



UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D 'APPEL DES NATIONS UNIES

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Judgment No. 2016-UNAT-701



Husseini  
(Appellant)

v.

Commissioner-General

Date: 28 October 2016

Registrar: Weicheng Lin

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Counsel for Mr. Husseini: Amer Abu-Khalaf, LOSA

Counsel for Commissioner-General: Lance Bartholomeusz

JUDGE JOHN MURPHY , PRESIDING .

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Mr. Mutaz Ibrahim Husseini of Judgment No. UNRWA/DT/2016/015, 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 25 April 2016, in the case of *Husseini v. Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*. Mr. Husseini filed his appeal on 17 May 2016, and the Commissioner-General of UNRWA filed his answer on 15 July 2016.

Facts and Procedure

2. The Appellant was appointed as an Area staff member to the post of Field

responsibilities of higher level posts". It provides specifically for the payment of an AAA "[w]hen an Area staff member is required to serve in a post in the International professional category" and "assumes higher duties and responsibilities", but expressly stipulates that such payment will be "according to the following arrangements". The relevant provisions of the ASC are clauses 1 and 6 thereof which read:

1. Without prejudice to the principle that promotion shall be the normal means of recognizing increased responsibilities and demonstrated ability, an Area staff member temporarily assuming the duties and responsibilities of an International professional post for a period of exceeding one month, may, in exceptional cases, be granted an AAA from the beginning of the second month of assignment in the International professional post.

...

6. The amount of the AAA shall be in the form of a monthly lump sum payment in accordance with the schedule set out below. Fractional periods shall be paid in accordance with Staff Rule 103.8. ....

4. The ASC is clear that an AAA is only payable from the beginning of the second month of assignment in the International professional post and permits for fractional payments. Thus, in the opinion of the HRSO, the Appellant was entitled to a fractional payment for total 22 TD -e-.0013dgf le HR

This provision is identical in its terms to that contained in APD No. A/3 of 1 January 1992. The purpose of the amendment of the APD in 2012 was to introduce an “Additional Assignment Allowance – Parallel Education & Development Programmes”, and had no bearing or altering effect in relation to the AAA provided for in paragraph 2.

6.

intention is clearly manifest. APD No. A/3 issued in 2012 applied to all Area staff members who assumed higher level duties and responsibilities, and was of general application. However, the

introduced an implied term into his contract of employment. Having previously applied the APD to him, the Agency is precluded from changing its interpretation of the applicable law to its benefit by applying the ASC. It was therefore, in his view, “an abuse of power and unjust” for the Agency to now apply the ASC. The Agency's pr

administration of the Agency and its operations. Such issuances are regarded as part of the terms of the contract of employment. “Organization directives are promulgated ... to govern the organization of the Agency and to prescribe the powers and duties of its principal officers.”<sup>1</sup>





that specifically governed the situation where an Area staff member acted in an International professional post. The Agency exercised its discretion in terms of the ASC and was constrained by it only to grant an AAA in exceptional circumstances and only after the staff member continued to act in the post after the expiry of one month.

21.

had a right to an AAA; he only had an expectation that the Agency would exercise its discretion to grant him an AAA fairly, properly and in accordance with the legal provisions of the policy.

Judgment

24. The appeal is accordingly dismissed and Judgment No. UNRWA/DT/2016/015 is affirmed.

Original and Authoritative Version: English

Dated this 28<sup>th</sup> day of October 2016 in New York, United States.

*(Signed)*

Judge Murphy, Presiding

*(Signed)*

Judge Lussick

*(Signed)*

Judge Halfeld

Entered in the Register on this 20<sup>th</sup> day of December 2016 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar