



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Judgment No. 2022-UNAT-1247



Rania Mohammed Dajani
(Appellant)

v.

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

Judgment

Before: Judge Sabine Knierim, Presiding
Judge John Raymond Murphy
Judge Dimitrios Raikos

Case No: 2021-1571

Date of Decision: 1 July 2022

Date of Publicat (e)-15B1

Counsel for Appellant: Jamila Al-Abbasi

Counsel for Respondent: Ana Peyro-Llopis

JUDGE SABINE KNIERIM , PRESIDING .

1. Before the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA Dispute Tribunal or UNRWA DT), Ms. Rania Mohammad Dajani (the Appellant) contested the decision to put the reclassification of her post on hold. In Judgment No. UNRWA/DT/2021/018 (the Impugned Judgment), the UNRWA DT found that the application was not receivable and therefore dismissed it. Ms. Dajani appeals the Impugned Judgment before the United Nations Appeals Tribunal (UNAT or Appeals Tribunal). For the reasons below, we dismiss the appeal and confirm the Impugned Judgment.

7. On 3 March 2017, the H/FLO/WB submitted to the Deputy Director of UNRWA Operations, WBFO (D/DUO/WB) a request, on behalf of Ms. Dajani, for the reclassification of her post to Administrative Assistant, Grade 12.

8. On 22 March 2017, the D/DUO/WB responded that all administrative posts would be reviewed together, and ther

14. Relying on Area Staff Rule 111.2 and Article 8(3) of the UNRWA DT Statute, the UNRWA DT held that the 60 calendar-day limitation period to request review of the decision began to run on 12 December 2014 and that Ms. Dajani had until 10 February 2015 to submit her request for decision review. The UNRWA DT found that as Ms. Dajani submitted her request for decision review in December 2019, and it had no jurisdiction to waive that requirement, therefore the application was not receivable *ratione materiae*.³

Procedure before the Appeals Tribunal

15. On 26 June 2021, Ms. Dajani filed an appeal of the Impugned Judgment with UNAT and, on 27 August 2021, the Commissioner-General of UNRWA filed a reply.

Submissions

Ms. Dajani's Appeal

16. Ms. Dajani requests UNAT (a) to reverse the UNRWA DT's judgment and remand the case, or that the merits be adjudicated with a request for an investigation into the verbal phone communication; (b) to request UNRWA to upgrade her current post, retroactively, in accordance with her initial request submitted in 2013; and (c) to decide on reasonable compensation for the negligent delay of the upgrading of her post, due to the stress caused.

17. She submits that the UNRWA DT erred on matters of fact and law when it determined that she failed to comply with the time limits by not considering the clear evidence and failing to assess the correct date when a final decision was made by UNRWA.

18. Ms. Dajani submits that the communications are unambiguous and that no final decision was taken in order to start the applications process for decision review. Therefore she waited for a final decision which was only communicated to her verbally on 14 October 2019.

19. Ms. Dajani submits that she was given "incorrect, conflicting and misleading information" by UNRWA, as reclassification of her post was already submitted through e-mail dated 12 December 2014 and the upgrading of the post was merely a "formality".

³ Impugned Judgment, para. 29.

20. She submits that the decision not to upgrade the post was only communicated to her verbally on 14 October 2019 and that therefore she was within the timeframe set out in Area Staff Rule 111.2 by submitting her request for review on 11 December 2019. The UNRWA DT erred in not using its powers to request UNRWA to provide telephone records to confirm the date of the telephone call which was the

postponement of the process and to assess the language used confirming the delay of a process that would take place. Further, the UNRWA DT failed to consider that she was told that the process was late and needed to be fixed, thereby unfairly creating an expectation. Ms. Dajani submits that a pattern has emerged of the UNRWA DT acting in the same way as it has in her case, essentially acting in favour of the Commissioner General with no proper assessment of

introduced on appeal that were not put forward at the first instance (*Planas¹⁰*). The Commissioner-General submits that many of Ms. Dajani's statements are irrelevant or new elements that were not presented at the first instance.

27. The Commissioner-General submits (ny)-0.7 (o)W672 (r)5 (e)0.4 (r)-e-4 (v43odTJ 0(s)2.3 (ion)2.8 (

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34. The Commissioner-General submits that Ms. Dajani's plea that the UNRWA DT committed an error by adopting the Commissioner -General's reply without adequately assessing the case or evidence must be dismissed and is a allegation which is contested by the record and the Impugned Judgment.

35. The Commissioner-General submits that Ms. Dajani makes no convincing submissions as to why the Impugned Judgment erred on a question of law or erred on a question of fact resulting in a manifestly unreasonable decision.

Considerations

Merits of the appeal – receivability of Ms. Dajani's application

36. The main issue for consideration and determination in the present case is whether the UNRWA DT erred when it found that the application was not receivable *ratione materiae*, because Ms. Dajani did not submit a request for a decision review in a timely manner.

37. Ms. Dajani claims that a final decision on her 2013 request for classification was only issued on 14 October 2019 when she was verbally informed in a telephone call that the upgrading process was stopped altogether.

38. We agree with the Commissioner-General that Ms. Dajani's claim is an argument that is being raised for the first time at the appellate level and as such should not be considered. As we have stated in *Abu Salah*(2019-UNAT-974, paras. 46 and 47):

46. Finally, in his appeal, Mr. Abu Salah submits, *inter alia*, that: (i) none of the Medical Board members are psychologists, in the sense that they are not qualified to diagnose his medical situation; and (ii) the Chair of the Medical Board refused to keep on file the report from the Governmental Psychiatric Hospital.

47. However, these issues were not raised before the UNRWA DT, and thus cannot be introduced for the first time on appeal for consideration by the Appeals Tribunal. It is quite unreasonable for Mr. Abu Salah 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. Therefore, we find that Mr. Abu Salah's appeal in this regard is not receivable.

39. We have reviewed Ms. Dajanis 11 December 2019 request for decievt0 Tc68 TMcM V•€œ ,È”•x

46. According to her appeal brief, Ms. Dajani requests reclassification of her post with retroactive effect in accordance with her initial request submitted in 2013. Hence, with her 25 October 2013 reclassification request, Ms. Dajani wanted to achieve an immediate upgrade of her post. The 12 December 2014 email informed Ms. Dajani that “ all action related to classification are put on hold at the moment at HQ CMSD Level for all posts and all 4 fields so your post reclassification is submitted but not processed of u r a r r

Judgment

50. The appeal is hereby dismissed, and Judgment No. UNRWA/DT/2021/018 is confirmed.

Original and Authoritative Version: English

Decision dated this 1st day of July 2022.

(Signed)

Judge Knierim, Presiding
Hamburg, Germany

(Signed)

Judge Murphy
New York, USA

(Signed)

Judge Raikos
New York, USA

Judgment published and entered into the Registry on this 11th day of August 2022 in New York, United States.

(Signed)

Weicheng Lin, Registrar