

2023-UNAT-1387, Mazin Ismail Sadieh

UNAT Held or UNDT Pronouncements

The UNAT considered an appeal by the staff member.

The UNAT found that the staff member did not cite any provision of Article 2(1) of the UNAT Statute and did not indicate whether any errors by the UNRWA DT in his case related to its jurisdiction, the procedure, a question of law or a question of fact. The UNAT held that the appeal was defective and consequently not receivable.

The UNAT, nevertheless, reiterated its jurisprudence on some of the issues raised, and agreed with the way the UNRWA DT had determined the amount of in-lieu compensation. The UNAT also agreed with the UNRWA DT's analysis that a claim for compensation for moral damage had to be supported by evidence establishing a causal link between the contested decision and the moral damage alleged. Given the UNRWA DT's finding that the staff member's medical report was silent regarding the cause of his medical condition and that there was only his own testimony on the cause of his moral damage, the UNAT further agreed with the UNRWA DT's conclusion that the staff member had failed to discharge his burden of proof.

The UNAT dismissed the appeal.

Decision Contested or Judgment/Order Appealed

A staff member contested the decision to cancel his invitation to an interview.

In Judgment No. UNRWA/DT/2022/042, the UNRWA DT rescinded the contested decision, ordered compensation in lieu of rescission in the amount of JOD 100, and declined to award compensation for moral damage. It found that as the Commissioner-General admitted the shortcomings in the recruitment process, it did not need to address the merits of the non-selection and held that the contested decision was not lawfully taken. The UNRWA DT considered the salary difference between the two posts and a high chance of selection.

Legal Principle(s)

The UNAT has the discretion to determine whether to hold an oral hearing or not with the aim to deal with the case efficiently and fairly.

An appeal brief must articulate the aspects in which the lower Tribunal acted in excess of its competence, failed to exercise its jurisdiction, or committed an error of fact or law or error in procedure.

Upon an order of rescission or specific performance, the UNRWA DT is obliged to set an amount as compensation in lieu of rescission which the Commissioner-General may elect to pay.

A claim for compensation for moral damage must be supported by evidence which must establish a causal link between the contested decision and the moral damage alleged. The onus to do so is on the claimant.

Outcome

Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

Mazin Ismail Sadieh
Entity
UNRWA
Case Number(s)
2022-1745
Tribunal
UNAT
Registry
New York
Date of Judgement
22 Nov 2023
President Judge
Judge Sandhu
Judge Ziadé
Judge Forbang
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Compensation
Burden of proof
Evidence of harm
In-lieu compensation
Non-pecuniary (moral) damages
Jurisdiction / receivability (UNAT)
Appeal
Procedure (first instance and UNAT)
Oral hearings
Applicable Law
UNAT RoP

- Article 18.1
- Article 8.2

UNAT Statute

- Article 2.1
- Article 8.3
- Article 10.5

UNRWA DT Statute

- Article 10.5

Related Judgments and Orders

2023-UNAT-1364
2015-UNAT-592
2018-UNAT-853
2016-UNAT-610
2021-UNAT-1165

2019-UNAT-899
2022-UNAT-1214