

2023-UNAT-1383, Mazen Qassem

UNAT Held or UNDT Pronouncements

As a preliminary matter, the UNAT dismissed Mr. Qassem's request for an oral hearing. The UNAT found that the factual and legal issues arising from the appeal had been clearly defined by the parties and moreover, an oral hearing would not "assist in the expeditious and fair disposal of the case".

The UNAT found that since Mr. Qassem's fixed-term appointment was extended beyond 31 March 2020, with no effect given to the initial administrative decision not to renew his employment beyond this date, the UNDT did not err in finding that the application was moot since the administrative decision not to renew his contract had been rescinded. Upon such rescission of the administrative decision, the unlawfulness alleged by Mr. Qassem no longer existed when his appointment was extended beyond 31 March 2020.

The UNAT found that Mr. Qassem also did not show that he suffered any harm as a result of the contested decision or its rescission. Having continued to receive his full salary and benefits until his termination for health reasons in May 2021, he was unable to prove that he had sustained any injury for which the Dispute Tribunal could award relief.

The UNAT thus dismissed the appeal and affirmed the UNDT Judgment.

Decision Contested or Judgment/Order Appealed

Before the UNDT, Mr. Qassem challenged the decision not to renew his fixed-term appointment beyond 31 March 2020 (contested decision).

By Judgment No. UNDT/2022/095, the UNDT found that the challenge of the contested decision was moot given that Mr. Qassem's appointment had been extended beyond 31 March 2020. The UNDT further found that his appointment was subsequently terminated based on reasons of health but noted that Mr. Qassem had

not challenged that decision. The UNDT thus dismissed the application.

Legal Principle(s)

The Appeals Tribunal's determination of requests for oral hearings is guided by Article 8(3) of the UNAT Statute and Article 18(1) of the UNAT Rules of Procedure.

In terms of Article 2(1)(a) of the UNDT Statute, the UNDT is competent to hear and pass judgment on an application filed by an individual to appeal an administrative decision that is alleged not to comply with their terms of appointment or the contract of employment.

Where no live issue remains, an application is moot and not receivable. Reliance on the concept of mootness ensures that the Dispute Tribunal does not give advisory opinions on abstract propositions of law where an application no longer presents an existing or live controversy which requires determination. Where the alleged unlawfulness has been eliminated, a matter may only be considered not to be moot where the applicant can prove that he or she still sustains an injury for which the Tribunal can award relief.

In terms of Article 2(1) of the UNAT Statute, this Tribunal is competent to hear and pass judgment on an appeal filed against a judgment of the UNDT in which it has exceeded its jurisdiction or competence, failed to exercise the jurisdiction vested in it, erred on a question of law, committed an error in procedure, such as to affect the decision of the case, or erred on a question of fact, resulting in a manifestly unreasonable decision. The appellant has the burden of satisfying the UNAT that the judgment rendered by the UNDT is defective.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Mazen Qassem

Entity

UNDP

Case Number(s)

2022-1759

Tribunal

UNAT

Registry

New York

Date of Judgement

20 Nov 2023

President Judge

Judge Colgan

Judge Gao

Judge Savage

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Procedure (first instance and UNAT)

Oral hearings

Applicable Law

UNAT RoP

- Article 18.1

UNAT Statute

- Article 2.1
- Article 8.3
- Article 2.1(a)

UNDT Statute

Related Judgments and Orders

2017-UNAT-742

2014-UNAT-412

2021-UNAT-1104

2017-UNAT-793