



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2013-UNAT-312

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

JUDGMENT

Before:	Judge Richard Lussick, Presiding Judge Luis María Simón Judge Sophia Adinyira
Case No.:	2012-348
Date:	28 March 2013
Registrar:	Weicheng Lin

Counsel for Appellant:	Self-represented
Counsel for Respondent:	Lance Bartholomeusz

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Mr. Jubran David Sanbar against Judgment No. UNRWA/DT/2012/010, rendered by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA or the Agency) Dispute Tribunal (UNRWA DT or UNRWA Dispute Tribunal) in Amman on 23 February 2012 in the case of *Sanbar v. Commissioner-General of UNRWA*. Mr. Sanbar appealed this Judgment on 16 July 2012. UNRWA filed an answer on 7 September 2012, erroneously responding to an appeal filed in respect of another UNRWA case, and filed a corrected answer on 4 February 2013.

Facts and Procedure

2. Mr. Sanbar entered the service of UNRWA in Beirut, Lebanon, on 18 March 1968. He served as an Area Staff Member until 31 January 1995 and then, from 1 February 1995, served as an International Staff member with the position of Senior Auditor, Electronic Data Processing, in Amman, Jordan.

3. Following a Quality Assessment Review of the Department of Internal Oversight Services (DIOS) undertaken by a Peer Review Team (PRT) from the Institute of Internal Auditors (IIA), on 20 September 2007, the PRT reported to the Commissioner-General, *inter alia*, as follows:

DIOS provides minimal [Information Technology (IT)] coverage.

DIOS has outsourced IT audit work, but to effectively monitor and evaluate such work, sufficient IT knowledge must exist within DIOS. DIOS currently has no auditors with current IT skills. The IT auditor post within UNRWA is open due to lack of funding. The risks that are inherent in IT make it important to build some internal capabilities in this regard ...

4. Mr. Sanbar protested about these findings in an e-mail dated 26 September 2007 to the Director of DIOS, and asked the latter to convey his complaints to the PRT. Thereafter, he repeatedly requested detailed information as to the methodology used by the PRT and the manner in which it had reached its conclusions. The Director of DIOS responded on 29 January 2008, indicating that the PRT had revised its final report and removed the reference to the position of the IT auditor being vacant, but that he accepted their finding and recommendation with respect to a lack of current IT audit skills.

5. Mr. Sanbar retired on 4 February 2008, but continued to engage in ongoing communication on the PRT report with the Director of the DIOS, the Head of the PRT and the President of the IIA, respectively.

6. On 6 June 2008, Mr. Sanbar filed an appeal with the UNRWA International Staff Joint Appeals Board (JAB). His appeal was subsequently transferred to the newly-created UNRWA Dispute Tribunal.

7. In Judgment No. UNRWA/DT/2012/010 of 23 February 2012, the UNRWA Dispute Tribunal dismissed the appeal, finding that Mr. Sanbar had “failed to present any appealable administrative decision”. Specifically, the UNRWA DT held:

- (i) the Agency’s decision to engage outside experts to assess the IT capacity or any other capacity of the Agency,
- (ii) the contents of a briefing report or any report to the Commissioner-General by external consultants related to their assessment, and
- (iii) the Agency’s acceptance of findings or recommendations of those consultants do[es] not constitute an administrative decision for the purpose of International Staff Regulation 11.1.

8. The UNRWA Dispute Tribunal chided Mr. Sanbar for his repeated legal proceedings, noting two other applications he had filed had also been dismissed, and finding:

The Tribunal is of the opinion that [his] legal actions constitute an abuse of process, not to mention a waste of time and resources. One would reasonably expect that as a former staff member of UNRWA for 40 years, 13 of which were spent as Senior Auditor, [he] would have a better knowledge and understanding of UNRWA Staff Regulations and Rules, and would not have lodged an application so frivolous.

Submissions

Mr. Sanbar’s Appeal

9. Mr. Sanbar submits that he suffered a serious insult as well as injury to his person as a result of inaccurate and unsubstantiated information in the impugned report.

10. He further submits that he made numerous efforts to have the report corrected, to no avail.

11. Mr. Sanbar alludes to an incident from 2006, which he transcribed in a “Note for the Record” on 13 April 2012, and implies it may have had some bearing on his situation.

Commissioner-General's Answer

12. The Commissioner-General asserts that the appeal is not receivable, as time-barred.
13. The Commissioner-General submits, in the alternative, that the UNRWA DT did not err in fact, law or procedure and that Mr. Sanbar has failed to identify any such error in the Judgment.
14. The Commissioner-General requests that the Appeals Tribunal dismiss the appeal in its entirety or, in the event that it finds the UNRWA DT to have erred on receivability, that it remand the case for judgment on the merits.

Considerations

15. The Appeals Tribunal has repeatedly held that it “has been strictly enforcing, and will continue to strictly enforce, the various time limits”.¹

16. Article 7(1) of the Statute of the Appeals Tribunal states that:

An appeal shall be receivable if:

...

(c) The appeal is filed within 60 calendar days of the receipt of the judgement of the Dispute Tribunal or, where the Appeals Tribunal has decided to waive or suspend that deadline in accordance with paragraph 3 of the present article, within the period specified by the Appeals Tribunal.

Article 7(1) of the Rules of Procedure of the Appeals Tribunal adds:

Appeals instituting proceedings shall be submitted to the Appeals Tribunal through the Registrar within:

(a) 60 calendar days of the receipt by a party appealing a judgement of the Dispute Tribunal.

17. In the present case, Mr. Sanbar received the Judgment of the UNRWA Dispute Tribunal on 23 February 2012. He filed his appeal on 16 July 2012. He was thus 84 days late.

¹ *Ibrahim v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2010-UNAT-069; *Mezoui v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-043; *Harding v. Secretary-General of the United Nations*, Order No. 44 (2011); *Meron v. Secretary-General of the United Nations*, Order No. 42 (2011); and *Islam v. Secretary-General of the United Nations*, Order No. 7 (2010).

18. No request to waive the deadline was received.

19. Mr. Sanbar's appeal is therefore not receivable.

20. We note that the Commissioner-General's answer was also filed out of time. This was because of a mistake in filing the original answer, which was in fact an answer to another of Mr. Sanbar's appeals. In an effort to correct the error, the Commissioner-General made enquiries by e-mail to the Registry of the Appeals Tribunal. Having ascertained where the error had occurred, the Commissioner-General then filed the correct answer, but at this stage it was out of time.

21. E-mailing the Registry of the Appeals Tribunal was not the correct procedure. The Commissioner-General ought to have referred to the Statute and Rules of Procedure of the Appeals Tribunal. However, the fact that the answer was also out of time is irrelevant, since it was an answer to an appeal that was not receivable.

Judgment

22. The appeal is not receivable.

Original and Authoritative Version: English

Dated this 28th day of March 2013 in New York, United States.

(Signed)

Judge Lussick, Presiding

(Signed)

Judge Simón

(Signed)

Judge Adinyira

Entered in the Register on this 24th day of May 2013 in New York, United States.

(Signed)

Weicheng Lin, Registrar