



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2025-UNAT-1572

Nader Slayyeh
(Appellant and Respondent on Cross-Appeal)

v.

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

JUDGMENT

Before:	Judge Gao Xiaoli, Presiding Judge Nassib G. Ziade Judge Kanwaldeep Sandhu
Case No.:	2024-1948
Date of Decision:	27 June 2025
Date of Publication:	25 August 2025
Registrar:	Juliet E. Johnson

Counsel for Mr. Slayyeh: Fuad Omar Mansour

Counsel for Commissioner-General: Stephen Margetts

JUDGE GAO XIAOLI, PRESIDING.

1. Mr. Nader Slayyeh (Mr. Slayyeh) has filed an appeal of Judgment No. UNRWA/DT/2024/025 (impugned Judgment) rendered by the Dispute Tribunal for the United Nations Relief and Works Agency for Palestine Refugees in the Near East (Dispute Tribunal or UNRWA DT and UNRWA or Agency, respectively).

2. In the impugned Judgment, the UNRWA DT rescinded the Agency's decision to impose on Mr. Slayyeh the disciplinary measure of written censure and a fine equivalent to two weeks' salary for engaging in workplace harassment (contested decision). The UNRWA DT remanded the matter and ordered the Agency to take a new administrative decision.¹

3. In his appeal, Mr. Slayyeh "requests compensation under the jurisdiction of the United Nations Appeals Tribunal (Appeals Tribunal or UNAT), pursuant to the legal provision governing disputes related to administrative decisions and employment relations within UN organizations".²

4. The Commissioner General cross-appeals the UNWRA DT's rescission of the contested decision and remand of the matter to the Agency.

5. For the reasons set forth herein, the Appeals Tribunal dismisses the appeal, grants the cross-appeal and reverses the impugned Judgment.

Facts and Procedure

6. At the time of his application to the UNRWA DT, Mr. Slayyeh was a Health Centre Clerk at the Prince Hasan District Health Centre (PHD Health Centre) in Zarqa, Jordan.³

7. On 20 March 2019, the Agency received a complaint from a Practical Nurse at the PHD Health Centre (the Complainant) that Mr. Slayyeh had committed workplace and sexual harassment of her.⁴

¹ *Slayyeh v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. UNRWA/DT/2024/025 (31 July 2024), para. 3.

² Appeal form, section IV.

³ Impugned Judgment, para. 7.

⁴ *Ibid.*, para. 8.

8. The Director of UNRWA Affairs, Jordan (DUA/J) authorized a preliminary assessment into the allegations on 20 June 2019.⁵ Based on those findings, a formal investigation was opened.⁶

9. From 16 to 28 July 2020, investigators from the Jordan Field Office (JFO) interviewed the Complainant and six witnesses. Four of the six witnesses were nurses at the PHD Health Centre (Wo1, Wo3, Wo4 and Wo5), one was the Head Nurse (Wo2), and one was the Head of the PHD Health Centre (Wo6). Mr. Slayyeh was also interviewed. The interviews were summarized in Arabic and subsequently appended to the Investigation Report.

10. In her interview, the Complainant stated that from sometime in 2015 until March 2020, Mr. Slayyeh harassed her by describing her as being “fat”.⁷ She said she had made about three reports of this to the Head of the PHD Health Centre.

11. One of the nurses, Wo4, told the investigator that she once heard Mr. Slayyeh tell a beneficiary to go to the “brown fat” nurse. Another time, a beneficiary came to her to ask for the “fat brown” nurse, and when Wo4 asked who called the Complainant that, the beneficiary indicated that it was Mr. Slayyeh.⁸

12. Another nurse, Wo5, told the investigator that they had some beneficiaries who, when they came to the clinic, asked for the “fat brown” nurse, and when she asked the beneficiaries who told them to say that the beneficiaries responded that it was Mr. Slayyeh.⁹

13. The Head of the PHD Health Centre, Wo6, told investigators that the Complainant told him that a beneficiary had said that Mr. Slayyeh called her “fat”; that he had spoken to Mr. Slayyeh about it; that Mr. Slayyeh reported that he told the Complainant that he had been joking; and that after that he considered the matter resolved.¹⁰

14. The Investigation Report, which was written in English, concluded that only one allegation was substantiated, that of Mr. Slayyeh describing the Complainant as “fat brown”.¹¹ The recommendation was to take proper disciplinary action against Mr. Slayyeh for non-sexual

⁵ *Ibid.*, para. 9.

⁶ *Ibid.*, para. 12.

⁷ Investigation Report, p. 8. See also, impugned Judgment, para. 17(iii).

⁸ Investigation Report, p. 10. See also, impugned Judgment, para. 17 (iii), bullet 3. The word in the Arabic interview summary for Wo4 was “dubbeh” or female bear.

⁹ Investigation Report, p. 11. See also, impugned Judgment, para. 17 (iii), bullet 4.

¹⁰ Impugned Judgment, para. 17 (iii), bullet 5.

¹¹ Investigation Report, p. 14.

harassment, taking into consideration that the relationship between him and the Complainant had improved since March 2020.¹²

15. On 13 January 2021, the Field Legal Office of the JFO issued Mr. Slayyeh an Opportunity to Respond letter (OTR letter). The English version of the OTR letter stated that:¹³

- The Complainant and Wo4 had both heard, directly or indirectly, [Mr. Slayyeh] describe the Complainant as “fat” (the Complainant) and “brown fat” (Wo4). Wo5 had heard from beneficiaries that [Mr. Slayyeh] had used “the same offensive comments” to describe the Complainant.
- Wo6 had received a complaint from the Complainant three years earlier that [Mr. Slayyeh] had described the Complainant as “fat”, and when he discussed this with [Mr. Slayyeh], [Mr. Slayyeh] said he was joking.
- [Mr. Slayyeh] stated he had once called the Complainant “fat”.

16. In his response to the OTR letter, Mr. Slayyeh stated that in answering a question from a patient at the PHD Health Centre about whom to speak to, “the fat [one] or the other nurse?”, Mr. Slayyeh stated “the Al-Battootah one”, and he acknowledged that “Al-Battootah is an expression that could be used either as an endearment phrase or as an expression with negative connotation, in reference to someone’s weight”.¹⁴

17. The Deputy Director of UNRWA Affairs for Jordan issued a Disciplinary Measures letter (DM letter) to Mr. Slayyeh on 28 September 2021. The DM letter summarized the allegations, which as relevant to the current posture of this case, were that “[i]n the period from 2015 to 2020, you harassed the Complainant by insulting her repeatedly (e.g., calling her ‘fat’).¹⁵ The DM letter also noted the investigator’s findings that “the allegation of workplace harassment is substantiated. In particular, you made offensive comments describing the Complainant”.¹⁶

18. The DM letter imposed the disciplinary measure of written censure and a fine equivalent to one month’s salary. The Deputy Director of UNRWA Affairs for Jordan found a number of aggravating factors (denial of wrongdoing, lack of remorse, prior disciplinary record, seriousness

¹² *Ibid.*, p. 15. See also impugned Judgment, para. 18.

¹³ Impugned Judgment, para. 20.

¹⁴ Mr. Slayyeh’s response to the Opportunity to Respond letter, p. 1.

¹⁵ DM Letter, p. 1 (“Background”).

¹⁶ DM Letter, p. 1 (“Findings”).

of misconduct, given that harassment is a priority concern for the Agency). As far as mitigating factors, he noted Mr. Slayyeh's long service and the delay in the disposition of the case.¹⁷

19. Mr. Slayyeh filed a Request for Decision Review. In that Request, he stated that he "regret[ed] using an inappropriate term to direct a patient to the pertinent clinic's nurse and [he] ha[d] indeed learned a hard lesson and became very careful in [his] choosing of words".¹⁸ He explained that when a visiting patient asked him to whom to go for a vaccine, "the fat one or the other one", he responded that it was the 'al-battootah' one".¹⁹

20. Mr. Slayyeh indicated that this occurred four years prior and that he had apologized to the Complainant in front of the Head of the PHD Health Centre.²⁰ He stated that their relationship thereafter became very cordial.

21. In response to Mr. Slayyeh's Request for Decision Review, the DUA/J reduced the contested fine from one month to two weeks of his salary.²¹

22. On 25 November 2021, Mr. Slayyeh filed an application challenging the contested decision with the UNRWA DT.

Impugned Judgment

23. In the impugned Judgment, the UNRWA DT first made a preliminary note about translations. The UNRWA DT found that the precise translation of "dubbeh" is "female bear" and that it may have a connotation of "chubby". The Dispute Tribunal noted that in the English documents generated by the Agency, the word "dubbeh" was translated as "fat".²²

24. The UNRWA DT noted that "samra" is used in Arabic to describe, specifically, a woman with brown skin, but it is not necessarily pejorative.²³

¹⁷ DM Letter, p. 4.

¹⁸ Decision Review Request (English translation), p. 2.

¹⁹ *Ibid.*, p. 3.

²⁰ *Ibid.*

²¹ 23 November 2021 letter from Director of UNRWA Affairs, Jordan.

²² Impugned Judgment, para. 5(i).

²³ *Ibid.*, para. 5(ii).

25. The UNRWA DT also found that “al-batootah” is a colloquial Arabic term which may be considered similar to “ducky”.²⁴

26. The UNRWA DT also rejected two preliminary motions from Mr. Slayyeh. One, the UNRWA DT denied his request that the Agency produce investigation reports concerning three staff members whose testimony was relied upon by the Agency. Two, the UNRWA DT rejected his request for an independent third-party translation of one of the interview summaries in the Investigation Report.²⁵

27. The UNRWA DT noted that there were significant delays in this case. There was a lapse of 16 months between receipt of the complaint and interviews with Mr. Slayyeh, the Complainant and other witnesses. There was also a 13-month interval between completion of the Investigation Report and the issuance of the DM letter. These delays manifested in the lack of specificity in the witnesses’ evidence.²⁶

28. The UNRWA DT held that Mr. Slayyeh’s lack of access to the Investigation Report at the Opportunity to Respond stage did not impact on his ability to defend himself, as he received the unredacted copy and all annexes during the Dispute Tribunal proceedings.²⁷

29. The UNRWA DT identified mistranslations of the interview statements relied on by the Agency. The Complainant, Wo4 and Wo5 alleged that Mr. Slayyeh had described the Complainant as “dubbeh”, which literally means “female bear” in Arabic but was translated in the Investigation Report as “fat”. “Fat” was then used in the English translation of the OTR letter, which when translated into Arabic, was translated as “badeeneh”, although no one had used this word. This mistranslation also appeared in the DM letter.²⁸

30. The UNRWA DT reviewed Mr. Slayyeh’s interview statement attached to the Investigation Report and found it was unclear whether he admitted in that interview to describing the Complainant as “samra” (brown) and “dubbeh” (female bear) or “al-batootah” (ducky) in 2017.²⁹

²⁴ *Ibid.*, para. 5(iii).

²⁵ *Ibid.*, paras. 41-42.

²⁶ *Ibid.*, paras. 49-50.

²⁷ *Ibid.*, para. 53.

²⁸ *Ibid.*, para. 57.

²⁹ *Ibid.*, paras. 60 (quotations from investigator’s interview) and 63.

31. The UNRWA DT, however, found that Mr. Slayyeh admitted to describing the Complainant on at least one occasion as “al-batootah” (ducky).³⁰

32. The UNRWA DT noted that Wo6 testified that in approximately 2017 the Complainant told her that Mr. Slayyeh called her “Ad-dubbeh An-naasiheh” which means the “fat female bear”.³¹

33. The UNRWA DT also found consistency in testimony from the Complainant, Wo4 and Wo5,³² which appears to be Mr. Slayyeh’s use of the Arabic word “dubbeh” to describe the Complainant to beneficiaries coming to the PHD Health Centre.

34. From the foregoing, the UNRWA DT found that Mr. Slayyeh used inappropriate language towards the Complainant on one occasion in 2017, and that he described her as “dubbeh” on at least one additional occasion between 2017 and March 2019.³³

35. However, with respect to whether these established facts constituted misconduct, the UNRWA DT stated:³⁴

[T]he precise words used by [Mr. Slayyeh] are central to the question of whether the conduct “might reasonably be expected or be perceived to cause offence or humiliation to another person” and thus whether it amounted to harassment. The [Dispute] Tribunal considers that linguistic nuances and cultural and societal norms will be relevant to this question. Absent any expert evidence before it on this point, the [Dispute] Tribunal is not in a position to make a finding on the extent to which the mistranslation may have impacted the Agency’s misconduct findings, if at all.

36. Accordingly, the Dispute Tribunal considered it appropriate to rescind the contested decision and remand the case back to the Agency to take a new administrative decision – based on the facts that the Dispute Tribunal found established, in relation to (i) whether the use of the word “dubbeh” also constituted misconduct, and (ii) the appropriate sanction to impose, if any.³⁵

37. On 30 September 2024, Mr. Slayyeh submitted an appeal and brief entitled “File a Lawsuit for Compensation” with the UNAT.

³⁰ *Ibid.*, paras. 62 and 73.

³¹ *Ibid.*, para. 63.

³² *Ibid.*, para. 72, point (iii).

³³ *Ibid.*, para. 73.

³⁴ *Ibid.*, para. 76.

³⁵ *Ibid.*, para. 77.

38. The Commissioner-General filed his answer on 28 November 2024. That same day, the Commissioner-General filed a cross-appeal of the impugned Judgment. Mr. Slayyeh filed his answer to the cross-appeal on 11 January 2025.

Submissions

Mr. Slayyeh's Appeal

39. Mr. Slayyeh acknowledges that the impugned Judgment rescinded the contested decision, and remanded to the Agency, but claims that the Judgment did not adequately redress the damage suffered.

40. Mr. Slayyeh asserts that he has incurred the following damage. First, he claims that he has suffered from psychological and moral distress due to the baseless accusations and prolonged investigation. The excessive delay in resolving this case has caused him ongoing emotional distress that affects his ability to function in both professional and personal contexts.

41. Mr. Slayyeh submits that the two-week salary deduction had a profound financial impact on him because he lives on a tight budget. The deduction severely disrupted his ability to meet monthly obligations, including essential payments for his son's university tuition and impacted his Provident Fund value.

42. Mr. Slayyeh submits that he has also suffered reputational damage because the Complainant's wrongful accusations have tarnished his professional reputation. Colleagues, especially female coworkers, have indirectly cast doubt upon his character, leading to professional and social isolation, which continues to affect his work environment, performance and well-being.

43. Mr. Slayyeh seeks 3,000 Jordanian dinars (JOD) for harm caused by the wrongful accusations, JOD 3,000 for the prolonged investigation, JOD 3,000 for financial distress, JOD 3,000 for reputational damage, and JOD 1,000 for legal costs. In total, Mr. Slayyeh requests that the UNAT award him JOD 13,000.

44. Mr. Slayyeh also requests a formal public acknowledgment from the Agency acknowledging the wrongful actions taken and the issuance of an official apology for the harm caused.

The Commissioner-General's Answer

45. The Commissioner-General submits that Mr. Slayyeh has no basis to request damages for harm when the only remedies he requested before the UNRWA DT were rescission of the fine and replacement of the written censure with a reprimand.

46. The Commissioner-General submits that Mr. Slayyeh failed to allege any error of law or fact in the impugned Judgment, as required by the Appeals Tribunal Statute (UNAT Statute) and UNAT jurisprudence.

47. The Commissioner-General points out that even Mr. Slayyeh's brief is entitled "formal request for compensation", demonstrating that he is not challenging the impugned Judgment. Rather, Mr. Slayyeh is belatedly seeking compensation which he never requested from the UNRWA DT. This amounts to raising a new argument for the first time on appeal, which is contrary to well-established UNAT jurisprudence.

48. The Commissioner-General submits that compensation is not warranted given that the UNRWA DT did not find the contested decision unlawful due to "two potentially material errors of fact" but rather rescinded it for the Agency to take a new administrative decision.

49. The Commissioner-General submits that Mr. Slayyeh has manifestly abused the appeals process by filing an appeal of an impugned Judgment that was in his favor, where he failed to identify any appeal grounds against the impugned Judgment, and attempted to request additional remedies not raised in his application before the UNRWA DT.

50. The Commissioner-General acknowledges that the UNAT has held that unwise exercise of the right of appeal should not alone be a reason to penalize by costs. However, in this case, Mr. Slayyeh did not seek review of the impugned Judgment, so he is not exercising a right of appeal. Instead, he is seeking belatedly to introduce additional claims. Therefore, this "appeal" is not submitted in good faith and should not be tolerated.

51. The Commissioner-General points out that not only did Mr. Slayyeh never request compensation before the UNRWA DT, but he implicitly acknowledged that there was a basis for the accusations, since he requested replacement of the disciplinary measure with a reprimand. Mr. Slayyeh comes before the UNAT arguing that the accusations are "baseless" but his concession shows that in his mind, the accusations were not baseless or false.

52. The Commissioner-General avers that the Agency incurs considerable financial and human resource costs in defending cases before the UNAT. Frivolous appeals put general strain on the UNAT and hinder judicial efficiency. Accordingly, the Commissioner-General requests an award of costs of USD 300 pursuant to Article 9(2) of the UNAT Statute.

The Commissioner-General's Cross-Appeal

53. The Commissioner-General requests that the UNAT reverse the impugned Judgment's rescission of the contested decision along with the findings on which the rescission was based and affirm that the Agency had established the facts to the requisite standard of evidence, that those facts constituted misconduct, that the disciplinary measure imposed was lawful, and that the staff member's due process rights were respected.

54. The Commissioner-General avers that the UNRWA DT failed to properly exercise its jurisdiction when it rescinded the contested decision, rather than determining whether the established facts amounted to misconduct.

55. The Commissioner-General submits that the UNRWA DT erred by determining that there were at least two occasions when Mr. Slayyeh used inappropriate language when referring to the Complainant but then failed to determine whether those established facts amounted to misconduct.

56. The Commissioner-General claims that if the UNRWA DT needed additional information to make this determination, such as expert evidence on "linguistic nuances and cultural and societal norms", it should have called expert witnesses or requested additional submissions from the parties.

57. The Commissioner-General submits that the UNRWA DT committed errors of fact when it considered that the differences between various possible synonyms of offensive language were material.

58. The Commissioner-General contends that the UNRWA DT erred in its translation of the word "al-batootah", which although literally may be "ducky", can also be used to refer to someone as "chubby". Mr. Slayyeh himself acknowledged that this word had a double meaning in his response to the OTR letter. From the context of this case, it is apparent that this word was not used in the literal meaning.

59. The Commissioner-General submits that the UNRWA DT committed an error of law when it gave undue consideration to translation errors instead of undertaking judicial review of the contested decision.

60. The Commissioner-General submits that the record before the UNRWA DT was sufficient to establish that Mr. Slayyeh used derogatory words to describe the Complainant, regardless of whether the exact words used were “female bear”, “chubby”, or “fat”, and this amounts to misconduct. The UNRWA DT erred by concerning itself with whether the mistranslation may have impacted the Agency’s misconduct findings and should have instead decided whether the record established misconduct and whether written censure and a fine of two weeks’ salary was proportionate.

61. The Commissioner-General submits that the UNRWA DT correctly assessed that the failure to provide an unredacted investigation report and its annexes at the Opportunity to Respond stage did not have any impact on the outcome of the case.

Mr. Slayyeh’s Answer to the Cross-Appeal

62. Mr. Slayyeh makes various additional submissions to support his initial appeal to the UNAT for compensation.

63. Mr. Slayyeh points to a character letter from the head of the clinic where he worked, in which the doctor attests to Mr. Slayyeh’s strong work performance, professional ethics, and dedication. This is key evidence to show that Mr. Slayyeh’s conduct was beyond reproach.

64. Mr. Slayyeh also points to evidence that the Complainant was pressured into filing the complaint against him, which may have affected the integrity of the case.

65. Mr. Slayyeh also recalls evidence of a colleague who provided testimony that contradicted allegations made against him.

66. Mr. Slayyeh submits that the UNRWA DT correctly found that the contested decision was based on errors in the factual findings and insufficient evidence. However, the UNRWA DT remanded the case for further review. This remand did not adequately address the damage he had suffered due to the wrongful accusations.

67. Mr. Slayyeh reiterates that he is entitled to JOD 13,000 for psychological and moral distress, financial hardship, and reputational damage, as outlined in his appeal.

68. Mr. Slayyeh submits that the UNRWA DT correctly recognized that the mistranslations materially affected the fairness of the case. He relies on Administrative Instruction ST/AI/2010/3³⁶ which requires that all documentation relied on in disciplinary proceedings must be accurate and complete in order to ensure due process. Specifically, although he admits to using the word “battuta” to describe the Complainant, he says that the term “battuta” was misinterpreted in the investigation report, despite its benign cultural connotation in Jordan.

69. Mr. Slayyeh avers that the impugned Judgment correctly rescinded the disciplinary measure because it was disproportionate to the nature of the misconduct.

70. Mr. Slayyeh requests that the UNAT dismiss the cross-appeal as unfounded, as it fails to demonstrate any error in the impugned Judgment.

71. Mr. Slayyeh contends that the impugned Judgment aligns with established legal precedents regarding administrative fairness and the cross-appeal provides insufficient grounds to reconsider the matter in light of these precedents.

Considerations

Mr. Slayyeh’s Appeal

72. The issues to be considered in Mr. Slayyeh’s appeal are: i) whether Mr. Slayyeh can request compensation from the UNAT when he did not make a claim for damages before the UNRWA DT and ii) whether the Commissioner-General is entitled to an award of costs for Mr. Slayyeh pursuing this appeal.

Whether Mr. Slayyeh can request compensation from the UNAT when he did not make a claim for damages before the UNRWA DT

73. According to Article 2(1) of the UNAT Statute, the role of the Appeals Tribunal is not to retry cases *de novo*, but to determine whether the judgment of the first instance tribunal made errors of law or fact resulting in a manifestly unreasonable decision, exceeded its jurisdiction or

³⁶ This reference is to the Administrative Instruction on the Staff Selection System which does not discuss disciplinary proceedings.

competence or failed to exercise its jurisdiction, or committed an error of procedure, such as to affect the decision of the case. It is not sufficient for an appellant to disagree with the outcome of the first instance judgment, he or she bears the burden of satisfying the UNAT that the impugned judgment is defective.

74. In this case, Mr. Slayyeh's appeal brief is entitled "File a Lawsuit for Compensation" and then on the second page, he says the subject is "Formal Submission for Compensation: Wrongful Accusation, Extended Investigation, and Resulting Damages". To be specific, he requests the UNAT to adjudicate a case of wrongful accusation, an unduly extended investigation process, and consequential moral, psychological, financial, and reputational damages in the amount of JOD 12,000, reimbursement for legal costs of JOD 1,000, and a public acknowledgment and apology from the Agency.

75. Before the UNRWA DT, Mr. Slayyeh requested: i) rescission of the fine and ii) replacement of the written censure with a reprimand. It is clear that he did not ask for any compensation. As we stated in *Sirhan*, without a previous claim for damages and compensation, the Dispute Tribunal is not competent to award compensation *sua sponte*.³⁷ Thus, the UNRWA DT did not err in not granting any compensation to Mr. Slayyeh.

76. In our view, Mr. Slayyeh did not file a proper appeal against the impugned Judgment. On the contrary, he accepts the UNRWA DT's Judgment except for his new claim for compensation. Mr. Slayyeh requests this Tribunal to exercise its jurisdiction to grant him the compensation which he did not raise before the UNWRA DT. This is not appropriate.

77. Mr. Slayyeh did not file an appeal of the impugned Judgment but rather brought a new claim before the UNAT. As we have consistently held, a party cannot introduce on appeal an issue that was not previously presented to the first instance tribunal. Any claim on appeal must be first raised to the tribunal below, otherwise it does not comply with the United Nations two-tier formal system of administration of justice and is a violation of the due process rights of the other party.³⁸

78. In light of the foregoing, Mr. Slayyeh's appeal is not receivable.

³⁷ *Sirhan v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2018-UNAT-860, para. 23.

³⁸ *Koffi Gilles Wilfried Amani v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1301, para. 61.

Whether the Commissioner-General is entitled to an award of costs against Mr. Slayyeh for pursuing this appeal

79. The Commissioner-General submits in his answer to Mr. Slayyeh’s appeal that Mr. Slayyeh manifestly abused the appeals process, therefore he requests this Tribunal to award costs against Mr. Slayyeh under Article 9(2) of the UNAT Statute in the amount of USD 300.

80. Article 9(2) of the UNAT Statute provides that “where the Appeals Tribunal determines that a party has manifestly abused the appeals process, it may award costs against that party”.

81. While acknowledging that frivolous appeals should be discouraged by the imposition of costs on an appellant who abuses the appeals process, we have also emphasized that this is a high threshold for the parties to attain. Our jurisprudence illustrates that such an order will be rarely made, and usually after the party has been fairly warned of that consequence if the party’s abuse of process continues.

82. We have also held that the Appeals Tribunal may allow some latitude if an appellant is not legally represented. Along the same vein, some tolerance may be granted to individuals who do not appear frequently before the UNAT. Even though Mr. Slayyeh was represented, he was represented by an individual who seemingly does not have much experience with the UNAT, which is evident from his so-called appeal that is not an appeal at all. Similar to the appellant in *Abu Rabei*,³⁹ we do not think there was deliberate abusive behavior, and Mr. Slayyeh should not be penalized with an award of costs for his appeal.

83. Therefore, the Commissioner-General’s request to award costs on appeal is denied.

The Commissioner-General’s Cross-Appeal

84. The three issues presented by the Commissioner-General’s cross-appeal are: (i) whether the UNRWA DT erred in remanding the case to the Agency for reconsideration, (ii) whether the UNRWA DT erred in failing to find that Mr. Slayyeh committed misconduct, and (iii) whether it erred in not upholding the sanction in the contested decision.

³⁹ *Turki Salem Abu Rabei v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2020-UNAT-1060, para. 33.

Whether the UNRWA DT erred in remanding the case to the Agency for reconsideration

85. We note that under Article 10(5) of the UNRWA DT Statute, the Dispute Tribunal does not have the authority to remand and order re-decision. Remands are possible only under Article 10(4) of the UNRWA DT Statute with restrictions. It provides:

Prior to a determination of the merits of a case, should the Dispute Tribunal find that a relevant procedure prescribed in the Staff Regulations and Rules or applicable administrative issuances has not been observed, the Dispute Tribunal may, with the concurrence of the Commissioner-General, remand the case for institution or correction of the required procedure, which, in any case, should not exceed three months.

86. Accordingly, a remand to the Administration can only be ordered under Article 10(4) of the UNRWA DT Statute, “with the concurrence of the Commissioner-General” and prior to the determination of the merits of a case. In this case, the UNRWA DT Judge did not try to obtain the concurrence of the Commissioner-General. Accordingly, the only remedies available to the Dispute Tribunal are contained in Article 10(5) of the UNRWA DT Statute, which allows the UNRWA DT to rescind the contested decision or order specific performance and award compensation for harm.

87. Therefore, we consider that the UNRWA DT’s remand of the case “to the Agency to take a new administrative decision consistent with this Judgment” exceeded the UNRWA DT’s jurisdiction and was an error in law.

Whether the UNWRA DT erred in failing to make a misconduct determination based on the established findings of fact so as to lead to a manifestly unreasonable decision

88. We recognize that the UNRWA DT followed the four-prong test for judicial review of disciplinary decisions by reiterating the Appeals Tribunal rule that:⁴⁰

In disciplinary cases, the Tribunals will examine the following: (i) whether the facts on which the disciplinary measure is based have been established (where termination is the sanction imposed, the facts must be established by clear and convincing evidence; in all other cases preponderance of the evidence is sufficient); (ii) whether the established facts amount to misconduct; (iii) whether the sanction is proportionate to the offence; and (iv) whether the staff member’s due process rights were respected.

⁴⁰ Impugned Judgment, para. 43.

89. However, after making two findings of fact, the UNRWA DT concluded that “the contested decision contained potentially material errors of fact” which may have impacted the determination of misconduct and thus found “it appropriate to remand the case back to the Agency to take a new administrative decision consistent with this Judgment”.⁴¹ We therefore consider whether the UNRWA DT erred as a matter of law in failing to determine whether the established facts constituted misconduct.

90. The UNRWA DT Judge made two findings of fact: 1) Mr. Slayyeh had admitted to using “inappropriate language” on one occasion in 2017 and that this amounted to misconduct; 2) the Dispute Tribunal considered it more likely than not that Mr. Slayyeh had described the Complainant as “dubbeh” (female bear) on at least one additional occasion between 2017 and March 2019.⁴²

91. The record shows that the “inappropriate language” referred to by Mr. Slayyeh is the word “Al-Battootah” which Mr. Slayyeh admitted in his response to the OTR letter. Mr. Slayyeh admitted that “Al-Battootah is an expression that could be used either as an endearment phrase or as an expression with negative connotation, in reference to someone’s weight”.⁴³ In his Request for Decision Review, Mr. Slayyeh stated that he “regret[ed] using an inappropriate term to direct a patient to the pertinent clinic’s nurse and [he] ha[d] indeed learned a hard lesson and became very careful in [his] choosing of words”.⁴⁴ He explained that when a visiting patient asked him to whom to go for a vaccine, “the fat one or the other one”, he responded that it was the ‘al-battootah’ one”.⁴⁵ The Commissioner-General states in his cross-appeal that “al-battootah” has a double meaning, not just “ducky” as found by the UNRWA DT, but also “chubby”.⁴⁶

92. We also defer to the UNRWA DT’s factual finding that, by a preponderance of the evidence, there was one other occasion that Mr. Slayyeh used the word “dubbeh” to describe the Complainant.⁴⁷ It seems self-evident that using the Arabic word “dubbeh” (female bear) to describe a woman is meant to convey that the woman’s body size is large.

⁴¹ *Ibid.*, paras. 76 and 78.

⁴² *Ibid.*, para. 73.

⁴³ Mr. Slayyeh’s response to the Opportunity to Respond letter, p. 1.

⁴⁴ Decision Review Request (English translation), p. 2.

⁴⁵ *Ibid.*, p. 3.

⁴⁶ Cross-appeal, para. 24.

⁴⁷ The Investigation Report recorded that one witness directly heard this word used, in addition to the hearsay from the other witnesses. There was also evidence that Mr. Slayyeh admitted to use of this word

93. The question is whether referring to a woman by terms that are associated with being chubby or large is considered harassment. The UNRWA DT held that the Agency needed to explore whether the precise words might not have caused offense in Jordanian culture.⁴⁸ We consider that no expert evidence is necessary to find that referring to a work colleague as a female bear or a (chubby) ducky is offensive. We also infer that it was offensive to the Complainant who lodged the complaint. More specifically, as outlined below, we have considered whether it is acceptable under international civil service standards and the relevant regulations of the Agency.

94. The Agency defines “harassment” in paragraph 6(b) of General Staff Circular No. 06/2010 (Prohibition of Discrimination, Harassment – including Sexual Harassment – and Abuse of Power) as follows:

Harassment is any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person. Harassment may take the form of words, gestures or actions which tend to annoy, alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another or which create an intimidating, hostile or offensive work environment.

95. Based on the foregoing understanding of the definition of “harassment”, we find that Mr. Slayyeh’s conduct qualified as misconduct. The UNRWA DT erred in failing to make this determination.

Whether the UNRWA DT erred in not upholding the sanction, and whether the sanction is proportionate to the offence

96. Article 9 of Area Personnel Directive A/10/rev.3 (disciplinary measures and procedures) states:

UNRWA may identify several areas of misconduct that are of priority concern for the Agency and that may be amended from time to time. The Agency’s efforts to address wrongdoing normally focus on these areas. Such efforts may include convening advisory committees to assess priority concern cases where the facts are established, and/or providing recommendations on disciplinary measures to authorized officials to ensure consistency and suitability of measures applied across all duty stations. The priority concern misconduct areas currently include:

in his original interview, although he emphasizes on appeal that he used the word “battuta” or “al-batootah”.

⁴⁸ Impugned Judgment, para. 76.

...

Discrimination, Harassment and Abuse of Power;

...

97. Appended to A/10/rev.3, a flowchart (Annex 2: Guidance on the Disciplinary Process and Considerations for the Imposition of a Proportionate Disciplinary Response) provides:

If the misconduct falls under one of the Agency priority concern areas, the following criteria below will assist you in assessing whether it may constitute serious misconduct:

Discrimination, Harassment, Sexual Harassment and Abuse of Power; serious if:

- Position of trust
- Particularly vulnerable victim**
- Multiple victims**

Not Serious Misconduct: Range of measures*** to be considered for appropriate measure (single or in any combination):

- Written censure
- Loss of one or more steps in grade
- Deferment for eligibility for salary increment for 2 years
- Fine: At least 1 week salary
- Suspension without pay for at least 1 week
- Demotion with deferment for consideration for promotion for 1-2 years
- Separation from Service* with Indemnity

Mitigating Factors:

- Context (ie civil unrest, conflict, personal circumstances impacting misconduct as a result of context etc.)
- Admission/Acknowledgment/Remorse (spontaneous or prompted by investigation)
- Length of unblemished service
- Undue delay in disposing of the case

98. In the DM letter, the Agency found that “[t]he allegation of workplace harassment is substantiated. In particular, [Mr. Slayyeh] made offensive comments describing the Complainant.”⁴⁹ Then, based on Article 1.1 and 1.4 of the Area Staff Regulations, paragraph 21 and 22 of Revised Standards of Conduct for the International Civil Service (endorsed by General Staff Circle 07/2014), the Agency made its disciplinary decision of written censure and a fine of one month’s salary, which was later reduced to two weeks’ salary.

99. We agree with the Agency’s apparent conclusion that Mr. Slayyeh’s misconduct should not be considered as “serious misconduct”. As “not serious misconduct”, the Agency’s imposition on Mr. Slayyeh of a written censure and a fine equivalent to two weeks’ salary is within the range of disciplinary measures listed above. The Commissioner-General has broad discretion in imposing disciplinary sanctions. We have previously held that:⁵⁰

Tribunals will only interfere and rescind or modify a sanction imposed by the Administration where the sanction imposed is blatantly illegal, arbitrary, adopted beyond the limits stated by the respective norms, excessive, abusive, discriminatory or absurd in its severity. (...) The Secretary-General also has the discretion to weigh aggravating and mitigating circumstances when deciding upon the appropriate sanction to impose.

100. Applying this standard, we cannot say that the disciplinary measures imposed on Mr. Slayyeh were disproportionate.

101. Related to the proportionality of the sanction, we also consider whether the delay in the disciplinary process was a relevant mitigating factor.

102. In his UNWRA DT application, Mr. Slayyeh alleged that his rights were violated by: i) the unreasonable delay in the resolution of his case, and ii) the Agency’s refusal to provide him with a copy of the “investigation file”.

103. We notice that the UNRWA DT found that the delay could be a relevant mitigating factor when the Agency imposed its disciplinary measures on Mr. Slayyeh.⁵¹ However, we consider that delay is not a mitigating factor but rather a procedural irregularity. Previously, we have held that irregularity in the disciplinary process must be substantial to vitiate the contested decision. Here 16 months elapsed from the receipt of the complaint to the key interviews in the investigation, and

⁴⁹ DM letter, p. 1 (“Findings”).

⁵⁰ *Ravi Karkara v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1172, para. 72.

⁵¹ Impugned Judgment, para. 51.

a 13-month interval between the end of the investigation and the issuance of the DM letter.⁵² Although lengthy, we do not find that the delay had a material impact on Mr. Slayyeh's ability to know the case against him and adequately respond. Therefore, this procedural irregularity is not substantial and does not vitiate the contested decision.

104. We understand that the UNRWA DT Judge was dissatisfied with the process of investigation and the outcome of the administrative decision. However, after reviewing the contested decision pursuant to the Appeals Tribunal's four-prong test for judicial review of disciplinary measures, we conclude that the contested decision is lawful.

⁵² *Ibid.*, para. 49.

Judgment

105. Mr. Slayyeh's appeal is dismissed, the Commissioner-General's cross-appeal is granted, and Judgment No. UNRWA DT/2024/025 is hereby reversed.

Original and Authoritative Version: English

Decision dated this 27th day of June 2025 in New York, United States.

(Signed)

Judge Gao, Presiding

(Signed)

Judge Ziadé

(Signed)

Judge Sandhu

Judgment published and entered into the Register on this 25th day of August 2025 in New York, United States.

(Signed)

Juliet E. Johnson,
Registrar