

2023-UNAT-1322, Ronahi Majdalawi

UNAT Held or UNDT Pronouncements

UNAT held that UNRWA DT exercised its discretion to proceed by summary judgment lawfully and appropriately.

UNAT held that the UNRWA DT erred when it decided that the Appellant's application was not receivable *ratione materiae*. UNAT noted that the case was almost identical to *Osama Abed & Eman Abed v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East* (Judgment No. 2022-UNAT-1297). Consistent with this Judgment, UNAT held that the placement of a letter reminding the Appellant of her obligation to behave at all times in a manner befitting her status as a staff member of the Agency amounted to a reprimand, which was an administrative decision, since it contained an element of reproach. The direct legal consequence of the letter was its placement in the Appellant's Official Status File with possible impact on her future career prospects. The UNAT also observed that it had not been established that there was sufficient evidence to justify the placement of the letter in her OSF.

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

Decision Contested or Judgment/OrderAppealed

The Appellant, an Assistant Professor at the Faculty of Educational Sciences and Arts of UNRWA, contested the decision of the Agency to serve her with an advisory letter and to place a copy in her Official Status File. In its summary Judgment No. UNRWA/DT/2022/006, the UNRWA DT dismissed her application as not receivable *ratione materiae* due to the fact that the contested decision was not an appealable administrative decision.

Legal Principle(s)

Summary judgment is an appropriate tool to deal with issues of receivability which are matters of law and not of fact. Pursuant to Article 5 of the UNRWA DT Rules of Procedure, the UNRWA DT has the discretion, on its own initiative, to proceed by way of summary judgment when there is no factual dispute and the judgment is a matter of law.

The key element of an appealable administrative decision is that it must produce direct legal consequences affecting the staff member's terms or conditions of appointment. What constitutes an administrative decision will depend on the nature of the decision, the legal framework under which the decision was made, and the consequences of the decision.

UNRWA's legal framework establishes a difference between certain measures, which are considered to be of a disciplinary nature such as in UNRWA Area Staff Rule 110.1 and other lighter administrative measures, which are not considered disciplinary. Paragraphs 42 and 43 of UNRWA Area Personnel Directive No. A/10/Rev.3 regulate administrative decisions that are not disciplinary measures, such as reprimands. Reprimands are used to address minor infractions and they contain all the key elements to characterize them as reviewable administrative decisions.

A reminder in an Official Status File cannot be considered a neutral action but rather a warning of any possible disregard of the Agency's regulatory framework which amounts to a reprimand.

Outcome

Appeal granted; Case remanded

Full judgment

[Full judgment](#)

Applicants/Appellants

Ronahi Majdalawi

Entity

UNRWA

Case Number(s)

2022-1674

Tribunal

UNAT

Registry

New York

Date of Judgement

13 Apr 2023

President Judge

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Non-disciplinary/administrative measures

Subject matter (ratione materiae)

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

UNAT Statute

- Article 2.1

- Article 2.10
- Article 5

UNRWA Area Staff Regulations

- Regulation 1.4

UNRWA Area Staff Rules

- Rule 110.1

UNRWA DT Statute

- Article 2.1

UNRWA Personnel Directives

- PD A/10

Related Judgments and Orders

2014-UNAT-457

2010-UNAT-058

2014-UNAT-460

2014-UNAT-404

2013-UNAT-304

2013-UNAT-313

2013-UNAT-365

2018-UNAT-833

2015-UNAT-557