



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

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Judgment No. 2025-UNAT-1521

**Mahmoud Mohamad Zeidan**  
**(Appellant)**

**v.**

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

**JUDGMENT**

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Before:	Judge Kanwaldeep Sandhu, Presiding Judge Katharine Mary Savage Judge Gao Xiaoli
Case No.:	2024-1907
Date of Decision:	21 March 2025
Date of Publication:	23 April 2025
Registrar:	Juliet E. Johnson

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Counsel for Appellant:	Self-represented
Counsel for Respondent:	Stephen Margetts

**JUDGE KANWALDEEP SANDHU, PRESIDING.**

1. Mr. Mahmoud Mohamad Zeidan, a staff member of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA or Agency), contested the decision to cancel the recruitment process for the post of Deputy Chief Field Education Programme/Technical at Lebanon Field Office (LFO), Grade 18 (Post).

2. By Judgment No. UNRWA/DT/2024/006 (impugned Judgment),<sup>1</sup> the UNRWA Dispute Tribunal (UNRWA DT) dismissed the application on the merits. Mr. Zeidan appeals to the United Nations Appeals Tribunal (Appeals Tribunal or UNAT).

3. For the reasons set out below, the Appeals Tribunal dismisses the appeal and affirms the impugned Judgment.

**Facts and Procedure<sup>2</sup>**

4. At the relevant time, Mr. Zeidan was employed by the Agency as Area Education Officer, LFO, Grade 17.<sup>3</sup>

5. Between 1 November 2022 and 10 November 2022, the Agency internally and externally advertised Vacancy Announcement 193857-R-LEB (First VA) for the Post.<sup>4</sup> Thirty-one candidates applied, including Mr. Zeidan. Seven candidates, including Mr. Zeidan, were shortlisted to take a written test. On 3 February 2023, the seven shortlisted candidates took a computer-based technical test. Five candidates passed the test and were invited for an interview, including Mr. Zeidan. On 14 March 2023, the five candidates were interviewed by an interview panel (Panel) consisting of four staff members and a Human Resources (HR) representative.

6. Per the Recruitment Report dated 26 April 2023, the Panel unanimously recommended Mr. Zeidan for appointment to the Post.<sup>5</sup> The Agency noted that the receipt of the shortlist from the Hiring Department had been pending for 37 days and that it was the reason for the “delay” in the recruitment process. By e-mail dated 13 June 2023, the Head, Field Human Resources Office, LFO (H/FHRO/LFO) submitted the Recruitment Report with related documents (Selection

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<sup>1</sup> *Zeidan v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment dated 29 January 2024.

<sup>2</sup> Summarized from the impugned Judgment as relevant to the appeal.

<sup>3</sup> Impugned Judgment, para. 5.

<sup>4</sup> *Ibid.*, paras. 7-11.

<sup>5</sup> *Ibid.*, paras. 12-13.

Submission) to the Human Resources Department (HRD) for approval by the Advisory Committee on Human Resources (ACHR).

7. By e-mail dated 13 June 2023, the HRD reverted to the H/FHRO/LFO with comments on the Selection Submission.<sup>6</sup> The e-mail stated, in relevant part:<sup>7</sup>

As per PD A-4-Part II-Section I- Rev. 8 - Revised Area Staff Selection Policy 24 January 2022.pdf, para 53, the Recruitment Administrator must advertise all vacant posts through the Agency's e-recruitment system (unless paragraphs 49-50 apply) for at least two weeks. However, the JO [Job Opening] was advertised for only 10 days. Kindly clarify.

8. By e-mail dated 16 June 2023, a Recruitment Officer in the Field Human Resources Office, LFO (FHRO/LFO) responded to the HRD's query as follows:<sup>8</sup>

Due to urgency, the hiring department requested that the vacancy (...) be advertised for 10 days before receipt of the recruitment request form[;] as such it was posted from 1 – 10 Nov 2022[;] however as per FO [Field Office] they requested that it will be advertised for 14 days but the request came late and the vacancy was under screening.

9. By e-mail dated 19 June 2023, the HRD requested further clarification from the H/FHRO/LFO:<sup>9</sup>

With regards to the [Selection Submission] for the recruitment of Deputy Chief Field Education Programme – Technical, Grade 18 in the Education Department, can you please provide additional clarifications for the following as ACHR will question the same?

- As per [the Directive], para 53, the Recruitment Administrator must advertise all vacant posts through the Agency's e-recruitment system (unless paragraphs 49-50 apply) for at least two weeks. However, the JO was advertised for only 10 days. It was mentioned that it was advertised due to urgency. However, no approvals were sought for shortening the job opening period and the job opening period of 10 days doesn't comply with [the Directive]. Kindly please clarify.
- If the job opening period was advertised for only 10 days due to urgency, why did it take almost 8 months for the recruitment to be completed? For instance, the

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<sup>6</sup> *Ibid.* The Commissioner-General later added in the reply that a third staff member (Candidate C) was being reassigned to the position that would be left vacant by Candidate B.

<sup>7</sup> Reference is made to the revised version of Area Staff Selection Policy, promulgated in UNRWA Area Staff Personnel Directive A/4/Part II/Section I/Rev. 8, effective 1 February 2022 (the Directive).

<sup>8</sup> Impugned Judgment, para. 15.

<sup>9</sup> *Ibid.*, para. 16.

interviews were held on 14-Mar-2023 but we received the recruitment for the ACHR submission only on 13-Jun. Kindly please clarify.

10. By e-mail dated 20 June 2023, the HRD informed the H/FHRO/LFO that since the Selection Submission was “not in line with” the Directive, the case could “not proceed” to the ACHR.<sup>10</sup>

11. The same day, the H/FHRO/LFO forwarded the HRD’s e-mail to the Director of UNRWA Affairs, Lebanon (DUA/L), stating:<sup>11</sup>

Please see the below message from HRD. They refer to para 53 of the [Directive] and say that as there was an irregularity at the very beginning of the process, this recruitment package cannot be submitted to ACHR [for] approval:

[...]

Basically, FHRO advertised as per the request of ED department [Education Department] only for 10 days, while no exceptional approval was obtained by front office for the shorter advertisement period. Therefore, the advice is to cancel the process and readvertise the post.

For your decision.

12. By e-mail dated 20 June 2023, the DUA/L responded to the H/FHRO/LFO:<sup>12</sup>

Please re-advertise with adequate and standard time frame.

13. By e-mail dated 13 July 2023, Mr. Zeidan was notified of the contested decision.<sup>13</sup>

14. Between 28 July 2023 and 17 August 2023, the Agency internally and externally advertised Vacancy Announcement 214442-R-LEB (Second VA) for the Post.<sup>14</sup>

15. On or before 2 August 2023, Mr. Zeidan inquired as to the reason for the cancellation of the recruitment.<sup>15</sup> By a message transmitted through the Inspira system, he received the following response:

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<sup>10</sup> *Ibid.*, para. 17.

<sup>11</sup> *Ibid.*, para. 18.

<sup>12</sup> *Ibid.*, para. 19.

<sup>13</sup> *Ibid.*, para. 21.

<sup>14</sup> *Ibid.*, paras. 22-23.

<sup>15</sup> *Ibid.*, paras. 24-25.

[T]he reason for the cancellation of the process was the fact that the Advisory Committee on HR matters in HQ did not clear the submission due to the short advertisement duration (10 days instead of 2 weeks) which is not in line with the [Directive], and therefore, considered as an irregularity the recruitment process.

As the recruitment process was cancelled due to a[n] irregularity in the recruitment process, not provided for in the [Directive], you are invited to apply again when the vacancy is readvertised.

16. On 10 August 2023, Mr. Zeidan submitted a Request for Decision Review (RDR).<sup>16</sup> By letter dated 16 October 2023, the DUA/L upheld the contested decision.

17. On 13 October 2023, Mr. Zeidan filed his application with the UNRWA DT.

*The impugned Judgment*

18. In the impugned Judgment, the UNRWA DT dismissed the application.

19. The UNRWA DT noted that the contested decision was the cancellation of the recruitment for the Post.<sup>17</sup> As the Commissioner-General mischaracterized the contested decision as “non-selection”, the presumption of regularity does not apply to this case. However, even if the presumption of regularity applied to the contested decision, it would have no impact, given the outcome of this case, because it would require Mr. Zeidan to meet his burden of establishing the facts by clear and convincing evidence.

20. The UNRWA DT found that it was uncontested that the Hiring Department had never obtained authorization to shorten the posting period of the First VA.<sup>18</sup> The Directive permits the Director of Human Resources (DHR) or the DUA/L to refer a procedurally flawed recruitment for corrective action but does not require it. As such, it is a matter of discretion. Moreover, it is not clear what corrective action could have been taken, other than cancellation and re-advertisement. Accordingly, the Agency acted within its discretionary authority in cancelling the recruitment.

21. Turning to Mr. Zeidan’s claims of bias and discrimination, the UNRWA DT found that nothing in the Agency’s regulatory framework entitled staff members rostered for one position to be automatically appointed to similar vacancies at a lower level or to be appointed to act in the

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<sup>16</sup> *Ibid.*, paras. 26-27.

<sup>17</sup> *Ibid.*, paras. 35, 40-41 and footnote 10.

<sup>18</sup> *Ibid.*, paras. 43-46.

position.<sup>19</sup> Moreover, it is clear from the Recruitment Report that the Panel—which included the DUA/L—actively wanted him to be appointed to the Post. As such, there is no indication that the Panel was biased. While the HRD then intervened, it provided valid reasons for doing so, and Mr. Zeidan has not pointed to any evidence that the HRD was biased. Secondly, the fact that the rules may have been violated in another recruitment, cannot serve to authorize the violation here, nor is it sufficient to meet his burden of showing bias or discrimination, absent some further indication.

22. The UNRWA DT noted that although the Agency had explained a portion of the delay in the Recruitment Report, the full delay had not been accounted for. Nevertheless, these target timelines are a goal, not a mandate. Moreover, Mr. Zeidan has failed to demonstrate any prejudice in relation to this delay. Accordingly, it did not render the recruitment unlawful.

23. The UNRWA DT concluded that Mr. Zeidan had failed to show that the Agency had not acted fairly, justly, or transparently or that the contested decision had been motivated by bias, prejudice or improper motive, and as such, failed to meet his burden of showing that the Agency had abused its discretion.

## **Submissions**

### **Mr. Zeidan's Appeal**

24. Mr. Zeidan requests the Appeals Tribunal to reverse the impugned Judgment, rescind the contested decision, order the Agency to proceed with selecting him to the Post or, alternatively, to pay him compensation in lieu of rescission for the loss of the Post, and award compensation for material damage.

25. He argues that the UNRWA DT erred in its determination that he had not established that the cancellation of the recruitment process had been unfair, unjust, or transparent or that the contested decision had been motivated by bias, prejudice or improper motive.

26. First, Mr. Zeidan submits that the UNRWA DT erred on matters of law and fact when it determined that he had not applied to the readvertised Post following the Second VA. He applied but decided not to sit for the written test.

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<sup>19</sup> *Ibid.*, paras. 47-49.

27. Second, he contends that the UNRWA DT erred on matters of law and fact when it did not apply the Directive which enables cases that are incomplete or procedurally flawed to be referred to the relevant body for appropriate action. The cancellation was in breach of paragraph 10(b) of the Directive. Furthermore, the HRD breached the Directive by refusing to shorten the posting period of the First VA. As such, the HRD had no reason to view the shortening of the posting period as an irregularity. Moreover, it is unfair that the consequences are borne by Mr. Zeidan who, due to the frustration caused, could not sit for the written test and interview following the Second VA.

28. Third, Ms. Zeidan submits that the UNRWA DT erred on matters of law and fact when it found that the recruitment process had adhered to the timeline of 120 calendar days. The HRD regarded it as a target. If the time limit is exceeded, the Recruitment Administrator must document the reasons for the delay. In the present case, this did not happen. Nevertheless, the HRD did not request documentation of the reasons and did not regard the deficiency as a flaw.

29. Mr. Zeidan further submits that, in breach of the statutory time limit, it took around 66 days for the outcome of the decision review to be communicated to Mr. Zeidan. While the Commissioner-General regards all delays merely as not meeting the “target” timelines, the shortening of the posting period is viewed as having been irregular. This is another evidence of bias. The UNRWA DT failed to regard the DUA/L not referring Mr. Zeidan’s RDR to the Deputy Commissioner-General as a flaw in the recruitment process. The UNRWA DT also failed to clarify how the Agency had handled the other two instances where the vacancy had been advertised for less than two weeks. If those other two recruitment processes were not cancelled, it is another evidence of bias against him. The UNRWA DT failed to consider the facts when it concluded that the Commissioner-General had not been biased against him.

30. Lastly, Mr. Zeidan contends that the UNRWA DT erred on matters of law and fact, and possibly failed to exercise jurisdiction vested in it, when it failed to consider and determine that he was entitled to compensation for loss of chance. He is entitled also to compensation for material damage.

### **The Commissioner-General’s Answer**

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

32. The Commissioner-General argues that Mr. Zeidan has failed to establish any reversible errors of fact, law, or procedure by the UNRWA DT, warranting intervention by the UNAT. He disagrees with the outcome of the case and effectively seeks to relitigate it. The UNAT could dismiss the appeal on this basis alone.

33. The Commissioner-General submits that the UNRWA DT properly considered Mr. Zeidan's submissions and evidence. He has failed to address in his appeal the UNRWA DT's central and dispositive findings and meet his burden on appeal. As he has failed to establish on appeal how the UNRWA DT's dismissal of the application was in error, his claims of alleged errors fail.

34. The Commissioner-General submits that the UNRWA DT correctly did not consider Mr. Zeidan's request for relief. The Tribunal cannot award rescission and compensation where there is no illegality.

### **Considerations**

35. The narrow issue in the appeal is the lawfulness of the cancellation of the initial recruitment process for the subject vacancy on the basis that it was not advertised for the minimum time period of two weeks.

36. Mr. Zeidan says that the UNWRA DT "erred in law and fact" when it determined that he failed to establish that the Agency had not acted "fairly, justly, or transparently, or that the contested decision was motivated by bias, prejudice, or improper motive". However, he does not adequately explain how the UNWRA DT "erred in law and fact" or identify what specific errors were allegedly made, whether factual or legal.

37. It is well-established that the appeals procedure is of a corrective nature and not an opportunity for a dissatisfied party to reargue or relitigate his or her case. As such, a party cannot merely repeat on appeal arguments that failed before the lower court. The Appeals Tribunal's role is to determine if the Dispute Tribunal made errors of fact or law, exceeded its jurisdiction or competence, or failed to exercise its jurisdiction, as prescribed in Article 2(1) of the UNAT Statute. Therefore, an appellant has the burden of satisfying the Appeals Tribunal that the judgment he or she seeks to challenge is defective. It follows that an appellant must identify the alleged defects in



the impugned judgment and state the grounds relied upon in asserting that the judgment is defective.<sup>20</sup>

38. Mr. Zeidan has not identified the alleged defects but rather reargues his case. Therefore, he has not discharged his burden of satisfying the Appeals Tribunal that the impugned Judgment was in error.

39. In any event, Mr. Zeidan's appeal fails on the merits.

40. The governing directive for the recruitment process was UNRWA Area Staff Personnel Directive No. A/4/Part II/Section I/Rev.8 (Area Staff Selection Policy), effective 1 February 2022 (the Directive). It outlines the principles of the selection process, the possibility of referring procedurally-flawed cases to the appropriate body, delays in the recruitment process and the advertising period as follows:<sup>21</sup>

**Principles governing this Directive**

...

7. UNRWA shall ensure the staff selection process is lawful, impartial, decisive, rational and reasonable.

...

**Authority of the DHR and DUA**

10. The DHR and the relevant DUA may –

a. determine that additional selection measures are required in a selection process, such as an additional test or an additional personal interview; and

b. refer cases which are incomplete or procedurally flawed back to a relevant Recruitment Section, interview panel, Hiring Manager, HFHRO, HRS or the CHROSD for appropriate action.

...

**How long should a competitive recruitment process take?**

46. The Hiring Manager and the Recruitment Administrator must jointly plan for a competitive selection process –

a. for a single post Grade 2 – 17 to be completed within a target of 90 calendar days or Grade 18 – 20 to be completed within a target of 120 calendar days;

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<sup>20</sup> *Yolla Kamel Kanbar v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1082, para. 25 (internal citations omitted).

<sup>21</sup> CHROSD is the Chief, Human Resources Operational Services Division; HFHRO is the Head, Field Human Resources Office in each respective field; and D/DUA-O is the Deputy Director of UNRWA Affairs (Operations) in each respective field (Directive, para. 8).

(...)

from the date of publication of the job opening to the date the selection is approved by the relevant authority noted in paragraph 9. If the time period is exceeded, the Recruitment Administrator must document the reasons for the delay in the Selection Report.

...

**Where and for how long are job openings advertised?**

53. The Recruitment Administrator must advertise all vacant posts through the Agency's e-recruitment system (unless paragraphs 49-50 apply) for at least two weeks.

54. The CHROSD (for HQ posts) or D/DUA-O (for field posts) may approve, in writing, a longer advertising period, provided the advertising period is not less than 7 calendar days.

...

41. In this instance, the contested decision is the cancellation of the first recruitment process. As an administrative decision, it can be challenged on the grounds that the Agency did not act fairly, justly, or transparently with the staff member or was motivated by bias, prejudice or improper motive. The UNRWA DT reviews whether the decision is legal, rational, procedurally correct, and proportionate but not whether the decision is correct, given the various courses of action open to the Commissioner-General. Once the Agency has provided a reasonable motivation for the contested decision, the staff member has the burden of proving that such extraneous factors played a role in the contested decision.<sup>22</sup>

42. Mr. Zeidan says that the delays in the recruitment process and the failure to document the reasons for the delay were unlawful. He challenges the Commissioner-General's argument that the cancellation of the recruitment process rectified the "unlawful acts". However, the administrative decision he is contesting is not the failure to take a selection decision for an extended period of time or refusal to disclose the reasons for the delay, but rather the cancellation of the recruitment process. The UNRWA DT, noting that the target timelines for completing a recruitment exercise were a goal, not a mandate, reasonably concluded that the delay had not amounted to an illegality. There is nothing in the appeal to constitute grounds for finding otherwise.

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<sup>22</sup> *Anis Basil AlMousa v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2021-UNAT-1134, paras. 41-42 (internal citations omitted).

43. The question is whether the Agency provided reasonable motivation for the cancellation and whether the Agency acted fairly, justly and transparently with regard to Mr. Zeidan.

44. Paragraph 53 of the Directive provides a requirement that all vacant posts *must* be advertised for at least two weeks.<sup>23</sup> It is a mandatory requirement. In this instance, the First VA for the Post was advertised for only ten days and therefore violated the mandatory requirement of the Directive. The HRD corrected this violation by cancelling the recruitment and constituting another one that met this requirement.

45. As paragraph 53 of the Directive provides for advertisement of at least two weeks, it is unclear whether a shortened advertisement may be authorized. Paragraph 54 of the Directive states that the “CHROSD (for HQ posts) or D/DUA-O (for field posts) may approve, in writing, a *longer* advertising period, provided the advertising period is not less than 7 calendar days”.<sup>24</sup> It does not provide that approval may be given for a *shorter* period. It is possible that this is a misstatement in the Directive<sup>25</sup> and, if so, would need to be corrected. In any event, no approval for a shorter advertising period was obtained. This procedural irregularity in the recruitment process had to be corrected by cancelling the initial recruitment in order to bring the process in compliance with the Directive.

46. Mr. Zeidan argues that the HRD should have referred the case back to the DUA/L for corrective action rather than rejecting him, who was the recommended candidate, and cancelling the recruitment process.

47. The Appeals Tribunal has previously held that<sup>26</sup>

(...) [t]he Administration has discretion not to continue a selection exercise on rational grounds prior to a selection decision being made, especially once an irregularity or impropriety becomes evident. There is no obligation on the Administration to make a selection in the face of an evident irregularity simply because a certain stage in the selection process prior to decision has been reached. It is within its discretionary authority of the Administration to terminate a recruitment procedure even at the stage when a candidate has been recommended for selection. To hold otherwise would untenably require the Administration to make appointments based on flawed procedures.

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<sup>23</sup> Emphasis added.

<sup>24</sup> Emphasis added.

<sup>25</sup> See also the impugned Judgment, footnote 12.

<sup>26</sup> *Giuseppe Belsito v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1250, para. 39 (internal citation omitted).

48. We do not find that the Agency acted unfairly or unjustly as they were correcting a procedural violation. In doing so, the Agency had reasonable motivation for the cancellation and acted transparently.

49. As the Agency provided reasonable motivation for the contested decision, Mr. Zeidan has the burden of proving that improper extraneous factors impacted the Agency's exercise of discretion.

50. Mr. Zeidan says that the recruitment process was "marred with discrimination and bias" against him. He argues that there was a "disagreement" between the DUA/L and the HRD on the shortened recruitment process as the HRD refused the request to shorten it, considering it a "flaw" or "irregularity". He says that there were other vacancies that were advertised for less than the minimum required time that proceeded and that it is "unfair" that he must bear the brunt of irregularities committed by the Agency, including the delays in the process.

51. The UNWRA DT reviewed Mr. Zeidan's claims and held that there was insufficient evidence that the Agency's exercise of discretion in cancelling the recruitment process had been motivated by discrimination or bias against him. We find no error in that determination.

52. In the impugned Judgment, the UNWRA DT correctly held that Mr. Zeidan had not provided any evidence that the HRD had been biased against him. In the course of the flawed process, he was recommended for selection. He provided insufficient evidence to meet his burden of showing bias and discrimination based on other vacancy announcements that were advertised for less than the minimum time. Also, Mr. Zeidan failed to show any prejudice in relation to the delay in carrying out the recruitment exercise.

53. For the foregoing reasons, the appeal fails.

**Judgment**

54. Mr. Zeidan's appeal is dismissed, and Judgment No. UNRWA/DT/2024/006 is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 21<sup>st</sup> day of March 2025 in New York, United States.

*(Signed)*

Judge Sandhu, Presiding

*(Signed)*

Judge Savage

*(Signed)*

Judge Gao

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

*(Signed)*

Juliet E. Johnson,  
Registrar