



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2025-UNAT-1545

Afaf Khaled Abu Shakra *et al.*

(Appellants)

v.

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

JUDGMENT

Before:	Judge Nassib G. Ziadé, Presiding Judge Leslie F. Forbang Judge Gao Xiaoli
Case No.:	2024-1902
Date of Decision:	21 March 2025
Date of Publication:	28 May 2025
Registrar:	Juliet E. Johnson

Counsel for Appellants: Diab Khalil El Tabari

Counsel for Respondent: Stephen Margetts

JUDGE NASSIB G. ZIADÉ, PRESIDING.

1. Ninety-eight Appellants, all staff members of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA or Agency), contested the decisions of the Agency not to grant them the appropriate grade levels for their initial fixed-term appointments (FTAs) (contested decisions).
2. The Appellants fall into three distinct categories: i) teachers contesting their classification at Grade 8 (First Group);¹ ii) teachers contesting their classification at Grade 9 (Second Group);² and iii) technical instructors contesting their classification at Grade 10 (Third Group).³
3. On 31 December 2023, by Judgment No. UNRWA/DT/2023/052 (impugned Judgment),⁴ the Dispute Tribunal of UNRWA (UNRWA DT or UNRWA Dispute Tribunal) dismissed the Appellants' applications, concluding that while their applications were receivable, the contested decisions were lawful.
4. The Appellants lodged an appeal against the impugned Judgment with the United Nations Appeals Tribunal (UNAT or Appeals Tribunal).
5. For the reasons set out below, the Appeals Tribunal dismisses the appeal and affirms the impugned Judgment.

¹ Afaf Abu Shakra, Anis El Hajj Mousa, Iman Al Haddad, Asmahan Al Awad, Ahmad Laz, Hadil Diab, Duaa Abo Al Ardat, Mostafa Khattab, Diana El Oneis, Umayya Abed El Hafiez, Hasan El Talliss, Sara Abo Ali, Yasmin Hussein, Abdul Monhem Karzoune, Suhad Najem, Hanan Wehbeh, Nizar Khader and Sabrine Chawich.

² Wassim Kanaan, Salah Al Sari, Rafida Khatib, Kholoud Al Dahwish, Iman Farhat, Yasmine Sharabati, Ghina Mohammad, Khadijeh Abou Niaj, Hiba Rajab, Nahla Shanaa, Mona Al Asaad, Louziana Shreidi, Reem Yaccoub, Layali Amer, Nada Qaddoura, Hanan Jrad, Joslien Al Khalid, Hanin Krayyem, Basima Jomaa, Mahmoud Nafaa, Rana Abdullatif, Huda Chihadeh, Mohammad Arabi, Tamara Al Natour, Basmah Abu El Niaj, Marwa Saadi, Maria Abdul Ghani, Lara Ayyoub, Layal Alaa Eddine, Afrah Moghrabi, Hanan Dakwar, Muna Qaddura, Ali Awad, Ibrahim Bernawi, Maha Hamid, Narmine Al Qadi, Jihad Abdul Wahhab, Mirvette Rached, Nuha Ahmad, Mariam Tafach, Eman Al Awad, Itab Eid, Rawia Al Hajj, Muna Mustafa, Rania Abu Chuqair, Amineh El Qadah, Lina Tallouzi, Weam Issa, Marwa Zeidan, Zahra Husein, Jumana Mosleh, Aya Hamieideh, Ahmad Al Sayyed, Manal El Sadek, Doaa Al Khadrawi, Samah Abou Sahyoun, Amani Khalaf, Walaa Kassem, Hiba Salamoun, Wafa Lubani, Farah Shahin, Salwa Al Ahmad, Said Khattab, Ibrahim Abdel Hadi, Iman Dabbour, Nisreen Mekdadi, Safaa Ayyash, Mohammad Amra, Fadia Abbas, Ghanem Ghuneim, Mahmoud Touhibish, Nisrine Zeitounah, Shaymaa Mohammad, Fidaa Abo Dahesh and Hiba Abbasi.

³ Aya Zaher, Bilal Sirriyeh, Fatmeh Ajjawi, Hussein Asaad and Mohammad Rashid.

⁴ *Abu Shakra et al. v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. UNRWA/DT/2023/052.

Facts and Procedure

6. During various periods between 2005 and 2020, the Appellants were employed by the Agency on Daily Paid Contracts or as United Nations Volunteers, working as teachers or technical instructors at the Lebanon Field Office (LFO).

7. On 12 and 13 September 2019, during the Inter-Staff Union Conference, the Staff Unions and the Agency agreed on several action points, one of which was to reduce the number of Daily Paid Workers. As a result, the Appellants were offered FTAs by the Agency effective 1 August 2020, the date on which they became UNRWA staff members.

8. On 19 August 2020, the Staff Representative of the Appellants raised concerns by e-mail with the Field Human Resources Office, LFO, regarding the implementation of some action points discussed in September 2019. Specifically, the Staff Representative questioned the appointment of certain teachers at Grades 8 and 9.⁵

9. On the same date, the Head, Field Human Resources Office, LFO, responded to the Staff Representative that the decision of the Agency to appoint the teachers respectively at Grades 8 and 9 had been made in accordance with “the *approved post description*, existing policy (...) and a guidance received (...) on this specific matter”.⁶

10. On 29 September 2020, each Appellant individually requested a review of their contested decision.⁷

11. On 29 December 2020, the Appellants filed applications with the UNRWA DT challenging the contested decisions.⁸

⁵ Reply of the Respondent before the UNRWA DT, para. 10. See also e-mail dated 19 August 2020 from the Staff Representative to the Field Human Resources Office, LFO.

⁶ E-mail dated 19 August 2020 from the Head, Field Human Resources Office, LFO to the Staff Representative (emphasis added).

⁷ Impugned Judgment, para. 10.

⁸ Annex to the impugned Judgment, para. 1.

*Procedures before the UNRWA Dispute Tribunal*⁹

12. On 21 February 2021, by Order No. 028 (UNRWA/DT/2021), the UNRWA DT consolidated the 98 applications.

13. On 7 September 2023, by Order No. 124 (UNRWA/DT/2023), the UNRWA DT ordered the Commissioner-General to produce the Occupation Classification Manual (OCM), to which he referred in his reply as one of the legal bases for taking the contested decisions.

14. On 21 September 2023, in his response to Order No. 124 (UNRWA/DT/2023), the Commissioner-General stated that the OCM was obsolete and no longer used.

15. On 4 October 2023, by Order No. 149 (UNRWA/DT/2023), the UNRWA DT ordered the Commissioner-General to produce declarations signed by the Deputy Commissioner-General, the Department of Legal Affairs and the Department of Human Resources of UNRWA, attesting that the requested OCM no longer existed.

16. On 18 October 2023, the Commissioner-General produced the requested declarations from the Department of Human Resources and the Officer-in-Charge of the Department of Legal Affairs but requested that the UNRWA DT vacate the order concerning the Deputy Commissioner-General or grant him an extension of time to comply with it.

Impugned Judgment

17. On 31 December 2023, the UNRWA DT issued the impugned Judgment, dismissing the Appellants' applications. The UNRWA DT first granted the Commissioner-General's request to withdraw from Order No. 149 (UNRWA/DT/2023) the requirement for a signed declaration by the Deputy Commissioner-General. However, it noted that it was "concerning that the Agency relied on the OCM in its reply brief – going so far as to attach part of it – but when asked to produce it, claimed it to be irrelevant and obsolete since 2008".¹⁰

18. The UNRWA DT then rejected the Commissioner-General's contention that the applications were not receivable. It found that all Appellants had "the status of staff member on the day their appointment became effective".¹¹ It further determined that the contested decisions

⁹ *Ibid.*, paras. 4, 42, 45-46 and 48.

¹⁰ Impugned Judgment, para. 25.

¹¹ *Ibid.*, para. 28.

not to grant them the correct grade levels constituted appealable administrative decisions, as they produced direct legal consequences adversely affecting their terms of appointment.¹² In this regard, the UNRWA DT recalled that “any failure by the Agency to comply with its regulatory framework in relation to a specific staff member could affect that staff member’s terms of appointment”.¹³ In the present case, relying on *Jesus Suarez Liste*,¹⁴ the UNRWA DT observed that if the Appellants’ claims that they were placed at a lower grade than they were entitled to were true, this would constitute a negative impact.¹⁵

19. The UNRWA DT also found that the fact that the Appellants had signed their letters of appointment did not waive their right to challenge their appointments if they were allegedly not in compliance with the applicable legal framework.¹⁶

20. Turning to the merits of the case, the UNRWA DT noted that the Agency’s legal basis for determining the grades of the Appellants was the Area Staff Post Descriptions issued in 2014. The UNRWA DT then examined whether the Agency had abused its discretion in assessing the Appellants’ respective education and experience.¹⁷

21. Regarding the First Group, the UNRWA DT found that the Agency appropriately exercised its discretion to classify the Appellants as teachers at Grade 8. Specifically, the UNRWA DT found that all the Appellants, except Ms. Diana El Oneis, had failed to provide training certificates attesting that they had completed a pre or in-service teacher training course of at least one year prior to their appointment with the Agency, a requirement set out in the Area Staff Post Description in order to be classified at Grade 9.¹⁸ With regard to Ms. Diana El Oneis, the UNRWA DT noted that following the production of the requested certification, her grade was adjusted to Grade 9.

22. Turning to the Second Group, the UNRWA DT found that the Appellants failed to meet the requirements under both the “Academic/Professional qualifications” and “Experience” sections of the Area Staff Post Description, which required five years of experience as a teacher at Grade 9 to

¹² *Ibid.*, paras. 33 and 35.

¹³ *Ibid.*, para. 34.

¹⁴ *Jesus Suarez Liste v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1358.

¹⁵ Impugned Judgment, para. 34.

¹⁶ *Ibid.*, para. 36.

¹⁷ *Ibid.*, paras. 8-9 and 40. See also Area Staff Post Description dated 29 January 2014.

¹⁸ Impugned Judgment, paras. 8 and 41-44. See also Area Staff Post Description dated 29 January 2014.

be classified at Grade 10. Therefore, the UNRWA DT concluded that the Appellants of the Second Group were correctly classified at Grade 9.¹⁹

23. Regarding the Third Group, the UNRWA DT determined that the Agency correctly classified the Appellants as Grade 10 technical instructors. The UNRWA DT observed that since the Appellants held a first-level (and not an advanced) university degree, in order to be classified at Grade 11, their first-level degrees must have had a duration of at least five years or they must have completed a special teacher in-service training course of at least one year.²⁰ However, the UNRWA DT found that the Appellants failed to produce any evidence to the Agency to support this requirement when the contested decisions were made.²¹ The UNRWA DT further noted that only Mr. Hussein Asaad submitted a training certificate to the UNRWA DT, issued by the Agency on 23 August 2020, demonstrating that he had completed the required in-service training course. However, given that his grade was subsequently adjusted, and his FTA was effective 1 August 2020, the UNRWA DT concluded that his application was moot.²²

24. Last, the UNRWA DT concluded that differentiating staff members' grades based on academic qualifications and experience was lawful and did not constitute discrimination or violate the principle of equal pay for equal work.²³

Procedure before the Appeals Tribunal

25. On 22 February 2024, the Appellants filed an appeal against the impugned Judgment with the Appeals Tribunal, to which the Commissioner-General responded on 20 May 2024.

¹⁹ Impugned Judgment, paras. 8 and 45-47. See also Area Staff Post Description dated 29 January 2014.

²⁰ Impugned Judgment, paras. 8 and 48-49.

²¹ *Ibid.*, para. 50.

²² *Ibid.*, paras. 51-52.

²³ *Ibid.*, para. 55.

Submissions

The Appellants' Appeal

26. The Appellants request that the Appeals Tribunal provide a “retroactive reclassification as of [1] August 2020 showing the proper grading based on university degree[,] years of experience and teaching diploma”. The Appellants also request an oral hearing before the Appeals Tribunal.²⁴

27. The Appellants submit that the UNRWA DT erred in concluding that the Agency did not abuse its discretion in taking the contested decisions. In particular, with regard to the Second Group, the Appellants argue that the UNRWA DT “tried to play on words” by stating that, in order to be classified at Grade 10, teachers were required to have five years of experience after receiving FTAs. The Appellants contend that the requirement for five years of experience is irrespective of where they taught.

28. The Appellants assert that the UNRWA DT erred in finding that the Agency did not violate the principle of equal pay for equal work. On the contrary, the Appellants argue that “if a staff member is placed at a lower grade while he is doing the same job with the same qualifications carried out by a colleague at another grade”, it necessarily violates this principle.

29. Last, referring to the UNRWA DT’s conclusion at paragraph 56 of the impugned Judgment, the Appellants submit that the UNRWA DT improperly dismissed their applications “in one word” with no reasoning, despite earlier paragraphs in the impugned Judgment showing “positive signs” in their favor.

The Commissioner-General’s Answer

30. The Commissioner-General requests that the Appeals Tribunal affirm the impugned Judgment and dismiss the appeal.

31. The Commissioner-General submits that an oral hearing before the Appeals Tribunal would not assist in the fair and expeditious disposal of the case, as the issues of the present case are clearly defined.

²⁴ Appeal form.

32. The Commissioner-General submits that the UNRWA DT correctly dismissed the Appellants' applications.

33. The Commissioner-General contends that the Appellants failed to identify their grounds of appeal in accordance with Article 2(1) of the Appeals Tribunal Statute (Statute). Furthermore, the Commissioner-General argues that the Appellants merely disagree with the impugned Judgment and try to reargue their case. They fail to demonstrate any error in the UNRWA DT's findings that would warrant a reversal of the impugned Judgment. In particular, the Commissioner-General highlights that some of the Appellants' observations are merely repetitions of the UNRWA DT's reasoning.

34. The Commissioner-General submits that the UNRWA DT committed no error in confirming the Appellants' classification in their respective Groups. In particular, regarding the Second Group, the Commissioner-General asserts that the UNRWA DT properly relied on the Area Staff Post Description to determine that none of the Appellants had the required five years of experience as teachers at Grade 9 to be classified at Grade 10.²⁵

35. The Commissioner-General submits that the UNRWA DT did not err in determining that the Agency did not violate the principle of equal pay for equal work, reiterating that the Appellants' arguments in this regard constitute a mere disagreement with the impugned Judgment and fail to establish a reversible error in the UNRWA DT's reasoning.

36. Last, the Commissioner-General contends that, given the absence of any illegality, compensation cannot be awarded to the Appellants.

²⁵ Impugned Judgment, paras. 8 and 45-47. See also Area Staff Post Description dated 29 January 2014.

Considerations

37. The primary issue in this appeal is whether the UNRWA DT erred in determining that the contested decisions were lawful, including whether any factual or procedural errors were made by the UNRWA DT which so affected the outcome of the decision as to impact the resolution of the case or render it manifestly unreasonable.²⁶ Because the factual and legal issues are sufficiently presented in the written record, we find that an oral hearing is not necessary to assist in the expeditious and fair disposal of the case, and accordingly deny the Appellants' request for such a hearing.²⁷

38. At the outset, we recall that appellate proceedings under the United Nations internal justice system are of a corrective nature and are not designed to allow dissatisfied parties to relitigate issues presented to and decided by the first instance Tribunal. Rather, the UNAT's authority is limited to the review of specified errors regarding jurisdiction, law or fact. Accordingly, an appellant bears the burden on appeal to establish a sound basis for overruling the decision under review and may not simply repeat arguments made below.²⁸

39. We find that the UNRWA DT appropriately assessed the Agency's application of the experience level requirements in each of the three Groups involved in the applications submitted before it.

40. The Appellants' principal contention is that the UNRWA DT misconstrued the evidentiary record when it concluded that the Agency properly applied its experience level requirements to the Second Group. According to the Appellants, the Agency incorrectly applied its Area Staff Post Description with respect to the Second Group, and the UNRWA DT erred in finding that the Agency's action was within its discretion. With respect to such a contention, we observe that the UNRWA Dispute Tribunal's review of the Agency's action is conducted in a judicial capacity. As such, its role is not to make the operational decision as to how a program is carried out. Rather, the UNRWA Dispute Tribunal sits in review of such decisions and determines, based on an

²⁶ Article 2(1) of the Statute; *Sarah Coleman v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1225, para. 38.

²⁷ Article 8(3) of the Statute and Article 18(1) of the Appeals Tribunal Rules of Procedure. See also *Lilian Ular v. Secretary-General of the United Nations*, Judgment No. 2024-UNAT-1409, paras. 41-42.

²⁸ *Sarah Coleman* Judgment, *op. cit.*, para. 38; *Aliko v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-540, paras. 28-29; *Ilic v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-051, para. 29.

adversarial proceeding and record, whether the Agency's administrative discretionary actions were legal, rational, procedurally correct, and proportionate.²⁹

41. So viewed, we find no error in the impugned Judgment. While the Appellants raise a legitimate concern about the Agency's changing position in the UNRWA DT proceedings regarding the relevance of the OCM, we do not find such a concern to constitute a ground to reverse the reasoned decision of the UNRWA DT. With respect to the specific issue of the Second Group now asserted by the Appellants, the UNRWA DT reviewed the Area Staff Post Description utilized by the Agency and correctly found that it called for five years of teaching experience at Grade 9.³⁰ However, the Appellants failed to meet this requirement. Therefore, there was no reversible error in that regard.

42. The Appellants further contend that the UNRWA DT failed to apply the principle of equal pay for equal work, as embodied, among other instances, in the Universal Declaration of Human Rights.³¹ They concede, however, that this portion of the appeal is wholly derivative of their claim that the Agency hired them into the wrong grade³² – an argument which we have determined to be meritless. In any event, it is well-established that the principle of equal pay for equal work does not prohibit differential treatment based on lawful and convincing reasons, such as the differences in training and experience present with respect to the hiring at issue in this appeal.³³ The UNRWA DT thus did not err in its application of this principle.

²⁹ *Jesus Suarez Liste* Judgment *op. cit.*, para. 42; *Sanwidi v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-084, paras. 40 and 42.

³⁰ Impugned Judgment, paras. 8 and 46.

³¹ *Ibid.*, paras. 53-54.

³² Appeal brief, para. 6 ("Had the [O]rganization graded correctly then the principle would not be breached.").

³³ *Elmi v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-704, para. 33.

Judgment

43. The Appellants' appeal is dismissed, and Judgment No. UNRWA/DT/2023/052 is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 21st day of March 2025 in Nairobi, Kenya.

(Signed)

Judge Ziadé, Presiding

(Signed)

Judge Forbang

(Signed)

Judge Gao

Judgment published and entered into the Register on this 28th day of May 2025 in New York, United States.

(Signed)

Juliet E. Johnson,
Registrar