

2021-UNAT-1086, Loubani

UNAT Held or UNDT Pronouncements

UNAT disagreed with UNRWA DT and found the supervisor's request to the Agency to grant the staff member a special allowance also constituted an implicit request from the staff member himself. UNAT reasoned that not only did the supervisor act upon the express request of the staff member when he sent the recommendation to the Agency, but it was also apparent and self-understood that both the staff member and the supervisor were a party to the process. Additionally, in this particular case, it is the staff member who followed up with the Agency regarding the status of the supervisor's request. UNAT also held that UNRWA DT erred in only addressing the special allowance claim in the staff member's application and did not address his claim regarding his change in duties and responsibilities. UNAT reiterated that a PD, particularly after a restructuring process, can constitute an administrative decision that may be appealed, provided it is within the time limits. Finally, UNAT also held that signing the new PD in this particular case only implied the staff member was informed of the duties and responsibilities attached to his post, it did not mean that he was in agreement with the assignments contained therein. The case was remanded to UNRWA DT for consideration on the merits.

Decision Contested or Judgment/Order Appealed

Following a restructuring exercise, a staff member requested an updated Post Description (PD) from the Agency because his functions had changed. He approached his supervisor and asked that he receive a special allowance to account for the additional duties and responsibilities he had been assigned. His supervisor agreed and made the request on his behalf, following the procedure outlined in the Area Staff Personnel Directive. Having not heard back regarding his supervisor's request, he sought a decision review from the Director of Human Resources (DHR) as to why he did not receive the special allowance. The DHR confirmed the decision of the Agency not to grant him a special allowance and informed him that he could appeal her decision. The staff member filed an application with UNRWA DT in which

he complained that he was assigned additional duties and responsibilities in his new PD and that he was not given a title change or a special allowance. UNRWA DT dismissed the application as not receivable *ratione materiae* because the staff member did not personally request the Agency to grant him a special allowance. He only asked his supervisor to make the request on his behalf. As such, UNRWA DT reasoned there was no administrative decision, implied or explicit, that the staff member was entitled to contest.

Legal Principle(s)

When a supervisor is following a procedure outlined by the Administration and is acting upon the express request of a staff member to seek an entitlement or benefit, it is implied that the staff member is a party in the process. As such, the staff member has a right to appeal the decision of the Administration, even though he did not personally make the request, but instead, his supervisor made it, at his request.; Changes in a Post Description, especially after a restructuring process, can constitute an administrative decision that may be appealed, provided it is within the time limits.; Depending on the language in a Post Description (PD), signing a PD usually means a staff member has been informed of the duties and responsibilities listed on the PD, not that he or she is in agreement with the contents of the PD.

Outcome

Case remanded

Outcome Extra Text

UNAT remanded the case to UNRWA DT for consideration on the merits.

Full judgment

[Full judgment](#)

Applicants/Appellants

Loubani

Entity

UNRWA

Case Number(s)

2020-1401

Tribunal

UNAT

Registry

New York

Date of Judgement

19 Mar 2021

President Judge

Judge Knierim

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Definition

Benefits and entitlements

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

UNAT Statute

- Article 2.1

UNRWA DT Statute

- Article 2

UNRWA Personnel Directives

- PD A/3

Related Judgments and Orders

2016-UNAT-690

2017-UNAT-759