



JUDGE ABDELMOHSEN SHEHA, PRESIDING.

1. Mr. Ahmad Shukri Safi (Appellant) has filed an appeal of Judgment No. UNRWA/DT/2023/011 (impugned Judgment) rendered by the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA or Agency).¹
2. In the impugned Judgment, the UNRWA Dispute Tribunal (UNRWA DT or Dispute Tribunal) dismissed Mr. Safi's application in which he had challenged his summary dismissal from the Agency. Mr. Safi was dismissed on the grounds that he had sexually abused a 14-year-old girl (Complainant or C01).
3. Mr. Safi comes before the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) with requests to rescind the dismissal, restore him to his former position, and compensate him for the periods of unemployment resulting from his termination.
4. For the reasons set forth herein, the Appeals Tribunal dismisses the appeal and affirms the impugned Judgment.

~~Facta Proba~~

5. Since 2011, Mr. Safi had been employed by the Agency as a Teacher. At the time of the contested decision, he was at Grade 10, Step 6, and based in the Gaza Field Office (GFO).

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THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2024-

THE UNITED NATIONS APPEALS TRIBUNAL

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that W05 and W06 had arrived at the police station after the fact. The Tribunal recorded many inconsistencies that arose in W05 and W06's testimonies on cross-examination.²⁵

37. The Dispute Tribunal considered the testimony of Notables and Mukhtars that the Complainant had admitted in front of all of them that these events were a "misunderstanding". The Tribunal had no reason to doubt these statements of the Notables and Mukhtars, but considered this an outcome of the *Sulha* negotiations, and that the Complainant had no choice but to deny her complaint.²⁶ The Tribunal likewise did not place weight on the withdrawal of the Complainant's father's letter to the DUO/G about the incident, because this was also attributable to the differential power between the two families and the *Sulha* agreement.²⁷

38. Lastly, the Dispute Tribunal did not find it relevant that the local authorities closed the criminal case against Mr. Safi. The Tribunal's proceedings are administrative, and the Agency is empowered to take disciplinary measures against staff for misconduct regardless of the outcome in a local court.²⁸

39. The Dispute Tribunal concluded that taken cumulatively the following facts constituted clear and convincing evidence that the alleged misconduct occurred:²⁹

- (1) C01's consistent accounts of the incident, (2) the coherence of C01's accounts with the statements of two eyewitnesses, namely W03 and W04, (3) the consistency of C01's accounts with the statements of W01 and W02, (4) the lead investigator's testimony in support of C01's credibility, (5) the absence of any credible challenge on the part of [Mr. Safi] that would raise question(s) with respect to C01's accounts and credibility, (6) the lack of any reasonable motive on the part of a 14-year-old girl to come u

true given the harm CO1 and her whole family suffered as a result of her reporting such an incident to the police.

40. The Dispute Tribunal also found that Mr. Safi was engaged in an outside activity of operating as a taxi driver.³⁰

41. The Dispute Tribunal found that the established conduct was in clear violation of the Agency's regulatory framework, and constituted deliberate acts of SEA and kidnapping against a minor and a beneficiary of UNRWA.³¹ The Tribunal noted that such serious misconduct constitutes grounds for the most severe disciplinary measure. This was particularly so in this case because of the Complainant's vulnerability as a 14-year-old girl. Moreover, Mr. Safi also placed her in a position where she suffered retaliation and ostracism in her community for disclosing the incident. The Tribunal concluded that the sanction of summary dismissal was proportionate to the nature and gravity of such serious misconduct.³² Mr. Safi's application was accordingly dismissed.

42. Mr. Safi filed an appeal with the Appeals Tribunal on 4 July 2023, and the Commissioner-General submitted his answer on 18 September 2023.

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43. Mr. Safi appeals the impugned Judgment on the grounds of: error of application of law, exclusion of his evidence, deficient reasoning, violation of the law and judicial precedents, and deprivation of his rights.

44. Mr. Safi challenges the factual basis of the impugned Judgment. He claims that the girl decided to ride in the front seat of his car so she could fabricate a false accusation against him. He claims he was motivated by chivalry and generosity to pick her up. He claims that she inexplicably

56. Mr. Safi submits that the crime of sexual harassment has material and moral elements. He submits that for the material element it is not enough for the act to be accidental or spontaneous, the acts must be repeated. Moreover, he submits that a crime does not occur merely with expressions of amorous affection.

57. Mr. Safi submits that for the moral element to be present, there must be the element of intent, that the perpetrator pushes the victim to respond to his sexual desires, and that the perpetrator knows the victim has some mental or physical weakness. Mr. Safi avers that his is a case of complete innocence.

~~(b) (6), (b) (7)(C), (b) (7)(D)~~

63. The Commissioner-General submits that the UNRWA DT also correctly found that Mr. Safi's witnesses were not credible, and that the written testimonies of the Notables and Mukhtars were not relevant as they were not direct witnesses to the incident.

64. The Commissioner-General contends that the UNRWA DT duly considered the effect of the letter signed by the Complainant's father retracting the allegati1.315 -1.728 Tdy7D[(M)5.8 7 (l)-4..9 (a)6.7 08

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2024-

Judgment

74. Mr. Safi's appeal is dismissed, and Judgment No. UNRWA/DT/2023/011 is hereby affirmed.

Original and Authoritative Version: English

Dated this 28th day of June 2024 in New York, United States.

(Signed)

Judge Sheha, Presiding

(Signed)

Judge Ziadé

(Signed)

Judge Colgan

Judgment published and entered into the Register on this 9th day of July 2024 in New York, United States.

(Signed)

Juliet E. Johnson, Registrar