

2024-UNAT-1413, Khaled Hejab, et al.

UNAT Held or UNDT Pronouncements

The UNAT held that the UNRWA DT erred in consolidating the seven cases. The consolidated cases involved unique administrative decisions, and those decisions involved neither a common administrative policy nor a common set of facts. The nature of the misconduct attributed to the staff members was not similar among the cases. The cases concerned staff from different UNRWA field offices. The disciplinary measures taken were not identical among the cases, but included a wide range of penalties. The standards of proof for the misconduct alleged in case varied.

The UNAT disagreed with the UNRWA DT's conclusion that there was a fundamental commonality among the disciplinary letters in terms of the disciplinary letters containing no factual findings at all or were at a high level of generality. The UNAT held that the cases were not identical with respect to the Opportunity to Respond (OTR) letters and the Disciplinary Measure (DM) letters.

Given the widely varying underlying allegations of misconduct and disciplinary measures, the divergent details of the OTR and DM letters, and the variations in burden of proof, the Appeals Tribunal concluded that the UNRWA DT erred in consolidating these matters to a degree that impaired the fair administration of justice.

The UNAT granted the Commissioner-General's appeal and reversed and remanded the UNRWA DT judgment.

Decision Contested or Judgment/Order Appealed

In Judgment No. UNRWA/DT/2022/060, the UNRWA DT issued a judgment which consolidated seven applications that challenged disciplinary measures imposed on seven staff members of UNRWA. The UNRWA DT rescinded all the contested

disciplinary decisions on the grounds that the Agency's disciplinary measure (DM) letters did not provide adequate information for the Tribunal to determine whether the contested decisions were lawful. The UNRWA DT set compensation in lieu of rescission at two years' net base salary for two of the prevailing staff members.

The Commissioner-General appealed the consolidation of the seven cases. Mr. Hejab cross-appealed the amount of in-lieu compensation.

Legal Principle(s)

The UNAT will not lightly interfere with case management decisions by the Dispute Tribunals. However, the Appeals Tribunal has the authority and responsibility to correct egregious errors in procedure that have impaired the fair administration of justice.

If individual cases do not involve a common administrative decision or policy, or do not arise out of a common set of facts, consolidation of the cases risks denying all parties – staff as well as the employing institution – their right to an individualized determination based on the facts and circumstances of their particular matters, and the legal criteria applicable to the actions taken with regard to them.

If consolidation of cases leads to a denial of due process of law or impairs the fair administration of justice, it will not be allowed to stand.

Outcome

Appeal granted, Case remanded

Outcome Extra Text

The consolidated cases are remanded to the UNRWA DT with instructions for a different judge to adjudicate each case separately. The cross-appeal is moot.

Full judgment

[Full judgment](#)

Applicants/Appellants

Khaled Hejab, et al.

Entity

UNRWA

Case Number(s)

2023-1784

Tribunal

UNAT

Registry

New York

Date of Judgement

19 Apr 2024

President Judge

Judge Ziadé
Judge Sandhu
Judge Sheha

Language of Judgment

English
Arabic

Issuance Type

Judgment

Categories/Subcategories

Case management

Procedure (first instance and UNAT)

Applicable Law

UNAT Statute

- Article 2.3
- Article 2.6

UNRWA DT RoP

- Article 14

Related Judgments and Orders

2020-UNAT-1018

2020-UNAT-1022

2022-UNAT-1194