



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2023-1798

Qasem Abdelilah Mohammed Qasem

(Appellant)

v.

Commissioner-General

**of the United Nations Relief and Works Agency
for Palestine Refugees in the Near East**

(Respondent)

Order No. 524 (2023)

1. On 28 February 2023, the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA DT and UNRWA, respectively) issued Summary Judgment No. UNRWA/DT/2023/010 (the impugned Judgment) in the matter of *Qasem v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, whereby the UNRWA DT found not receivable Mr. Qasem's applications challenging the decisions to place him on administrative leave with pay (ALWP) until further notice pending an investigation, and with regard to various investigations to which Mr. Qasem had been subjected.

2. On 27 April 2023, Mr. Qasem filed an appeal with the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) challenging the impugned Judgment. On 7 July 2023, the Commissioner-General filed his answer.

3. On 11 May 2023, Mr. Qasem received a letter from the Acting Director, UNRWA Affairs informing him that his ALWP was no longer considered necessary, and that he would be transferred to the post of Head Health Centre at Sukneh Health Centre. The letter further stated that he was to report to his new duty station on 14 May 2023 failing which he would be considered to have abandoned the post.

4. That same day, Mr. Qasem filed a motion for interim measures.

5. By Order No. 519 (2023), the UNAT denied the Motion on grounds that it was not consistent with the Judgment of the UNRWA DT and therefore did not fulfil the conditions of Article 9(4) of the UNAT Statute.

6. On 11 June 2023, Mr. Qasem filed a second motion for Interim Measures. He was issued a letter dated 11 June 2023, as follow up to the Agency's 11 May 2023 letter. He submits that the main cause for his ALWP are ongoing threats to his physical safety made by another UNRWA staff member, which have not been addressed; therefore, his ALWP could not end.

7. On 10 July 2023, the Commissioner-General filed his comments opposing the motion.

8. Article 9(4) of the Statute provides that “[a]t any time during the proceedings, the Appeals Tribunal may order an interim measure to provide temporary relief to either party to prevent irreparable harm and to maintain consistency with the judgement of the Dispute Tribunal”.

9. Moreover, the Appeals Tribunal has consistently held that “an interim measure of relief is subject to very strict requirements; such relief is available to protect a litigant from the likelihood of irreparable harm, who the Dispute Tribunal believes is likely to succeed at trial or the Appeals Tribunal believes is likely to succeed on appeal.”¹

10. The Appeals Tribunal has previously held that it may make an interim order for temporary relief, pending the outcome of the appeal, on two cumulative conditions: “(i) It must be satisfied on a balance of probabilities that there is real likelihood of irreparable harm which can be prevented if temporary relief is granted; and (ii) The temporary relief granted is consistent with the judgment of the Dispute Tribunal.”²

11. I find that the reasoning set out in Order No. 519 (2023) denying Mr. Qasem's first motion for interim measures for temporary relief applies equally to the current motion. Just as Mr. Qasem's first motion, his second motion is not consistent with the Judgment of the UNRWA DT. The second motion concerns new administrative decisions as contained in the resumption letter, namely the ending of his ALWP status and his transfer to a new duty station. The impugned Judgment concerned a challenge to the contested

¹ *Nadine Kaddoura v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Order No. 409 (2021), para. 6.

² *Nwuke v. Secretary-General of the United Nations*, Order No. 100 (2012), para. 5; *Koumoin v. Secretary-General of the United Nations*, Order No. 3 (2010), para. 9.

decision to place him on ALWP until further notice pending an investigation. These are two different decisions. As such the temporary relief request is not consistent with the Judgment of the UNWRA Dispute Tribunal as contemplated in Article 9(4).

12. As noted in Order No. 519 (2023), it is (or was) open for Mr. Qasem to challenge these new administrative decisions in their own right before the UNRWA DT.

IT IS HEREBY ORDERED that Mr. Qasem’s “Second Motion for Interim Measures” pending proceedings is **DENIED**.

Original and Authoritative Version: English

Decision dated this 19th day of July 2023
in Vancouver, Canada.

(Signed)
Judge Kanwaldeep Sandhu,
President

Entered in the Register on this 19th day of
July 2023 in New York, United States.

(Signed)
Juliet Johnson, Registrar