



Case No. 2011-270



Counsel for Appellant: Self-represented

Counsel for Respondent: W. Thomas Markushewski

Reissued for technical reasons on 19 September 2012

JUDGE LUIS MARÍA SIMÓN , Presiding.

1. The United Nations Appeals Tribunal (Appeals Tribunal) is seized of an appeal filed by Ms. Fotini Rantsiou against Judgment No. UNRWA DT/2011/006 issued by the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East

7. By late 2004, the working relation between Ms. Rantsiou and the Deputy Operations Officer had deteriorated. From mid-December 2004 to 31 January 2005, Ms. Rantsiou was on annual or sick leave.

8. In February 2005, Ms. Rantsiou submitted her resignation, which UNRWA accepted. Shortly thereafter, Ms. Rantsiou notified UNRWA that she wished to withdraw her resignation and to take four months' special leave without pay (SLWOP) instead. UNRWA granted her request and Ms. Rantsiou commenced her SLWOP on 21 March 2005.

9. On 1 August 2005, Ms. Rantsiou returned from SLWOP and, shortly thereafter, signed her performance evaluation report (PER). By email dated 10 August 2005, the Operations Officer informed Ms. Rantsiou that she was being withdrawn from field work effective 11 August 2005.

10. On 12 August 2005, at a meeting between the Operations Officer, the Field Legal Officer/West Bank and Ms. Rantsiou, the Operations Officer informed Ms. Rantsiou that the reasons for withdrawing her from the field were that the Operations Officer had lost confidence in Ms. Rantsiou's ability to operate effectively and safely in the field and that the level of trust between Ms. Rantsiou and the Operations Officer and the Deputy Operations Officer did not allow safe and secure field operations. The Operations Officer also informed Ms. Rantsiou that her continued employment was not in UNRWA's best interest and that he would not recommend her extension beyond 31 August 2005.

11. On 16 August 2005, the Director of UNRWA Operations (DUO), West Bank, met with Ms. Rantsiou and informed her that he would not recommend the renewal of her appointment.

12. By e-mail dated 17 August 2005 and memorandum dated 19 August 2005, Ms. Rantsiou informed the Head, International Personnel Service (HIPS) that she did not want to have her contract extended beyond 31 August 2005.

13.

contract extension and transfer to another section, for the purpose of keeping her on board pending the review of her PER rebuttal and possibly her appeal. She also sought monetary compensation for the professional and personal damages suffered due to unfair treatment.

15. By letter dated 1 September 2005, the DUO in Gaza offered Ms. Rantsiou for two months only an extension of her appointment and her assignment to the Gaza Field OSO Programme for the purpose of completing the latter's PER rebuttal despite her expressed wish not to continue with UNRWA beyond 31 August 2005. Ms. Rantsiou accepted the offer.

16. On 2 September 2005, the Gaza Strip was declared Security Phase IV. As a result, Ms. Rantsiou did not take up duty with the Gaza Field OSO Programme, nor did she return to WBFO. Instead, she was placed on Special Leave with Pay during the period of the two-month contract extension until 3 November 2005.

17. On 18 October 2005, the HIPS advised Ms. Rantsiou of the decision by the Commissioner-General not to extend her appointment beyond 3 November 2005.

18. By memorandum dated 19 October 2005, Ms. Rantsiou was informed that the Commissioner-General had found that there was sufficient basis to accept her rebuttal of her PER for the period of 1 April 2004 to 31 May 2005. She was also informed that while her PER would not be revised following the rebuttal process, the UNRWA Administration would issue a letter to confirm the acceptance of her rebuttal and to comment on the acceptable standard of her work during the PER period.

19. On 27 October 2005, the Chief, Personnel Services Division, informed Ms. Rantsiou as follows:

You were recruited to UNRWA as an OSO and the OSO posts are funded by the donor specifically for OSO programme activities. There are again at this point in time no other vacant posts available matching your skills and experience. With only 110 international posts, the availability and breadth of international posts are minimal and the Agency does not have the financial capacity to create and fund an additional post to accommodate you, nor to keep you on extended special leave with pay.

I am therefore confirming that 3 November 2005 will be your final date with the Agency. Should the OSO programmer return to Gaza in the future and posts are advertised (or, for that matter, should other posts for which you are qualified be advertised), I encourage you to submit your application.



26. The UNRWA DT rejected Ms. Rantsiou's application in its entirety.

#### Submissions

##### Ms. Rantsiou's Appeal

27. Ms. Rantsiou submits that while a fixed-term appointment carries no expectancy of renewal, extension depends on performance, the need for a post and the availability of funds, conditions which, Ms. Rantsiou submits, were met in her case.

28. Ms. Rantsiou alleges that the reasons given for the non-extension of her appointment were false. UNRWA stated that she could not be extended because, due to the relocation, there was no need for the Gaza OSOs. However, the OSO posts were vacant and were later advertised to be filled. Ms. Rantsiou applied, but was not considered. Ms. Rantsiou submits that the Agency discriminated against her and that the UNRWA DT failed to correct this.

29. Ms. Rantsiou submits that the UNRWA DT ignored several facts. Her direct supervisor, Operations Officer, gave her an overall rating of "very good performance" covering the period from November 2002 to March 2004.

30. Following the Operations Officer's departure in spring 2004, the Officer-in-Charge (OiC) entrusted Ms. Rantsiou with more responsibilities. But the relation between her and the OiC became difficult in November 2004 when the national staff went on strike. Subsequently the OiC marginalized her.

31. While Ms. Rantsiou was on SLWOP in June 2004, the Operations Officer, without



rule review additional claims that are not relevant to the discretionary administrative decision under review”, in fact did address each element “in the interest of fairness and comprehensibility”. The Commissioner-General submits that, contrary to Ms. Rantsiou’s assertion, the UNRWA DT reviewed the facts and applicable law related to each element, but concluded that Ms. Rantsiou was “not the victim of work and sexual harassment, mobbing, bullying, discrimination and prejudice”.

39. In response to Ms. Rantsiou’s request to introduce new evidence, the Commissioner-General submits that any additional evidence, even if it were admissible,



45. The Commissioner-General requests that the Appeals Tribunal reject the appeal in its entirety.

#### Considerations

46. As a preliminary matter, this Tribunal will not grant Ms. Rantsiou's request to have all appeal-related documents removed from her UNRWA official service file. Ms. Rantsiou exercised her right to appeal and we do not see any reason why that information should be excluded from that file.

47. Turning to the merits of the case, this Tribunal holds that the UNRWA DT did not err in finding no irregularity in the decision-making process under judicial review and consequently dismissing Ms. Rantsiou's application.

48. The Appellant has failed to persuade this Court that there were flaws in the contested administrative decision not to renew her fixed-term appointment, the proceedings that led to it, or in the UNRWA DT's Judgment, which would warrant vacating. An appeal is not an opportunity for the parties to reargue their cases. Before this Tribunal, Ms. Rantsiou has raised no new arguments, but has only repeated her contentions thoroughly considered and rejected by the UNRWA DT.

49. The records of the case show no evidence of irregularity, harassment, unlawful treatment or discrimination against Ms. Rantsiou. The lack of such evidence, which forms the basis of the appeal, is insufficient to warrant a finding of irregularity or discrimination.

Judgment

52. The appeal is dismissed in its entirety and the UNRWA DT's Judgment is affirmed

Original and Authoritative Version: English

Dated this 29<sup>th</sup> day of June 2012 in Geneva, Switzerland.

(Signed)

Judge Simón, Presiding

(Signed)

Judge Garewal

(Signed)

Judge Weinberg de Roca

Entered in the Register on this 12<sup>th</sup> day of September 2012 in New York, United States.

(Signed)

Weicheng Lin, Registrar