UNRWA DISPUTE TRIBUNAL

Case No.: UNRWA/DT/LFO/2017/035
Judgment No.: UNRWA/DT/2018/016
Date: 22 February 2018
Original: English

Before: Judge Jean-François Cousin
Registry: Amman
Registrar: Laurie McNabb

ORABI

v.
COMMISSIONER-GENERAL OF THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST

JUDGMENT

Counsel for Applicant: Self-represented

Counsel for Respondent: Rachel Evers (DLA)
Introduction

1. This is an application by Yusef Orabi (the “Applicant”) against the decision of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, also known as UNRWA (the “Respondent”), not to select him for the post of Education Specialist.

Facts

2. Effective 2 January 2002, the Applicant was employed by the Agency on a fixed-term appointment as Elementary Teacher, Level 6U, Step 1.

3. Effective 1 August 2004, the Applicant’s appointment was converted to the X category fixed-term appointment, and the Applicant was assigned to the post of Teacher Mathematics, Grade 8, Step 1, at the Megiddo Preparatory Boys School.

4. Effective 1 January 2012, the Applicant’s appointment was converted to a temporary indefinite appointment. At the time material to the present application, the Applicant held the post of Secondary Teacher Mathematics at the Amqa Secondary School.

5. On 4 March 2015, the Agency issued a vacancy announcement for the post of Education Specialist (Math), Grade 13, at the Lebanon Field Office (“LFO”).

6. The Applicant applied for the post. After having succeeded in a technical test and a computer test, 10 candidates, including the Applicant, were invited for an interview to be held on 12 August 2015. The Interview Panel recommended the Applicant as the third priority candidate to fill the position.

7. By email dated 3 September 2015, the Applicant was informed that he was recommended as the third priority candidate.

8. On 27 February 2017, the Applicant submitted a decision review request.

9. On 29 March 2017, the Director of UNRWA Affairs, Lebanon (“DUA/L”) upheld the original decision.
10. On 31 May 2017, the present application was filed with the UNRWA Dispute Tribunal (the “Tribunal”). The application was transmitted to the Respondent on 1 June 2017.

11. On 30 June 2017, the Respondent filed his reply. The reply was transmitted to the Applicant on 10 July 2017.

**Applicant’s contentions**

12. The Applicant contends:

   i) The selected candidate does not have eight years of experience, which is required for the post;

   ii) The selection process for the post was flawed; and

   iii) He became aware of the contested decision on 16 February 2017.

13. The Applicant requests rescission of the decision to select the first priority candidate for the post.

**Respondent’s contentions**

14. The Respondent contends:

   i) The application is not receivable as the Applicant did not submit a request for decision review in due course; and

   ii) It is clear from the annexes submitted by the Applicant that he was already informed of the outcome of the selection process on 3 September 2015.

15. The Respondent requests the Tribunal to dismiss the application in its entirety.
Considerations

Receivability

16. Area Staff Rule 111.2 provides, in relevant parts, as follows:

1. A staff member wishing to formally contest an administrative decision alleging non-compliance with his or her terms of appointment or the contract of employment, including all pertinent regulations and rules and all relevant administrative issuances pursuant to Staff Regulation 11.1 (A), shall, as a first step, submit a written request for a decision review:

(A) in the case of staff members of Field Offices, to the UNRWA Field Office Director in charge of the Field Office[.]

[…] 

3. A staff member shall submit a request for a decision review within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested.

17. Article 8, paragraph 3, of the Statute of the Tribunal plainly states that “[t]he Dispute Tribunal shall not suspend, waive or extend the deadlines for decision review”.

18. The United Nations Appeals Tribunal (“UNAT”) held in Ajdini et al. 2011-UNAT-108, paragraph 23, that:

[…] An application is only receivable when a staff member has previously submitted the impugned administrative decision for management evaluation and the application is filed within the specified deadlines.

19. The Applicant claims that he was informed of the outcome of the selection process for the post of Education Specialist (Math) on 16 February 2017. However, from the annexes of his application, it is clear that he had been informed of the outcome of the selection process by an email on 3 September 2015.

20. Consequently, the Tribunal holds that it is established that the Applicant was informed of the contested decision on 3 September 2015. However, the Applicant only submitted his decision review request on 27 February 2017. Therefore, the
application is not receivable as, after the Applicant had been informed, he failed to submit a timely decision review request.

**Conclusion**

21. In view of the foregoing, the Tribunal DECIDES:

The application is dismissed.

(Signed)

Judge Jean-François Cousin

Dated this 22nd day of February 2018

Entered in the Register on this 22nd day of February 2018

(Signed)

Laurie McNabb, Registrar, UNRWA DT, Amman