



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

Judgment No. 2014-UNAT-432

**Azzouz
(Appellant)**

v.

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

JUDGMENT



Registrar:

Weicheng Lin

Counsel for Mr. Azzouz:

Self-represented

Counsel for Commissioner-General:

Lance Bartholomeusz

JUDGE RICHARD LUSSICK, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Mr. Faisal Ali Azzouz against Judgment No. UNRWA/DT/2013/013, rendered by the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA DT or Dispute Tribunal and UNRWA or Agency, respectively) on 25 April 2013 in the case of *Azzouz v. Commissioner-General of UNRWA*. Mr. Azzouz appealed on 7 June 2013 and the Commissioner-General of UNRWA (Commissioner-General) answered on 20 August 2013.

Facts and Procedure

2. The following facts are uncontested:¹

... Effective 12 July 1980, the Applicant entered the service of the Agency on a fixed-term appointment as a Trade Instructor Auto-Mechanic at the Damascus Vocational Training Centre (“DTC”), Syria, at Grade 8, Step 1. At the material time, the Applicant filled a Grade 11 post.

... In the last quarter of 2010, following a redeployment by the Agency of resources and funding from courses and posts which were no longer essential to more relevant ones, the Applicant’s post (Trade Instructor Auto-Mechanic) along with other posts were declared redundant and abolished effective 13 September 2010.

... By letter dated 15 November 2010, the Director of UNRWA Affairs, Syrian Arab Republic (“DUA/SAR”) informed the Applicant of the following:

This is to inform you that a review of staffing needs has been conducted in the Damascus Training Centre, with a view to redeploying resources from functions which are no longer essential to others which are, and for which funding can thereby be made available.

The post of Trds Inst Auto Mech against which you are currently placed, is one of the posts which were subject to this review, this post was deleted with effect from 13 September 2010.

Therefore, you are hereby declared provisionally redundant for a period of three months from the date of this letter, during which the Agency shall try to find you a suitable alternative post commensurate with your qualifications. In case no suitable alternative placement is found by the end of this period, your services shall1 TOfreeiatid psn-2.2(i g6.1()2.5(o)ndisof ted)5.3(u)51(n)aiy

and the notice period of termination provided for by Area Staff Regulation No. 9.1 shall be considered to have been granted to you.

... By letter dated 6 December 2010 to the Deputy Field Administration Officer (“D/FAO”), the Applicant requested to be transferred to the post of Housemaster at the DTC. On the Applicant’s letter, the Director of the DTC wrote a note to the D/FAO dated 12 December 2010:

I recommend transferring the assistant Housemaster Mr. Salim Madi to the post of Housemaster and appoint Mr. Faisal Azzouz to the post of Assistant Housemaster as Mr. Faisal Azzouz holds a preparatory school Education Certificate while Mr. Madi holds a Teaching Certificate which is a two year post secondary certificate and he has a good performance record.

... By letter dated 7 February 2011 to the D/FAO, the Applicant requested to be transferred to the post of Dispatcher or Head Mechanic. On the Applicant’s letter, the Director of the DTC wrote a note to the D/FAO also dated 7 February 2011:

I suggest transferring instructor Faisal Azzouz to either of the two posts [Dispatcher or Head Mechanic] as they are commensurate with his experience in the field of mechanics.

... The Applicant’s period of provisional redundancy was extended from 15 February 2011 to 31 March 2011 to provide him sufficient time to obtain the results of some technical tests of his competencies and to receive the final decision of the DUA/SAR.

... By letter dated 21 March 2011, the Applicant requested the DUA/SAR to place him in another post rather than terminate his appointment for post redundancy, as his family and the family of his late brother depended on him for a living.

... By letter dated 27 March 2011, the Applicant requested the D/FAO to transfer him to the then vacant post of Clinic’s Clerk at the Medical Department in the Al Elins area in Damascus.

... On 31 March 2011, the Applicant submitted a request for Early Voluntary Retirement (“EVR”) “in order to avoid a heavy financial loss due to the abolishment of his post by the Agency”. However, he indicated along with his request that “this was without prejudice to [his] right to file an application against the Agency in order to be given a post, in lieu of his post which was abolished by the Agency and to be treated in the same way as his colleagues whose posts were previously abolished”.

... On 5 April 2011, the Applicant’s request to take EVR effective 31 March 2011 was accepted.

... By letter dated 10 April 2011, the DUA/SAR rejected the Applicant’s transfer requests.

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8. Mr. Azzouz asks that he be reinstated in his post or be given an alternative post. He further requests compensation for any material loss.

The Commissioner-General's Answer

9.

deadline for decision review. The UNRWA DT therefore concluded that Mr. Azzouz' application was not receivable *ratione materiae*.

15. Mr. Azzouz' claim that he was misled into not requesting decision review was rejected by the UNRWA Dispute Tribunal, which concluded: "There is no evidence in the record that the Applicant was prevented or advised to refrain from requesting decision review of the impugned decision."² The UNRWA DT also held, correctly in our view, that Mr. Azzouz should have known his obligations under the Area Staff Regulations and Rules

20. Mr. Azzouz' claim that he was denied le

Original and Authoritative Version: English

Dated this 27th June 2014 in Vienna, Austria.

(Signed)

Judge Lussick, Presiding

(Signed)

Judge Adinyira

(Signed)

Judge Simón

Entered in the Register on 29th day of August 2014 in New York, United States.

(Signed)

Weicheng Lin, Registrar