

Agreement (SSA)] allocated in Damascus area, Tartous, Latakia, and Suwaida. The proposed list of needed versus redundant staff, as at 1 January 2015, ... indicates that the total number of staff required to maintain the current level of operations is 56 staff (30 fixed and 26 SSA), while the redundant staff will be 27 (17 fixed and 10 SSA).

... On 15 September 2014, the Agency organized a meeting with the MD/SFO staff members to explain the financial situation of the department, the redundancy process and the evaluation criteria for the different posts. For the previous six months, the Applicant had been performing data entry duties rather than duties of a Clerk. The Agency indicated in this meeting that in order to fairly determine which staff members were the least efficient incumbents, evaluations would be based on a previous evaluation exercise that staff members had undergone (this criterion was given 70 percent of the score) and the actual performance of the staff members in their positions at the current time (this criterion was given 30 percent of the score).

... By letter dated 30 September 2014, the Head, Field Human Resources Office (H/FHRO) informed the Applicant that her post would be abolished effective 31 December 2014 and that she was declared provisionally redundant effective 1 October 2014. The letter provided in relevant part:

I have to inform you that based on the evaluation of MD staff members conducted during this month; your post is one of the abolished posts. Consequently you are hereby, [sic] declared provisionally redundant effective 1 October 2014. Your provisional redundancy is regulated by the Area Personnel Directive A/9 [on Separation from Service], Sec[tion] 15.

In accordance with the above directive we provide you a list of currently available vacant posts. We kindly request that you review the attached list of vacancies, express your interest in three of them in a priority order, and provide Staff Relations Officer (SRO) [...] with your choices in writing on the attached form by close of business 10 October 2014.

In accordance with Area Personnel Directive A/9, paragraph 15.4, you are hereby served with the termination notice required by your letter of appointment, i.e. 30 days. This means that you will be separated from the Agency for reason of redundancy effective close of business on 31 December 2014.

During the following one month period, the Agency will continue making all possible efforts to find a suitable placement for you. You are also encouraged to apply to suitable vacancies during the period and to inform Head Field Human Resource Office accordingly. Should an alternative suitable placement be found and you accept it, this termination notice will be rescinded.

... On 27 November 2014, the Applicant filed a request for review of the decision dated 30 September 2014, to abolish her post and declare her provisionally redundant.

... By letter dated 20 December 2014, the Deputy Commissioner-General replied to the Applicant's request for decision review. The contested decision was upheld.

3. On 22 February 2015, Ms. Ayoub filed an application with the UNRWA Dispute Tribunal against the decision to abolish her post and declare her provisionally redundant.

4. In the Judgment now under appeal, the UNRWA Dispute Tribunal dismissed Ms. Ayoub's application. It reviewed the case within the framework of the Agency's policy

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2017-UNAT-749

# THE UNITED NATIONS APPEALST

14. We uphold the findings of the UNWRA Dispute Tribunal that there was "no evidence submitted that the decision to abolish [Ms. Ayoub's] post was arbitrary or capricious, motivated by prejudice or extraneous factors, or was flawed by procedural irregularity or error of law".<sup>6</sup> In fact, the uncontroverted evidence is that on 9 October 2014, the Agency held a meeting with all provisionally redundant MD/SFO staff in order to provide them with information about applications for vacancies, and employment on a daily paid or casual basis. In the following days, the Agency held individual meetings with staff members to discuss and determine their compatibility with vacant posts. There is no evidence of an arbitrary or capricious process, but instead there is evidence of a process which was motivated by budgetary constraints as well as

# Judgment

17. The appeal is dismissed and Judgment No. UNRWA/DT/2016/025 is hereby upheld.

Original and Authoritative Version: English

Dated this 14<sup>th</sup> day of July 2017 in Vienna, Austria.

(Signed)

(Signed)

(Signed)

Judge Thomas-Felix, Presiding Judge Chapman

Judge Murphy

Entered in the Register on this 5<sup>th</sup> day of September 2017 in New York, United States.

(Signed)

Weicheng Lin, Registrar