



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2025-UNAT-1520

**Shahd Ghabbash
(Appellant)**
v.
**Commissioner-General
of the United Nations Relief and Works Agency
for Palestine Refugees in the Near East
(Respondent)**

JUDGMENT

Before:	Judge Leslie F. Forbang, Presiding Judge Katharine Mary Savage Judge Abdelmohsen Sheha
Case No.:	2024-1899
Date of Decision:	21 March 2025
Date of Publication:	23 April 2025
Registrar:	Juliet E. Johnson

Counsel for Appellant:	Amer Abu-Khalaf, LOSA
Counsel for Respondent:	Stephen Margetts

JUDGE LESLIE F. FORBANG, PRESIDING.

1. Ms. Shahd Ghabbash, a staff member of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA or Agency), contested the decision not to grant her request to be transferred from the West Bank Field Office (WBFO) to the Jordan Field Office (JFO).
2. By Judgment No. UNRWA/DT/2024/004 (impugned Judgment),¹ the UNRWA Dispute Tribunal (UNRWA DT) dismissed the application on the merits.
3. Ms. Ghabbash lodged an appeal of the impugned Judgment with the United Nations Appeals Tribunal (Appeals Tribunal or UNAT).
4. For the reasons set out below, the Appeals Tribunal dismisses the appeal and affirms the impugned Judgment.

Facts and Procedure²

5. Ms. Ghabbash joined the Agency on 2 January 2018.³ At the material time, she held the position of Dental Surgeon, Grade HLO6, at the Shufat Health Centre, WBFO.
6. On 16 March 2022, Ms. Ghabbash submitted a Request for Change of Official Duty Station from the WBFO to the JFO (Transfer Request). She specified that the reason for her request was “[g]etting married and to be relocated with husband to his residence country (Jordan)”.⁴ The Transfer Request form required the approval of both the releasing and receiving offices, i.e. WBFO and JFO, respectively.
7. On 18 May 2022, the Director of UNRWA Affairs, Jordan (DUA/J) announced via an e-mail to JFO staff a “roadmap” designed to reduce the number of Daily-Paid Workers (DPW) by envisaging hiring 293 positions on a fixed-term basis (DPW Roadmap).⁵ The announcement said that “having more posts on fixed term basis will provide more sustainable employment and welfare

¹ *Ghabbash v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment dated 18 January 2024.

² Summarized from the impugned Judgment as relevant to the appeal.

³ Impugned Judgment, para. 5.

⁴ *Ibid.*, para. 6.

⁵ *Ibid.*, para. 7.

to staff”. The aim was to fill 70 posts by the end of 2022. Frontline health team specialists were identified as a priority function.

8. On 13 July 2022, Ms. Ghabbash e-mailed the Chief Field Health Programme, WBFO (C/FHP/WBFO), referring to her Transfer Request and informing that she was aware of a possible vacancy in Jordan.⁶ She stated that her fiancé would not be able to enter the Palestinian territories, so it was their last resort to reside in Jordan. Her e-mail was forwarded to the Head Field Human Resources Office, JFO (H/FHRO/JFO) on 14 July 2022.

9. On 24 July 2022, the H/FHRO/JFO e-mailed the C/FHP/WBFO, stating that Ms. Ghabbash should be advised to liaise with WBFO Human Resources “to initiate the transfer on humanitarian grounds”.⁷ The H/FHRO/JFO further advised the C/FHP/WBFO in the e-mail:

I should add that while JFO might have a possibility to accommodate this transfer, it would be conditional on her ability to secure a residence/work permit in Jordan, on the governmental clearance, and of course the final approval of the DUA in Jordan.

10. On 1 August 2022, Ms. Ghabbash was married and moved to Amman, Jordan.⁸

11. On 11 August 2022, a WBFO staff member informed the C/FHP/WBFO that the Transfer Request was “approved”.⁹

12. On 22 August 2022, the H/FHRO/JFO attended a meeting with the Area Staff Union (ASU) to discuss the implementation of the DPW Roadmap.¹⁰ At that time, 50 teachers had been hired in accordance with the DPW Roadmap, and 20 posts from other functions were intended to be filled by the end of the year.

13. On 16 September 2022, the Director of UNRWA Affairs, West Bank (DUA/WB) signed the Transfer Request, marking it “Supported”.¹¹

⁶ *Ibid.*, para. 8.

⁷ *Ibid.*, para. 9.

⁸ *Ibid.*, para. 10.

⁹ *Ibid.*, para. 11.

¹⁰ *Ibid.*, para. 12.

¹¹ *Ibid.*, para. 13.

14. On 2 October 2022, Ms. Ghabbash, at her request, went on Special Leave Without Pay (SLWOP), scheduled until 2 October 2023.¹²

15. On the same day, the Human Resources Services Officer, WBFO (HRSO/WBFO) sent the Transfer Request by e-mail to the Staff Services Officer, JFO (SSO/JFO), noting that Ms. Ghabbash had relocated to Jordan due to her marriage.¹³

16. Also on 2 October 2022, in response to Ms. Ghabbash's request for an update, the SSO/JFO advised that their office would update her after they reviewed her application.¹⁴

17. The Transfer Request was subsequently forwarded to the Field Oral Health Services Officer, JFO (FOHSO/JFO), with a copy to the H/FHRO/JFO who had enquired about a dental surgeon vacancy at Kraymeh Health Centre (KHC Post) as a prospective post for Ms. Ghabbash at JFO.¹⁵

18. On 12 October 2022, the FOHSO/JFO e-mailed the SSO/JFO, stating:¹⁶

Principally, HD [Health Department] has no reservations on this transfer, however, and to make things clear to all including our colleague from West Bank Field, please note the following[.]

19. The e-mail then set out certain requirements for Ms. Ghabbash's transfer—including that she would need (i) a license to practice dentistry in Jordan, and (ii) membership in the Jordanian Dental Association (JDA)—and provided more detailed information about the KHC Post.¹⁷ The FOHSO/JFO asked that the information be shared with Ms. Ghabbash. The SSO/JFO forwarded the e-mail to the HRSO/WBFO.

20. On 18 October 2022, the H/FHRO/JFO attended a further meeting with the ASU to discuss ongoing implementation of the DPW Roadmap.¹⁸ At the request of the Head of the ASU (H/ASU), it was agreed that one dental surgeon post would be included among the 20 posts to be filled under the DPW Roadmap by the end of 2022.

¹² *Ibid.*, para. 14.

¹³ *Ibid.*, para. 15.

¹⁴ SSO/JFO's 2 October 2022 e-mail.

¹⁵ Impugned Judgment, para. 15.

¹⁶ *Ibid.*, para. 16.

¹⁷ *Ibid.*

¹⁸ *Ibid.*, para. 17.

21. On 19 October 2022, the SSO/JFO sent a follow-up email to the HRSO/WBFO, noting that they were waiting for the HRSO/WBFO's response regarding the KHC Post since the Health Department, JFO, was intending to fill the post.¹⁹

22. On 20 October 2022, the HRSO/WBFO texted Ms. Ghabbash the KHC Post details that had been provided by the FOHSO/JFO on 12 October 2022.²⁰

23. On 25 October 2022, the HRSO/WBFO sent to the SSO/JFO documents which included a copy of Ms. Ghabbash's Jordanian passport issued in July 2021, an exam certificate dated January 2015 issued by the Jordanian Medical Council, and invoices from the JDA in relation to membership which had expired in 2019.²¹

24. On 27 October 2022, Ms. Ghabbash received two phone calls from the Field Human Resources Office, JFO.²² She was advised that she would start at the KHC Post "as soon as they receive her papers"—(i) JDA membership, (ii) a Jordanian dental practice licence, and (iii) Jordanian permanent residency—and that her pregnancy would not affect her situation and she would be able to use maternity leave. On 1 November 2022, Ms. Ghabbash renewed her JDA membership and Jordanian dental practice licence. In another phone call, on 3 November 2022, the SSO/JFO told her that there was an "issue regarding her transfer" and advised her "not to deliver any papers".

25. On 8 November 2022, Ms. Ghabbash texted the SSO/JFO, requesting an update on her Transfer Request.²³ The SSO/JFO responded that it was pending, and she would be updated once the matter was decided. The SSO/JFO did not respond to her several subsequent requests for an update. On 15 November 2022, the SSO/JFO informed Ms. Ghabbash that her Transfer Request was under review by the H/FHRO/JFO.²⁴

26. On 27 November 2022, Ms. Ghabbash received the contested decision.²⁵ In the e-mail, forwarded to her by the HRSO/WBFO, the SSO/JFO informed that

¹⁹ *Ibid.*, para. 18.

²⁰ *Ibid.*, para. 19.

²¹ *Ibid.*, para. 20.

²² *Ibid.*, paras. 21-22 and 24.

²³ *Ibid.*, paras. 25-26.

²⁴ SSO/JFO's 15 November 2022 e-mail.

²⁵ Impugned Judgment, para. 27. It appears that the KHC Post was filled from a roster of dental surgeons (*ibid.*, para. 50).

(...) her request could not be accommodated due to the fact that we have a commitment to the road map to fill the post from our valid waiting list of Dental Surgeons. In future she is encouraged to apply and based on availability of vacant post her application will be given due consideration.

27. On 30 November 2022, Ms. Ghabbash submitted a Request for Decision Review (RDR).²⁶

28. On 1 December 2022, the SSO/JFO e-mailed her, stating:²⁷

At the beginning [the Field Human Resources Office, JFO] with good intention asked you to prepare the requested documents to prepare for the potential transfer from West Bank to JFO but at the end it was decided to fill the post from our valid waiting list for Dental Surgeons to fulfil our commitment on the daily paid road map.

29. On 22 December 2022, the Officer in Charge, UNRWA Affairs, Jordan, responded to Ms. Ghabbash's RDR, upheld the contested decision and informed that she would be compensated for the full amount of fees she had paid to renew her membership in the JDA.²⁸ On 14 February 2023, the Associate Human Resources Officer, JFO, confirmed that the Agency would proceed to make her the respective payment in the amount of JOD²⁹ 721.92.

30. On 14 February 2023, Ms. Ghabbash filed her application with the UNRWA DT.

The impugned Judgment

31. By Judgment No. UNRWA/DT/2024/004 dated 18 January 2024, the UNRWA DT dismissed the application.

32. The UNRWA DT noted that UNRWA Field Technical Instruction 01/2016 concerning Lateral Transfers Initiated at the Request of Staff, Lebanon Field Office, only applied to lateral transfers within the Lebanon Field and therefore was not relevant to the instant application.³⁰

33. The UNRWA DT found that, given the Agency's broad discretion, the DPW Roadmap had been a valid basis under the Agency's regulatory framework to deny Ms. Ghabbash's Transfer Request, and there was no evidence that it had been pretextual.³¹ Information and documents,

²⁶ Impugned Judgment, para. 30.

²⁷ *Ibid.*, para. 31.

²⁸ *Ibid.*, paras. 32-33 and 35.

²⁹ Jordanian dinars.

³⁰ Impugned Judgment, para. 48.

³¹ *Ibid.*, para. 51 and footnote 11.

submitted upon the UNRWA DT's order, about the cause of the sudden "issue" that had arisen in relation to her Transfer Request did not indicate that the Agency's denial had anything to do with her pregnancy.

34. The UNRWA DT observed that the 27 October 2022 discussions would have raised Ms. Ghabbash's hopes that the Transfer Request would be granted.³² Moreover, the same individuals who were considering her request were involved in the implementation of the DPW Roadmap. The evidence indicates that, instead of a misunderstanding, the Agency changed its mind and decided not to proceed with her transfer as a result of ongoing negotiations with the ASU regarding the DPW Roadmap.

35. The UNRWA DT held, however, that Ms. Ghabbash knew at all times that any offer of transfer was conditional upon the final approval of the DUA/J.³³ This approval never occurred. Accordingly, she has failed to establish that the Agency abused its discretion by denying her Transfer Request.

36. The UNRWA DT found that the Agency had not acted unlawfully in asking Ms. Ghabbash to agree, in connection with the Agency undertaking to compensate her JDA membership fee, not to bring proceedings before the UNRWA DT or the Appeals Tribunal in relation to the matters referred to in the RDR.³⁴ She was free to decline the settlement offer (Undertaking), as she did.

37. Noting that the Commissioner-General had conceded that Ms. Ghabbash should be awarded compensation for the expenses she incurred in renewing her JDA membership, i.e. JOD 721.92, the UNRWA DT ordered compensation in the amount of JOD 721.92.³⁵ As she failed to establish that the Agency had abused its discretion or otherwise acted unlawfully, her request for additional material and moral damages is denied.

Procedure before the Appeals Tribunal

38. On 14 February 2024, Ms. Ghabbash filed an appeal of the impugned Judgment with the Appeals Tribunal, to which the Commissioner-General filed an answer on 15 April 2024.

³² *Ibid.*, para. 52.

³³ *Ibid.*, para. 53.

³⁴ *Ibid.*, para. 54.

³⁵ *Ibid.*, paras. 55-56.

Submissions

Ms. Ghabbash's Appeal

39. Ms. Ghabbash requests the Appeals Tribunal to reverse the impugned Judgment and order the Commissioner-General to approve her Transfer Request and compensate her for moral damage.

40. She argues that the UNRWA DT erred in matters of law and fact when it concluded that she had failed to establish that the Commissioner-General had abused discretion or otherwise acted unlawfully in denying her Transfer Request. The Commissioner-General created a legitimate expectation that her request would be granted. The UNRWA DT erred when it failed to take into account the facts.³⁶ The UNRWA DT's conclusion is not supported by the evidence. Furthermore, the UNRWA DT failed to consider that the expectation caused her to move to Jordan and apply for SLWOP in anticipation of the finalization of the approval of her Transfer Request. It should have concluded that the Commissioner-General had unfairly prejudiced her rights.

41. Ms. Ghabbash submits that the UNRWA DT erred in law and in fact when it held that the DPW Roadmap had been a valid basis to deny her Transfer Request. The DPW Roadmap does not indicate that its application is limited to Daily-Paid Workers.³⁷ The UNRWA DT did not consider the evidence. Furthermore, the UNRWA DT failed to consider that she had filed her request two months before the introduction of the DPW Roadmap and the relevant Human Resources officials at JFO were aware of the DPW Roadmap but never brought it to her attention. Additionally, the UNRWA DT failed to consider that there was nothing in the DPW Roadmap to suggest that transfers to JFO were put on hold and failed to appreciate that her Transfer Request had nothing to do with the implementation of the DPW Roadmap and should have been considered on the basis of the Area Staff Rules, not solely the DPW Roadmap.

42. Ms. Ghabbash further submits that the UNRWA DT erred when it failed to consider that the reliance on the DPW Roadmap had been pretextual and the Transfer Request had been denied

³⁶ Ms. Ghabbash points out that she was provided with information about the vacancy of the KHC Post; was encouraged to request the transfer on humanitarian grounds; was requested to provide documents pertaining to the vacancy of the KHC Post, which she did; incurred costs; and was told by the Human Resources staff at JFO that she would start work at KHC Post as a dental surgeon as soon as the documents requested were received.

³⁷ Ms. Ghabbash also refers to the DUA/J's 18 May 2022 e-mail.

because of her pregnancy. She received information of her Transfer Request having issues immediately after she notified the SSO/JFO of her pregnancy.

43. Ms. Ghabbash contends that the UNRWA DT erred when it held that the Commissioner-General had not acted unlawfully in asking her to sign the Undertaking. The UNRWA DT failed to consider that the Administration had made the offer in order to force her to forfeit her right to challenge the contested decision. The UNRWA DT argued the case for the Commissioner-General who had not denied that asking her to sign the Undertaking had been unlawful.

44. Ms. Ghabbash submits that the UNRWA DT erred in matters of law and fact when it refused to grant her claim for additional material and moral damages. The UNRWA DT failed to take into account that her claim was based on promises made to her. Without the Commissioner-General's promise that her Transfer Request would be granted, she would not have taken SLWOP. By taking SLWOP, she did not receive a salary for one year. Furthermore, the Commissioner-General caused Ms. Ghabbash to experience stress by having her wait over seven months for the resolution of her Transfer Request.

The Commissioner-General's Answer

45. The Commissioner-General requests the Appeals Tribunal to dismiss the appeal and affirm the impugned Judgment.

46. The Commissioner-General argues that the appeal has failed to establish any reversible error of fact, law, or procedure by the UNRWA DT, warranting intervention. Ms. Ghabbash has largely repeated her submissions made before the UNRWA DT or introduced arguments that were not explicitly made in the first instance, e.g., that a legitimate expectation was created and that her Transfer Request was denied because of her pregnancy.

47. The Commissioner-General submits that the UNRWA DT correctly dismissed the application. The UNRWA DT did not err in fact or in law when it concluded that Ms. Ghabbash failed to establish that the Commissioner-General abused discretion or otherwise acted unlawfully in denying the Transfer Request. It was clear from the outset that the Transfer Request was always

subject to the approval of the DUA/J.³⁸ The UNRWA DT did not err in fact or in law when it held that the DPW Roadmap was a valid basis to deny the Transfer Request.

48. The Commissioner-General contends that the UNRWA DT did not err in fact or in law when it held that the DPW Roadmap was a valid basis for the contested decision. The nature of that policy was to reduce the relative number of Daily-Paid Workers by appointment to fixed-term positions.³⁹ The Commissioner-General strongly denies the allegation that the Transfer Request was denied because of Ms. Ghabbash's pregnancy.

49. The Commissioner-General submits that the UNRWA DT did not err in fact or in law with respect to the Undertaking. Ms. Ghabbash does not point to any discernible error by the UNRWA DT in respect of this issue.⁴⁰

50. Lastly, the Commissioner-General asserts that the UNRWA DT did not err in fact or in law with respect to the claims for material and moral damages. Ms. Ghabbash's loss of income was not caused by the contested decision but by her decision to take SLWOP. She has not submitted any evidence of any moral damage suffered.

Considerations

51. The main issue for determination in this appeal is whether the UNRWA DT erred on a question of law or fact, resulting in a manifestly unreasonable decision, in finding that the Agency had a valid basis under its regulatory framework to deny Ms. Ghabbash's Transfer Request and that the contested decision was not unreasonable, biased or unfair.

52. To begin with, it is important to apprise the parties of the regulatory framework and UNAT jurisprudence on the subject. In this regard, the general principle is that posts are filled by a competitive selection process. However, UNRWA Area Staff Regulation 4.3, read in tandem with Area Staff Rule 107.9, provides the basis to fill posts by lateral transfer of current staff members within the Agency as an exception to the general principle.⁴¹

³⁸ The Commissioner-General refers to the H/FHRO/JFO's 24 July 2022 e-mail to the C/FHP/WBFO.

³⁹ The Commissioner-General refers to the DUA/J' 18 May 2022 e-mail.

⁴⁰ The Commissioner-General refers to the reply before the UNRWA DT, paras. 29-32.

⁴¹ See *Amal Ali El Khaled v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2024-UNAT-1424, para. 36.

53. Our jurisprudence affirms the Administration's discretion to appoint, transfer, and promote staff.⁴² In addition, in *Sarieddine*, we noted that it is "not within the remit of the UNRWA DT to pronounce on the exercise of the Agency's discretion in deciding on the lateral transfers, unless there is evidence that the discretion was exercised arbitrarily or unlawfully".⁴³

54. The Appeals Tribunal has confirmed in *Orabi* and in a multitude of cases that "as a matter of general principle, in exercising its judicial review, the Dispute Tribunal will not lightly interfere with the exercise of managerial discretion in matters such as staff transfers".⁴⁴ Similarly, in an earlier case *Kamunyi*, we stated that "it is within the Administration's discretion to reassign a staff member to a different post at the same level and (...) such a reassignment is lawful if it is reasonable in the particular circumstances of each case and if it causes no economic prejudice to the staff member".⁴⁵

55. Nevertheless, managerial discretion is not unfettered, and an administrative decision to appoint, promote, or transfer a staff member can be challenged on the grounds that the Administration has not acted fairly, justly, or transparently.⁴⁶ The staff member has the burden of proving that such factors played a role in the administrative decision.⁴⁷

56. In this regard, we held in *Orabi*:⁴⁸

(...) When judging the validity of the Administration's exercise of discretion in administrative matters, as in the case of the above mentioned decision, the Dispute Tribunal determines if the decision is legal, rational, procedurally correct, and proportionate. The first instance Judge can consider whether relevant matters have been ignored and irrelevant matters considered, and also examine whether the decision is absurd or perverse. But it is not the role of the Dispute Tribunal to consider the correctness of the choice made by the Administration amongst the various courses of action open to it. Nor is it the role of the Dispute Tribunal to substitute its own decision for that of the Administration.

⁴² *Beidas v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2016-UNAT-685, para. 18.

⁴³ *Sarieddine v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2018-UNAT-852, para. 13.

⁴⁴ *Orabi v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2018-UNAT-884, para. 19 (internal citations omitted).

⁴⁵ *Kamunyi v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-194, para. 3. See also *Rees v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-266, para. 58.

⁴⁶ *Kule Kongba v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-849, para. 26 (internal citations omitted).

⁴⁷ *Ibid.*, para. 32 (internal citations omitted).

⁴⁸ *Orabi* Judgment, *op. cit.*, para. 21 (internal citations omitted).

57. Therefore, the proper role of the Dispute Tribunal in conducting a judicial review of an administrative decision is limited to examining its legality, rationality, compliance with procedure, and proportionality, and not to engage in a merit-based review.⁴⁹

58. Furthermore, in *Al-Refaea* we clarified:⁵⁰

(...) [T]he starting point for a judicial review is a presumption that official acts have been regularly performed, [but] this presumption is a rebuttable one. If the management is able to even minimally show that the [staff member's] candidature was given a full and fair consideration, then the presumption of law stands satisfied. Thereafter, the burden of proof shifts to the [staff member] who must show through clear and convincing evidence that he [or she] was denied a fair chance of promotion. (...) The same analysis applies to questions of transfers.

59. In the case at bar, the Agency's onus was to minimally show that Ms. Ghabbash's Transfer Request was given full and fair consideration. Meanwhile, Ms. Ghabbash bears the burden of proving that the Administration failed to exercise its discretion in a fair, just, and transparent manner or otherwise acted unlawfully.

60. The evidence on record shows that after Ms. Ghabbash submitted her Transfer Request on 16 March 2022, it was approved by WBFO on 11 August 2022, signed by the DUA/WB on 16 September 2022, and e-mailed by WBFO to JFO on 2 October 2022, noting that Ms. Ghabbash had relocated to Jordan due to her marriage. Thereafter, the request was forwarded to the FOSHO/JFO enquiring about a dental surgeon vacancy at Kraymeh Health Centre, who provided timely feedback. Afterwards, documents were requested from Ms. Ghabbash, which she submitted.

61. During the processing of Ms. Ghabbash's Transfer Request, meetings with the ASU were held by JFO officers in August and October 2022 to discuss implementation of the DPW Roadmap.⁵¹ They agreed that one dental surgeon post would be included among the 20 posts to be filled under the DPW Roadmap by the end of 2022.⁵² Consequently, on 27 November 2022, JFO informed WBFO that Ms. Ghabbash's Transfer Request could not be accommodated due to a

⁴⁹ *El Khaled* Judgment, *op. cit.*, para. 41.

⁵⁰ *Al-Refaea v. Commissioner-General of the United Nations Relief Works Agency for Palestine Refugees in the Near East*, Judgment No. 2019-UNAT-971, para. 33.

⁵¹ Impugned Judgment, paras. 12 and 17.

⁵² *Ibid.*

commitment to the DPW Roadmap to fill the KHC Post from a valid waiting list of Dental Surgeons.⁵³

62. In view of these facts, as the Commissioner-General has demonstrated the efforts made by WBFO and JFO officers to process Ms. Ghabbash's Transfer Request, the Agency's burden to show that it was given full and fair consideration stands satisfied. She has not discharged the burden of proving that the Administration exercised its discretion in an unfair, unjust, and biased manner.

63. Therefore, we agree with the UNRWA DT that the Agency had a valid basis to deny Ms. Ghabbash's Transfer Request and she has failed to show that the Agency abused its discretion.

64. Accordingly, this ground of appeal fails.

65. In the present appeal, the second material issue for determination is whether the Agency, by word or conduct had created a legitimate expectation that Ms. Ghabbash's Transfer Request would be approved.

66. Ms. Ghabbash argues that the Agency abused its discretion by unfairly and unjustly denying her request after creating a legitimate expectation that it would be granted. She relies on three facts which, according to her, led her to believe that her Transfer Request would be granted, namely: (1) the approval of her request by the DUA/WB, (2) the two separate phone calls she received on 27 October 2022 from the Field Human Resources Office, JFO, asking her to arrange and provide documentation to live and work in Jordan, which she did, and (3) the fact that she was told she could start work at the Kraymeh Health Centre as soon as the documents requested from her were received. Ms. Ghabbash contends that the conduct and the words of the Agency created a legitimate expectation which translated into an enforceable right, namely that the Transfer Request shall be approved.

67. In response, the Commissioner-General submits that Ms. Ghabbash did not raise the argument of legitimate expectation before the UNRWA DT and therefore may not do so for the first time on appeal.

68. It is evident from the record that Ms. Ghabbash argued before the UNRWA DT that the Agency had raised her hopes. She submitted before the Dispute Tribunal that the Field Human Resources Office, JFO, had been aware of the DPW Roadmap when she made her

⁵³ *Ibid.*, para. 27.

Transfer Request, yet had asked her to prepare the documents, which raised her hopes, only to later deny her request.⁵⁴ Such hopes could not be construed to amount to a legitimate expectation as she now claims.

69. Therefore, we agree with the Commissioner-General that Ms. Ghabbash's contention of a legitimate expectation, though perhaps plausible, may not be introduced for the first time on appeal. We have emphasized that an appeal is not the appropriate occasion to reply to a dispute in the first instance, or to introduce new elements for consideration that were not put forward at the Dispute Tribunal level.⁵⁵

70. By our consistent jurisprudence, we do not permit issues to be raised for the first time on appeal when the circumstances giving rise to such claims were known to the party at the time and should have been presented to the Dispute Tribunal.⁵⁶ Furthermore, as we stated in *Abu Salah*, it is quite "unreasonable" for an appellant "to assert that the UNRWA DT erred on questions of fact and law with respect to the allegations which were not raised before the UNRWA DT for its consideration and hence were not part of his case before the lower court".⁵⁷

71. Ms. Ghabbash was not prevented from raising her argument of creation of a legitimate expectation during the UNRWA DT proceedings as the facts, including the events which allegedly raised her expectations, were known to her at that time.

72. We note, however, that the Transfer Request form she filled in clearly indicated that the approval of the receiving Field Office was required. We therefore agree with the UNRWA DT that Ms. Ghabbash knew that the transfer was conditional upon the final approval of the DUA/J. Moreover, our consistent jurisprudence requires that an enforceable promise creating a legitimate expectation be made by a firm commitment in writing by the Administration.

73. Accordingly, this ground of appeal equally fails.

⁵⁴ Ms. Ghabbash's application, Section VI, para. 5.

⁵⁵ *Planas v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-049, para. 13.

⁵⁶ *Vukasović v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-699, para. 15 (internal citation omitted); *Goodwin v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-467, para. 46 (internal citations omitted).

⁵⁷ *Abu Salah v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2019-UNAT-974, para. 47 (internal citation omitted).

74. In the matter at hand, Ms. Ghabbash contends further that she was requested to sign an Undertaking that would have forfeited her right to appeal to the UNRWA DT in return for the Agency paying her compensation for the expenses she incurred. She argues that the UNRWA DT erred in not finding the Commissioner-General's request unlawful and not considering it properly.

75. The Commissioner-General submits that the Agency had initially asked Ms. Ghabbash to sign the Undertaking as full and final settlement of her claims and waiver of her right to appeal but agreed to reimburse her without any preconditions after she took issue with the initial approach.

76. The UNRWA DT reasoned that it was generally supportive of efforts to resolve disputes informally. We agree. It is within the UNRWA DT's discretion to encourage an amicable solution.⁵⁸

77. We find that even if the UNRWA DT committed a procedural error when it "failed to consider" Ms. Ghabbash's arguments on the Commissioner-General's act of requesting her to sign the Undertaking, she would need to show that it affected the decision in the case, in accordance with Article 2(1)(d) of the Appeals Tribunal Statute, which she has failed to do. In the same vein, as we stated in *Nadeau*, in order to be successful on appeal, a party not only has to assert and show that the Dispute Tribunal committed an error in procedure but also that this error affected the decision on the case.⁵⁹ In that sense, it must be material to the outcome.⁶⁰

78. Therefore, this ground of appeal fails as well.

79. As relief, Ms. Ghabbash requests reversal of the impugned Judgment in respect of the UNRWA DT's decision not to rescind the contested decision, and approval of her Transfer Request. Further, she seeks compensation for additional material and moral damage, in particular on the basis that she applied for SLWOP when she was convinced that the Transfer Request would be approved.

80. In this case, the award of JOD 721.92 as compensation for the expenses Ms. Ghabbash incurred in renewing her JDA membership is not in issue. However, she argues that she is entitled to additional compensation for material damage because she relied on the promise that her

⁵⁸ See *Nimer v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2018-UNAT-879, para. 33.

⁵⁹ *Nadeau v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-733/Corr.1, para. 31.

⁶⁰ *Monarawila v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-694, para. 27.

Transfer Request would be granted, namely, she applied for SLWOP which resulted in the loss of her salary for one year.

81. We see no link between Ms. Ghabbash's loss of income during her SLWOP and the way the Administration processed her Transfer Request. Ms. Ghabbash went on SLWOP on 2 October 2022 but the two phone calls that may have raised her hopes that the Transfer Request would be granted occurred on 27 October 2022. Any expectation that her request would be granted is not linked to her SLWOP, and therefore cannot be the cause of her financial loss. In addition, Ms. Ghabbash was already on SLWOP when the contested decision was issued on 27 November 2022. For these reasons, there is no nexus between her loss of income and the contested decision, as thus no compensation is due.

82. We reiterate the principle that compensation for harm shall be supported by three elements: the harm itself; an illegality; and a nexus between both.⁶¹ Our case law requires that the harm be shown to be directly caused by the administrative decision in question. If these other two elements of the notion of responsibility are not satisfied, then illegality can be declared but compensation cannot be awarded.⁶² In the case at hand, as already established, there is no illegality. Also, there is no link between the financial loss Ms. Ghabbash alleges to have suffered and the contested decision.

83. In addition, Ms. Ghabbash argues that she is entitled to moral damages for the stress she was put through by having to wait for over seven months, only to have her Transfer Request denied. We find that, apart from her testimony, she has not provided any evidence of harm, as required by Article 10(5)(b) of the UNRWA DT Statute and Article 9(1)(b) of the Appeals Tribunal Statute. The Appeals Tribunal has confirmed that the concerned staff member's testimony by itself is not sufficient to establish that he or she suffered compensable harm.⁶³

84. Accordingly, Ms. Ghabbash's request for additional compensation for material and moral damage is denied.

⁶¹ *Kebede v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-874, para. 20 (internal citation omitted).

⁶² *Boubacar Dieng v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1118, para. 68 (internal citations omitted).

⁶³ *Zachariah v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-764, para. 37 (internal citation omitted).

Judgment

85. Ms. Ghabbash's appeal is dismissed, and Judgment No. UNRWA/DT/2024/004 is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 21st day of March 2025 in Nairobi, Kenya.

(Signed)

Judge Forbang, Presiding

(Signed)

Judge Savage

(Signed)

Judge Sheha

Judgment published and entered into the Register on this 23rd day of April 2025 in New York, United States.

(Signed)

Juliet E. Johnson,
Registrar