
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2011/068

Judgment No.: UNDT/2011/194

Date: 15 November 2011

Original: English

Before: Judge Vinod Boolell

Registry: Nairobi

Registrar: Jean-Pelé Fomété

ACHKAR

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

Introduction

1. The Applicant served with the United Nations Relief and Works Agency (UNRWA) as Senior External Relations and Projects Officer based in Amman, Jordan from 1 March 2002 until his resignation in January 2003. He had taken up this post as a promotion from his previous post in the United Nations Department of Political Affairs (UNDPA) in New York.

Facts

2. The Applicant avers that in 2001 he was being asked to formally travel to Gaza despite numerous warnings by the Applicant that it would be most dangerous for him to travel to Gaza and Israel before and after accepting the offer of the post at UNRWA (“the impugned decision”). His reservations for travelling were that it

against the Secretary-General as the Chief Administrative Officer of the United Nations.” It further states in article 2.1 (b) that the Dispute Tribunal shall be competent to hear and pass judgment on an “appeal of an administrative decision that is alleged to be in con-compliance with the terms of appointment or the contract of employment.”

7. Article 8(4) of the Rules of Procedure of the UNDT state that “[a]fter ascertaining that the requirements of the present article have been complied, the Registrar shall transmit a copy of the application to the respondent.”

8. From the pleadings of the Applicant, it is clear that at the time of the contested decision he was a staff member of UNRWA. This entity does not fall under the jurisdiction of the UNDT. At the time the cause of action arose, the Applicant would probably have been entitled to pursue any claim he might have had against UNRWA before the former UN Administrative Tribunal.¹

9. Since the cause of action arose in UNRWA, the element of *ratione materiae* of the UNDT is not satisfied because the Applicant should have filed his application against the Commissioner General as the Chief Executive Officer of UNRWA.² On this basis too, the case is not receivable.

10. Even if, the UNDT had jurisdiction to proceed with the Application, the Applicant would not have succeeded in the pursuit of his claim based on the timeliness of the Application. This Tribunal notes deciammDffl 6.7(e)2.11 6.71f[(th)(U)-3.2(8.(m)6(he

of the Rules of Procedure of the UNDT states that “[i]n accordance with article 8.4 of the statute of the Dispute Tribunal, no application shall be receivable if filed more than three years after the applicant’s receipt of the contested admi