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*Did the UNWRA Dispute Tribunal err in law, fact*

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Review of the UNWRA DT Judgment for



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discomfort, or humiliation ... includ[ing] other cruel or degrading forms of punishment". It also strictly pr

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Dispute Tribunal is not allowed to investigate facts on which the disciplinary sanction has not been based and may not substitute its own judgment for that of the Secretary-General. It will only examine whether there is sufficient evidence for the facts on which the disciplinary sanction was based.

42.! Before *Mbaigolmem*,<sup>8</sup> it was not disputed that the Dispute Tribunal had authority to rehear the witnesses of the disciplinary proceedings to assess whether there was sufficient evidence to conclude that misconduct occurred, and the Dispute Tribunal has done that several times. However, the Appeals Tribunal clarified in *Nadasan* that clear and convincing evidence can be established without an oral hearing in certain circumstances and this is in the discretion of the Dispute Tribunal.

43.! In the present case, the UNRWA DT indicated that it considered this was a case “where the record before the Tribunal arising from the investigation [was] sufficient for the Tribunal to render a decision without the need for an oral hearing”.<sup>9</sup> Without an oral hearing, the determination was based entirely on the documentary evidence and written submissions before the UNRWA DT. The record outlined instances of the Appellant using a wooden stick on one of the complainants, throwing another down on the ground and treading on the belly of a complainant, kicking another, all corroborated by witness testimony.

44.! Article 11(1) of the UNRWA Dispute Tribunal’s Rul Tj 583.92 cm BT -0.001318 5831(e .001Pto) 1r

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52.! In paragraphs 34-39 of its Judgment, the UNRWA DT considered the Appellant's submissions of the unfairness of the DUO/J's decision and his denial that he had inflicted corporal punishment on any student. However, this was weighed against the accounts of the complainants and the corroboration of the allegations provided during the investigation, particularly the supporting evidence of thirteen witnesses.

53.! The Appellant has variously argued that the complaints were based on "inaccurate and unconfirmed information" and the Head Principal and/or the Director and/or the UNRWA DT had been personally unfair to him. However, he has provided no support for these allegations or explained how the information relied upon was inaccurate or false. His arguments have varied through the process. His response has been inconsistent. For example, in his response to the investigation report, he denied using corporal punishment but then suggested that he "may have practiced some wrong practices" and requested another opportunity to improve his behaviour if he did deserve punishment. In his application to the UNRWA DT, he argue

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60.! We find that the







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Judgment

71.! The appeal is dismissed and Judgment No. UNRWA/DT/2019/074 is hereby affirmed.

Original and Authoritative Version: English

Dated this 30<sup>th</sup> day of October 2020.

*(Signed)*

Judge Sandhu, Presiding  
Vancouver, Canada

*(Signed)*

Judge Murphy  
Cape Town, South Africa

*(Signed)*

Judge Neven  
Brussels, Belgium

Entered in the Register on this 17<sup>th</sup> day of December 2020 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar