



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

Judgment No. 2017-UNAT-717

Yousef
(Appellant/Respondent on Cross-Appeal)

v.

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

JUDGMENT

Before:	Judge Rosalyn Chapman, Presiding Judge Dimitrios Raikos Judge Martha Halfeld
Case No.:	2016-952
Date:	31 March 2017
Registrar:	Weicheng Lin

Counsel for Mr. Yousef:	Amer Abu-Khalaf, LOSA
Counsel for Commissioner-General:	Lance Bartholomeusz

JUDGE ROSALYN CHAPMAN, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal and cross-appeal of Judgment No. UNRWA/DT/2016/021, issued by the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA DT or UNRWA Dispute Tribunal and UNRWA or Agency, respectively) in Amman on 13 June 2016, in the case of *Yousef v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees*. Mr. Mazen Mohammad Mahmoud Yousef filed his appeal on 18 July 2016, and the Commissioner-General filed his cross-appeal on 19 September 2016. The Commissioner-General also filed an answer to Mr. Yousef's appeal on 19 September 2016; however, Mr. Yousef did not file any answer to the Commissioner-General's cross-appeal.

Facts and Procedure

2. On 2 February 1987, Mr. Yousef joined UNRWA as a Senior Handyman at Grade 5, Step 1, at the West Bank Field Office. He was promoted to Grade 6, Step 9, effective 1 February 1995. On 1 August 1995, he was promoted to the position of General Services Officer (GSO) at the Grade 8 level, and subsequently he was promoted to Grade 9, Step 3. On 30 May 1996, Mr. Yousef noticed that his post was advertised in the newspaper without any notification to him. In response to his official request for an explanation of the announcement, a handwritten note was provided stating that Mr. Yousef's post was going to be the Machine Maintenance Officer (MMO) under the same grade as GSO. However, the post of MMO was not included in the Agency Human Resources posts, although it was represented to Mr. Yousef that it would be created.

3. In the meantime, Mr. Yousef occupied the post of Machine Maintenance Repairman at Grade 7, with salary at the Grade 9 level. Periodically, Mr. Yousef would inquire about his post classification. On 18 December 2014, he was advised by UNRWA's Compensation and Management Services Division that the new post title for his position would be General Services Supervisor (GSS) at the Grade 11 level.

4. On 17 May 2015, Mr. Yousef filed an application before the UNRWA Dispute Tribunal contesting the decisions to reclassify his post at Grade 11 instead of Grade 14 and not to grant him compensation for the delay in deciding to reclassify his post. The Commissioner-General filed a reply.

5. On 13 June 2016, the UNRWA DT issued Judgment No. UNRWA/DT/2016/021, which upheld the decision to reclassify Mr. Yousef's post as GSS at the Grade 11 level and awarded Mr. Yousef compensation for the salary difference for one year, between the salary he received at Grade 9 and the salary he should have received at Grade 11, less a set off for any special occupation allowance he received in addition to his Grade 9 salary. The UNRWA Dispute Tribunal also awarded Mr. Yousef moral damages in the amount of USD 4,000.

6. On 18 July 2016, Mr. Yousef filed an appeal, and on 19 September 2016, the Commissioner-General filed a cross-appeal. The Commissioner-General also filed his answer to Mr. Yousef's appeal on 19 September 2016; however, Mr. Yousef did not file an answer to the Commissioner-General's cross-appeal.

Considerations

7. On 10 January 2017, the President of the Appeals Tribunal assigned Case No. 2016-952 -- Mr. Yousef's appeal and the Commissioner-General's cross-appeal -- to a panel of the Appeals Tribunal for consideration and judgment.

8. On 13 February 2017, Mr. Yousef filed a Motion to Withdraw the Appeal "based on the fact that an internal settlement ... ha[d] been agreed with the UNRWA".

9. On 15 February 2017, the Commissioner-General filed a Motion to Withdraw the Cross-Appeal, stating: "The Appellant having filed a Motion for withdrawal of the Appeal, the Respondent no longer wishes to pursue the Cross-Appeal and hereby gives notice of the withdrawal of the Cross-Appeal."

10. Our jurisprudence provides that “a party may withdraw an appeal simply by giving notice”. As we have stated: There is “no reason to require [a party] to pursue an appeal he [or she] no longer deems necessary in the context of his [or her] case”.¹ Accordingly, the withdrawal of the appeal and cross-appeal are noted and the Registrar should be directed to close Case No. 2016-952.²

Judgment

11. The Registrar is directed to close the case.

¹ *Baracungana v. Secretary-General of the United Nations*, Order No. 243 (2015), para. 4; see *Chowdhury v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-441.

² *Von der Schulenburg v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-515; *Chowdhury v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-441; *Oummih v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-413.

Original and Authoritative Version: English

Dated this 31st day of March 2017 in Nairobi, Kenya.

(Signed)

Judge Chapman, Presiding

(Signed)

Judge Raikos

(Signed)

Judge Halfeld

Entered in the Register on this 26th day of May 2017 in New York, United States.

(Signed)

Weicheng Lin, Registrar