

2023-UNAT-1356, Ezzedine Loubani

UNAT Held or UNDT Pronouncements

The UNAT considered an appeal by the Commissioner-General of the UNRWA.

The UNAT found that by the Commissioner-General had been ordered to take a new decision with respect to the staff member's request in view of the increase in his managerial and budgetary duties and responsibilities.

The UNAT was of the view that the Commissioner-General had not been specifically ordered to upgrade his post or to grant him a special allowance; the UNRWA DT had deemed it to be within the discretion of the Commissioner-General to decide whether or not he should be compensated.

The UNAT noted that the Commissioner-General had issued a new decision, thoroughly reviewing the staff member's duties and responsibilities and found that the increase in Mr. Loubani's managerial and budgetary duties was minimal and did not justify granting him a special allowance. In this situation, it had been erroneous of the UNRWA DT to grant Mr. Loubani's motion for execution of its earlier judgment, because the latter judgment had already been properly executed.

The UNAT also held that the UNRWA DT erroneously found that the Commissioner-General had engaged in abuse of process and there should have been no award of costs against UNRWA.

The UNAT granted the appeal and reversed Judgment No. UNRWA/DT/2022/030.

Decision Contested or Judgment/Order Appealed

A staff member filed an application to the UNRWA DT for execution of its prior judgment.

In Judgment No. UNRWA/DT/2022/030, the UNRWA DT ordered the UNRWA to execute the prior judgment by upgrading the staff member's post or granting him an appropriate special allowance, and to pay him costs for manifestly abusing the proceedings before the UNRWA DT. The UNRWA DT found that, in the prior judgment, it had held that he should be compensated in view of a "remarkable increase" in his responsibilities, and his new post description included new responsibilities. The UNRWA DT noted that it could reasonably only have been understood that the UNRWA was to take a new decision upgrading his post or granting him an appropriate special allowance.

Legal Principle(s)

It is within the discretion of the Agency to decide whether a staff member should be compensated for additional job duties; the Tribunal may only give guidance with regard to the circumstances that the Agency should consider when taking a new decision.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Ezzedine Loubani

Entity

UNRWA

Case Number(s)

2022-1719

Tribunal

UNAT

Registry

New York

Date of Judgement

17 Jul 2023

President Judge

Judge Knierim

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abuse of process before UNDT/UNAT

TEST -Rename- Benefits and entitlements-45

Discretionary authority

Execution of Judgment

Judgment-related matters

Applicable Law

None