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7. On 25 June 2021, Mr. Abu Hatab requested a decision review of the decision not to select him for said roster. On 14 Jul 0 Tw 0.728 0 Td()Tj/TT1 1 Tf-0j-/ 25 0 Td D.28 7 (rw 7.978 5 0 Td()Tj-0.41 Tw

demonstrated that Mr. Abu Hatab did not meet any of the four competencies required for the posts of School Principal for All Areas.⁴

12. Finally, the UNRWA DT concluded that Mr. Abu Hatab failed to demonstrate any abuse of discretion in the Agency's contested decision and to prove that "the contested decision was arbitrary or capricious, was motivated by prejudice or other extraneous factors or was flawed by procedural irregularity or error of law".⁵

Procedure before the Appeals Tribunal

13. On 8 October 2022, Mr. Abu Hatab filed an appeal of the impugned Judgment with the Appeals Tribunal, to which the Commissioner-General responded on 9 January 2023.

Submissions

Mr. Abu Hatab's Appeal

14. Mr. Abu Hatab requests that the Appeals Tribunal "overturn" the impugned Judgment, award him compensation for the moral and material damages suffered by him as a result of the contested decision and refer the case to the Commissioner-General to enforce accountability. Alternatively, he requests that the Appeals Tribunal return the case to the UNRWA DT to be heard by a new judge.

15. With respect to the impugned Judgment, Mr. Abu Hatab submits that the UNRWA DT erred in fact and in law in dismissing his application.

16. Firstly, Mr. Abu Hatab contends that the UNRWA DT erred by denying his request for an oral hearing. He argues that the UNRWA Dispute Tribunal should have issued an order "asking [the parties] to indicate whether it was appropriate to hold an oral hearing".

17. Secondly, Mr. Abu Hatab submits that the UNRWA Dispute Tribunal erred by issuing the impugned Judgment "in undue haste". He notes that he received the Arabic translation of the Commissioner-General's reply on 4 May 2022 and that the impugned Judgment was issued on

⁴ *Ibid.*, para. 28.

⁵ *Ibid.*, para. 29.

- (c) Erred on a question of law;
- (d) Committed an error in procedure, such as to affect the decision of the case; or
- (e) Erred on a question of fact, resulting in a manifestly unreasonable decision.

27. Mr. Abu Hatab, in his appeal, does not show that the UNRWA Dispute Tribunal committed such an error of law, fact or procedure.

Did the UNRWA DT commit an error of procedure, such as to affect the decision of the case, in denying Mr. Abu Hatab's request for an oral hearing?

28. Article 11(1) of the UNRWA DT Rules of Procedure provides that “[t]he judge hearing a case may hold oral hearings”. Moreover, the Appeals Tribunal has consistently emphasized the broad discretion of the Dispute Tribunal with regard to its case management. In *Nadeau*,⁹ we stated:

(...) Under Article 2(1)(d) of its Statute, the Appeals Tribunal is competent to hear and pass judgment on an appeal filed against a judgment rendered by the UNDT in which it is asserted that the UNDT has committed an error in procedure, such as to affect the decision of the case. It follows that a party, in order to be successful on appeal, not only has to assert and show that the UNDT committed an error in procedure but also that this error affected the decision on the case. As Mr. Nadeau has given no convincing reason on appeal as to why and how an oral hearing before the UNDT would have had an impact on the decision of the case, on this ground alone his appeal must fail. Furthermore, we do not find that by denying Mr. Nadeau's request for an oral hearing the UNDT committed an error of procedure. The Judge lawfully exercised the discretion vested in him by Article 16(1) of the UNDT Rules of Procedure.

29. In *Abdullah*,¹⁰ we found:

(...) Mr. Abdullah contends that the absence of an oral hearing and the UNRWA DT's failure to call witnesses infringed his due process rights. We are not so persuaded. Article 11(1) of the Rules of Procedure of the UNRWA DT provides that '[t]he Judge hearing a case may hold oral hearings'.

(...) The record in this case indicates that the UNRWA DT gave due consideration to the request for an oral hearing. In particular, the Tribunal, at paragraph 70 of its Judgment, set out its rationale for exercising its discretion against an oral hearing. Mr. Abdullah has not adduced grounds to show that this discretion was exercised in such manner as to affect the outcome of the case, as required by Article 2(1)(c) of the Appeals Tribunal's Statute.

30. In the present case, the UNRWA DT addressed Mr. Abu Hatab's request for an oral hearing in paragraph 24 of the impugned Judgment. It considered "that the record before it [was]

mean that they were not part of the interview panel or that they did not agree with its recommendation.

Judgment

38. The appeal is dismissed, and Judgment No. UNRWA/DT/2022/018 is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 30th day of June 2023 in New York, United States.

(Signed)

Judge Knierim, Presiding

(Signed)

Judge Murphy

(Signed)

Judge Raikos

Judgment published and entered into the Register on this 6th day of July 2023 in New York, United States.

(Signed)

Juliet Johnson, Registrar