

2023-UNAT-1363, Mohammad Eid

UNAT Held or UNDT Pronouncements

The UNAT considered an appeal by the Commissioner-General.

The UNAT found that the UNRWA DT erred in its determination.

The UNAT was of the view that in accordance with the Area Staff Rules, which provided for the application of the last published interest rate up to and including the month immediately preceding payment to the calculation of a staff member's Provident Fund benefits. Given that the staff member made his request on 23 December 2020, the applicable legal instrument in the present case was PFS/19/2020 issued on 12 December 2020, and not PFS/20/2020 issued on 13 January 2021 as found by the UNRWA DT. When the staff member made his request, the only existing legal instrument was the circular issued on 12 December 2020.

The UNAT noted that it had been incumbent on the staff member to have acquainted himself with the Area Staff Regulations and Rules and their import before exercising his right to request a total withdrawal of his fund benefits and that there had been no breach of the duty of good faith or duty of care.

The UNAT granted the appeal and reversed Judgment No. UNRWA/DT/2022/023.

Decision Contested or Judgment/Order Appealed

A former staff member contested the decision with respect to the calculation and the amount of his UNRWA Provident Fund benefits, namely the appropriate interest on his fund credits.

In Judgment No. UNRWA/DT/2022/023, the UNRWA DT rescinded the contested decision and ordered the UNRWA to pay to the staff member the difference in the payable amount of interest. The UNRWA DT found that the interest rate provided in the fund secretariat circular PFS/20/2020 issued 13 January 2021, not the interest

rate provided in PFS/19/2020 issued on 12 December 2020, was applicable to his fund credits, the withdrawal of which he had requested on 23 December 2020.

Legal Principle(s)

The duty of good faith on the Administration includes responding appropriately to requests from participants of funds or beneficiaries for information regarding the exercise of their choice of benefit options. By the same token, it is the staff member's responsibility to ensure that he or she is aware of the provisions of the Regulations and the Administrative Rules and ignorance of the law is no excuse.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Mohammad Eid

Entity

UNRWA

Case Number(s)

2022-1720

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Jul 2023

President Judge

Judge Raikos

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Pension (see also, UNJSPF)

Applicable Law

Other UN issuances (guidelines, policies etc.)

UNRWA Area Staff Rules

- Former Rule 106.1(16)

Related Judgments and Orders

2018-UNAT-830

2016-UNAT-664

2015-UNAT-594

2010-UNAT-067