



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

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Judgment No. 2020-UNAT-1009

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

**JUDGMENT ON APPLICATIONS FOR INTERPRETATION  
AND EXECUTION OF JUDGMENT**

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Before: Judge Martha Halfeld, Presiding  
Judge John Raymond Murphy  
Judge Dimitrios Raikos

Case Nos.: 2019-1324 & 2019-1329

Date: 27 March 2020

Registrar: Weicheng Lin

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Counsel for Mr. El Shaer: Self-represented  
Counsel for Commissioner-General: Rachel Evers

**JUDGE MARTHA HALFELD, PRESIDING.**

1. Mr. Tamer Yaser El Shaer has filed two applications, one for interpretation, and the other for execution, of Judgment No. 2019-UNAT-942 which the United Nations Appeals Tribunal (Appeals Tribunal) issued on 19 August 2019. For reasons set out below, we dismiss both applications.

**Facts and Procedure**

2. On 14 July 2018, Mr. El Shaer filed an application with 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) challenging the decision to separate him from service for abandonment of post.

3. On 21 January 2019, the UNRWA DT issued Judgment No. UNRWA/DT/2019/002 dismissing Mr. El Shaer's application.

4. On 5 March 2019, Mr. El Shaer filed an appeal before the Appeals Tribunal contesting the UNRWA DT Judgment.

5. On 19 August 2019, the Appeals Tribunal issued Judgment No. 2019-UNAT-942. In paragraph 38 of its Judgment, the Appeals Tribunal granted Mr. El Shaer's appeal, rescinded the Agency's decision to separate Mr. El Shaer from service and ordered his reinstatement on similar terms and conditions of employment with effect from 19 March 2018. In the alternative, the Appeals Tribunal, at paragraph 39 of its Judgment, awarded Mr. El Shaer compensation in the amount of 12 months' net base salary.

6. On 19 October 2019, Mr. El Shaer filed an application for execution of judgment and the Commissioner-General of UNRWA filed his comments on 20 November 2019. The case was registered as No. 2019-1324.

7. On 29 October 2019, Mr. El Shaer filed an application for interpretation of judgment and the Commissioner-General of UNRWA filed his comments on 3 December 2019. The case was registered as No. 2019-1329.

## **Submissions**

### **Mr. El Shaer's Application for Execution**

8. Mr. El Shaer maintains that, according to paragraph 39 of Judgment No. 2019-UNAT-942, the award of compensation was to be executed within two months. He therefore requests that the Agency “urgently implement” the said Judgment in compliance with “regulations and laws”.

### **The Commissioner-General's Comments**

9. Following the issuance of Judgment No. 2019-UNAT-942 and having regard to paragraph 39 of the Judgment, the Agency elected to pay Mr. El Shaer an amount of compensation equal to 12 months' net base salary, or USD 10,220.74 (inclusive of the component of applicable interest). However, the Agency did not pay out this amount to Mr. El Shaer, because he had been erroneously overpaid by USD 15,261.13 in connection with his separation. In a letter dated 17 October 2019, the Agency informed Mr. El Shaer of that determination and asked him to settle USD 5,040.74 that he now owed the Agency.<sup>1</sup>

10. As the Agency has effectively complied with the terms of Judgment No. 2019-UNAT-942, UNRWA requests that the Appeals Tribunal dismiss Mr. El Shaer's application for execution of judgment in its entirety.

### **Mr. El Shaer's Application for Interpretation**

11. Mr. El Shaer is seeking an interpretation of paragraphs 38 and 39 of Judgment No. 2019-UNAT-942, because they are “ambiguous and vague in the interpretation”, though he does not elaborate.

### **The Commissioner-General's Comments**

12. The Commissioner-General states that the language in paragraphs 38 and 39 of the impugned Judgment is clear in its meaning and scope and requires no interpretation. Therefore, under the established jurisprudence, the Appeals Tribunal should reject Mr. El Shaer's application for interpretation.

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<sup>1</sup> There appears to be a calculation error. The correct settlement amount should be USD 5,040.39 (15,261.13 - 10,220.74).

### **Considerations**

13. In Judgment No. 2019-UNAT-942, the Appeals Tribunal upheld Mr. El Shaer's appeal against Judgment No. UNRWA/DT/2019/002, rescinded the decision to separate him from service and consequently ordered his reinstatement on similar terms and conditions of employment with effect from 19 March 2018. In accordance with its Statute, the Appeals Tribunal set an amount equal to 12 months' net base salary as compensation in lieu of the specific performance. The Appeals Tribunal also established an additional percentage of interest in case the judgment was not executed within 60 days from the date it became executable.

14. Mr. El Shaer seeks (i) interpretation of the Appeals Tribunal Judgment delivered on 19 August 2019, in respect of paragraphs 38 and 39, which he considers ambiguous and vague, and (ii) execution of the Judgment.

15. Article 11(3) and (4) of the Appeals Tribunal's Statute provides that "[e]ither party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of the judgement", and that "[w]here the judgement requires execution within a certain period of time and such execution has not been carried out, either party may apply to the Appeals Tribunal for an order for execution of the judgement".

16. Similar provisions have been established in our Rules of Procedure:

#### **Article 25 Interpretation of Judgements**

Either party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of a judgement on a prescribed form. The application for interpretation shall be sent to the other party, who shall have 30 days to submit comments on the application on a prescribed form. The Appeals Tribunal will decide whether to admit the application for interpretation and, if it does so, shall issue its interpretation.

#### **Article 27 Execution of Judgements**

Where a judgement requires execution within a certain period of time and such execution has not been carried out, either party may apply to the Appeals Tribunal for an order for execution of the judgement.

17. The section titled “Judgment” in Judgment No. 2019-UNAT-942 is reproduced below:

36. The appeal is upheld and Judgment No. UNRWA/DT/2019/002 is set aside.

37. The decision of the Agency of 19 March 2018 separating Mr. El Shaer from service is rescinded.

38. The Agency is ordered to reinstate Mr. El Shaer on similar terms and conditions of employment with effect from 19 March 2018.

39. As an alternative to the order of specific performance in paragraph 37, the Agency may elect to pay an amount of compensation equal to 12 months’ net base salary. The award of compensation shall bear interest at the United States prime rate with effect from the date this Judgment becomes executable until payment of said award. An additional five percent shall be applied to the United States prime rate 60 days from the date this Judgment becomes executable.

18. The Judgment is clear in its meaning. It is written in plain and unambiguous language, which leaves no reasonable doubt as to what it means. It requires no interpretation.

19. This Tribunal found in *Abbasi* that:<sup>2</sup>

[I]nterpretation is only needed to clarify the meaning of a judgment when it leaves reasonable doubts about the will of the Tribunal or the arguments leading to a decision. But if the judgment is comprehensible, whatever the opinion the parties may have about it or its reasoning, an application for interpretation is not admissible, as it happens in the present case.

20. Mr. El Shaer fails to identify any sentences or words in the Judgment that are unclear or ambiguous to justify the filing of such an application for interpretation. For the afore-mentioned reasons, Mr. El Shaer’s application for interpretation is not admissible and must be rejected.

21. Mr. El Shaer seeks execution of Judgment No. 2019-UNAT-942. However, in his comments, the Commissioner-General submits that, following the issuance of the Judgment, UNRWA elected to pay the amount of compensation in lieu, instead of rescinding the decision to separate Mr. El Shaer from service and reinstating him. Moreover, the Agency has provided evidence in the form of a letter addressed to Mr. El Shaer dated 17 October 2019, in which the Agency explained that it would consider part of an erroneous overpayment to Mr. El Shaer as full satisfaction of Judgment No. 2019-UNAT-942.

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<sup>2</sup> *Abbasi v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-315, para. 18.

22. Article 9(1)(a) of our Statute provides, in relevant part, that the Appeals Tribunal may order “[r]escission of the contested administrative decision or specific performance, provided that, where the contested administrative decision concerns appointment, promotion or termination, the Appeals Tribunal shall also set an amount of compensation that the respondent may elect to pay as an alternative to the rescission of the contested administrative decision or specific performance ordered”.

23. We therefore find that there is no need to order execution of the Judgment, namely, Mr. El Shaer’s reinstatement, as the Judgment has already been fully executed by means of compensation, rather than rescission and reinstatement.

24. Under the circumstances, we find no merit in Mr. El Shaer’s application for execution of judgment.

**Judgment**

25. The applications for interpretation and execution of judgment are dismissed in their entirety.

Original and Authoritative Version: English

Dated this 27<sup>th</sup> day of March 2020.

*(Signed)*

Judge Halfeld, Presiding  
Bournemouth, United Kingdom

*(Signed)*

Judge Murphy  
Cape Town, South Africa

*(Signed)*

Judge Raikos  
Athens, Greece

Entered in the Register on this 19<sup>th</sup> day of June 2020 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar