



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2022-UNAT-1235



Wissam Zeid
(Appellant)

v.

Commissioner-General
of the United Nations Relief and Works Agency
for Palestine Refugees in the Near East
(Respondent)

JUDGMENT

Before:	Judge Martha Halfeld, Presiding Judge Graeme Colgan Judge Kanwaldeep Sandhu
Case No.:	2021-1581
Date of Decision:	1 July 2022
Date of Publication:	5 July 2022
Registrar:	Weicheng Lin

Counsel for Appellant:	Self-represented
Counsel for Respondent:	Ana Peyro-Llopis

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Mr. Zeid requested further explanations regarding the decision not to shortlist him and some materials related to the recruitment process in order to prepare his “formal complaint”.

8. On 21 June 2020, the HRCMO/LFO provided Mr. Zeid with further explanations, shared with him the “Step-by-Step Guide” of the UNRWA DT and advised him to contact the Legal Officer (Staff Assistance). Following several inquiries and responses, on 3 July 2020, the H/FHRO/LFO again provided Mr. Zeid with a detailed explanation as to why he was not shortlisted for the post.

18. The UNRWA DT correctly and reasonably concluded that Mr. Zeid did not submit a
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because there was a misinterpretation of the Staff Regulations and the UNRWA DT disregarded facts for the benefit of the Commissioner-General is not persuasive so as to justify an oral hearing about the issues raised in the appeal. The factual and legal issues arising from the appeal have already been clearly defined by the parties and there is no need for further clarification. All elements for discussion are already on the record. Moreover, we do not find that an oral hearing would “assist in the expeditious and fair disposal of the case”, as required by Article 18(1) of the Rules. Mr. Zeid’s request for an oral hearing is denied.

Merits of the appeal – the receivability of the application

22. The main issue for consideration and determination in the present case is whether the UNRWA DT erred when it found that the application was not receivable *ratione materiae*, because Mr. Zeid did not submit a request for decision review of the contested administrative decision.

23. The legal framework specifically applicable to the present case provides that a staff member wishing to formally contest an administrative decision alleging non-compliance with his or her terms of appointment or the contract of employment, including all pertinent Regulations and Rules and all relevant administrative issuances, shall, as a first step, submit a written request for a decision review: (A) in the case of staff members of Field Offices, to the UNRWA Field Office Director in charge of the Field Office; and (B) in the case of staff members of Headquarters, to the Director of Human Resources.⁴

24. In the same sense, Article 8(1)(c) of the UNRWA DT Statute stipulates that an application shall be receivable if an applicant has previously submitted the contested administrative decision for decision review. Furthermore, Article 8(3) bars the UNRWA DT from suspending, waiving, or extending the deadlines for decision review.

25. It has long been established in the Appeals Tribunal’s jurisprudence that a request for decision review/management evaluation is a mandatory first step in the appeal process.⁵ Being a mandatory first step before coming to the internal justice system, the request for management evaluation or decision review provides the Administration with the opportunity to reassess the situation and correct possible mistakes or errors with efficiency without the

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need of judicial intervention.⁶ The tribunals have no jurisdiction to waive deadlines for requests for management evaluation or decision review.⁷ This jurisprudence is in full

justice system due to lack of competence *ratione personae* of the tribunals, a *staff member* wishing to formally contest the administrative decision should comply with the mandatory requirement to challenge it, first by means of decision review or management evaluation, in order for the Tribunals to have competence *ratione materiae* in the matter.

30. In this sense, Mr. Zeid's request to be treated as an external candidate as a means to avoid having to present a request for decision review before filing his application to the UNRWA DT is disingenuous. He *is* a staff member and must be treated as such. Thus, the UNRWA DT did not err in finding that Area Staff Rule 111.1(2) applied to Mr. Zeid's case.

31. Having established the applicable legal framework, the Appeals Tribunal will now assess whether the UNRWA DT Judgment erred when it found that the application was not receivable *ratione materiae*. Mr. Zeid contends that the chain of e-mails is evidence to his benefit. In this regard, when the Senior Field Investigator mentioned that a certain point "can

not err when it found that Mr. Zeid's e-mails were not perceived as a request for a decision review.¹¹

34. Despite having inappropriately argued that the e-mail exchange constituted his request for decision review, which was not the case as discussed above, Mr. Zeid also alleges that there were "missing attachments" regarding e-mail issues. The Appeals Tribunal could not find any reference to these "missing attachments" on the records. There was no motion on Mr. Zeid's part on the matter. If Mr. Zeid refers to the part of the UNRWA DT Judgment where it mentioned that the form which Mr. Zeid presented was not accompanied by any additional evidence, i.e. an e-mail submitting the form to the Director of the LFO, then it was not for the Agency to provide evidence of any "missing attachments" or e-mails. Rather, as correctly found by the UNRWA DT, since the Agency is not required to provide evidence of any "missing attachments" or e-mails, the Agency is not required to provide evidence of any "missing attachments" or e-mails.

Judgment

37. The appeal is dismissed and Judgment No. UNRWA/DT/2021/024 is affirmed.

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