

APPEALS TRIBUNAL

Judgment No. 2016-UNAT-611



JUDGE ROSALYN CHAPMAN, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal by Mr. Houssam Mustapha Chaaban of Judgment No. UNRWA/DT/2014/024, 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) in Amman on 28 August 2014, in the case of *Chaaban v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*. On 27 October 2014, Mr. Chaaban filed an appeal of Judgment No. UNRWA/DT/2014/024, and on 5 January 2015, the Commissioner-General of UNRWA filed his answer to the appeal.

Facts and Procedure

2. The Appeals Tribunal determined in *Chaaban v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2013-UNAT-363:¹

Mr. Chaaban is a former staff member of UNRWA. He joined the Agency on 19 July 2005 as an Information Systems Technical Assistant for the Palestinian Refugees Records Project, grade 12. On 16 November 2006, he was promoted to the post of Scanning Team Supervisor, grade 14. Mr. Chaaban was separated from the Organization upon closure of the project on 28 February 2009.

3. Prior to his separation, Mr. Chaaban applied for three posts with UNRWA.² On 20 February 2009, Mr. Chaaban requested to fill the post of Database Manager. On

6. On 28 August 2014, the UNRWA DT issued Judgment No. UNRWA/DT/2014/024, dismissing the application as not receivable *ratione materiae*.

7. On 27 October 2014, Mr. Chaaban filed an appeal of Judgment No. UNRWA/DT/2014/024, and on 5 January 2015, the Commissioner-General of UNRWA filed his answer to the appeal.

Submissions

Mr. Chaaban's Appeal

8. The UNRWA DT erred on a question of fact, resulting in a manifestly unreasonable decision, when it mischaracterized the impugned decision it was reviewing and determined that the application contested the decisions not to transfer the Appellant and not to renew his appointment. Rather, the application clearly stated that the impugned decision being contested was the general policy decision to halt transfers of staff working in the scanning operation, including the Appellant.

9. The Dispute Tribunal made other errors of fact, as well, including: (a) failing to note that the Appellant made three transfer requests, not merely one; and (b) separately listing the non-renewal of his appointment as an impugned decision, whereas the matter of the Appellant's reappointment was an integral part of the transfer claim. Improperly, the

12. Mr. Chaaban requests that the Appeals Tribunal reverse the UNRWA DT Judgment and remand the case to the UNRWA DT for determination on the merits.

The Commissioner-General's Answer

13. The UNRWA DT did not err in law or fact when it determined that the application contested the decisions not to transfer Mr. Chaaban and not to renew his appointment. The Appellant cannot claim that the timeline for filing an application should start to run when he discovered there was a general decision or policy to halt all transfer requests. Rather, it should have been clear to him that his transfer requests had been denied as of the date he was separated from service, that is 28 February 2009. Thus, the application, which was filed in 2013, was clearly untimely.

14. The Appellant is manifestly abusing the appeals process. This is his third appeal contesting his unsuccessful transfer requests, all of which were made before he was separated from service in 2009. The UNRWA Dispute Tribunal explicitly warned

17. Mr. Chaaban claims that this characterization by the UNRWA Dispute Tribunal was made in excess of its competence or jurisdiction and also constitutes an error of fact, which resulted in a manifestly unreasonable decision within the meaning of Article 2(1) of the Appeals Tribunal Statute. There is no merit to Mr. Chaaban's claims.

18. The UNRWA DT properly and reasonably exercised its duties to ind i-4.2(-5.5(d5a7;7(-5.5h1a

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Original and Authoritative Version: English

Dated this 24th day of March 2016 in New York, United States.

(Signed)

Judge Chapman, Presiding

(Signed)

Judge Adinyira

(Signed)

Judge Simón

Entered in the Register on this 13th day of May 2016 in New York, United States.

(Signed)

Weicheng Lin, Registrar