

2022-UNAT-1241, Dua Fayez Al Smadi

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by Ms. Al Smadi. UNAT found the UNRWA DT erred in its finding that a letter Ms. Al Smadi received to her reclassification request on 17 August 2017 was an administrative decision. The only interpretation of this letter was that it was not a decision that had any legal effect or consequences on Ms. Al Smadi's terms and conditions of appointment. It was simply a notification that Ms. Al Smadi's reclassification request was still being reviewed but that the review had not been "finalized" or decided upon as of that date. The letter she received on 29 July 2019 was, on the other hand, a decision wherein UNRWA's Field Human Resource Office in Jordan notified Ms. Al Smadi that her reclassification had been reviewed but could not be "accommodated", namely, the review of her reclassification request had been finalized but the request was not granted. This was the administrative decision and not a "reiteration of an earlier decision". It was a clear and unambiguous decision that had a legal effect on Ms. Al Smadi's terms and conditions of employment and a definitive response to her request for reclassification that was finally communicated to Ms. Al Smadi. Because the 17 August 2017 letter was not an administrative decision, but the 29 July 2019 letter was, the UNRWA DT factually erred resulting in a manifestly unreasonable decision when it found the 29 July 2019 decision was not a new decision but was merely a "reiteration of the 17 August 2017 decision". Further, the UNRWA DT provided no probative reasons or analysis to support this factual finding as the language and content of the two letters were clearly different. Therefore, Ms. Al Smadi's request for review of the decision of 29 July 2019 was not time barred, as it was filed on 21 August 2019 within the 60-day time limit set forth in Staff Rule 111.2 of the Area Staff Rules. The appeal was granted, and Judgment on Receivability was reversed. The application before the UNRWA Dispute Tribunal should be considered as filed.

Decision Contested or Judgment/Order Appealed

Ms. Al Smadi challenged the decision of UNRWA not to reclassify her post as Deputy Head Health Centre "A". UNRWA DT in its Judgment on Receivability No. UNRWA/DT/2021/17, held her application was not receivable *ratione materiae* for failure to submit a timely request for decision review.

Legal Principle(s)

The Dispute tribunal is limited to hearing appeals against "administrative decisions". An "appealable administrative decision is a decision whereby its key characteristic is the capacity to produce direct legal consequences affecting a staff member's terms and conditions of appointment" (Article 2(1) of the UNDT Statute).

Outcome

Appeal granted

Outcome Extra Text

UNRWA DT Judgment is reversed. Ms. Al Smadi's application before that tribunal was receivable and should be considered.

Full judgment

[Full judgment](#)

Applicants/Appellants

Dua Fayez Al Smadi

Entity

UNRWA

Case Number(s)

2021-1568

Tribunal

UNAT

Registry

New York

Date of Judgement

18 Jul 2022

President Judge

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Management Evaluation

Subject matter (ratione materiae)

Classification (post)

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

UNDT Statute

- Article 2.1

Related Judgments and Orders

2021-UNAT-1102

2019-UNAT-967

2017-UNAT-746

2010-UNAT-079