the Applicant's request for transfer.

Legal Principle(s)

When judging the validity of the Secretary-General's exercise of discretion in administrative matters, UNDT determines if the decision is legal, rational, procedurally correct, and proportionate, and in doing so, UNDT may consider whether relevant matters have been ignored and irrelevant matters considered, or whether the decision is absurd or perverse.

Outcome

Appeal dismissed on merits

Outcome Extra Text

No relief ordered; No relief ordered

Full judgment

[Full judgment](#)

Applicants/Appellants

Orabi

Entity

UNRWA

Case Number(s)

2020-1355

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Oct 2020

President Judge

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Reassignment or transfer
Discretion

Applicable Law

Other UN issuances (guidelines, policies etc.)

- Field Technical Instructions No. 01/2016 (Lateral Transfers Initiated at the Request of Staff, Lebanon Field Office)

Related Judgments and Orders

2015-UNAT-549