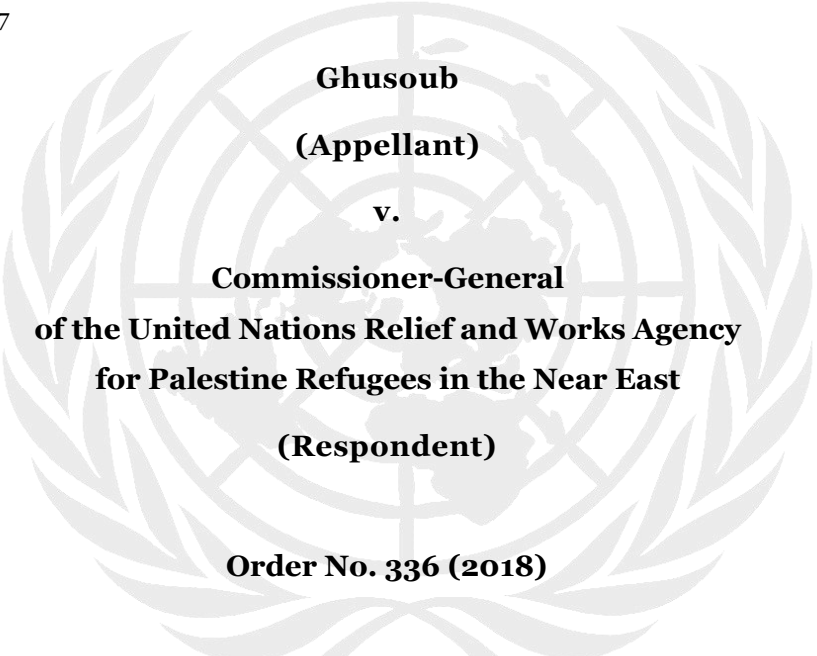




UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2018-1197



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

Order No. 336 (2018)

1. On 18 July 2018, the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA DT and Agency, respectively) issued Judgment No. UNRWA/DT/2018/044 in *Ghusoub v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*. On 14 September 2018, Ms. Rasmiya Khamis Ghusoub appealed the Judgment to the United Nations Appeals Tribunal (Appeals Tribunal). The appeal was transmitted to the Commissioner-General on 17 September 2018 and on 14 November 2018, the Commissioner-General filed his answer.

2. In her appeal, Ms. Ghusoub contends that due to the application, to her case, of a new Occupational Health Salary Scale which had become effective on 1 January 2017, shortly before her retirement date of 28 February 2017, her retirement benefits had not been correctly calculated. She contends that the new salary scale should not have applied to her and that it was “not possible” that her retirement benefit according to the new salary scale was about USD 5,000 less than that according to the previous one.

3. On 29 November 2018, Ms. Ghusoub filed a motion seeking leave to submit additional pleadings. In support of her motion, Ms. Ghusoub submits that the Commissioner-General failed to address her calculation of her retirement benefit and also

contends that her retirement date was 4 February 2017 as opposed to 28 February 2017. On 17 December 2018, the Commissioner-General filed his comments, objecting to the motion.

4. The Rules of Procedure of the Appeals Tribunal (Rules) provide for the parties to file appeals, answers, cross-appeals and answers to cross-appeals. They do not provide for an appellant to file comments on an answer. Nevertheless, other pleadings may be allowed under Article 31(1) of the Rules as well as Practice Direction No. 1. Under Section II.A.3 of Practice Direction No. 1, an appellant may make “[a] motion requesting the permission of the Appeals Tribunal to file a pleading after the answer to the appeal” and the Appeals Tribunal may grant such a motion “if there are exceptional circumstances justifying the motion”.

5. In the case at bar, Ms. Ghusoub presents an argument that, it appears, has neither been included in her appeal nor was it presented before the UNRWA DT, i.e. that her retirement date was in fact 4 February 2017 and not 28 February 2018. The Appeals Tribunal has consistently held that “an appellant may not raise an argument on appeal that ought to have been raised before the first instance tribunal”.¹ Moreover, additional pleadings may not be used to introduce grounds of appeal that could have been introduced in the actual appeal. This argument does therefore in no way present exceptional circumstances justifying the granting of Ms. Ghusoub’s motion.

6. Ms. Ghusoub further contends that the Commissioner-General in his answer has failed to address one of her arguments. Under the Statute of the Appeals Tribunal and its Rules, a respondent has no obligation to file an answer, let alone address every argument addressed by the appellant.

7. **IT IS HEREBY ORDERED** that Ms. Ghusoub’s motion seeking leave to file additional pleadings **IS DENIED**.

¹ *Onifade v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-668, para. 43.

Original and Authoritative Version: English

Dated 19th day of December 2018
in London, United Kingdom.

Entered in the Register on this 19th day of
December 2018 in New York, United States.

(Signed)
Judge Richard Lussick,
Duty Judge

(Signed)
Weicheng Lin, Registrar