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

KARAZOUN

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

JUDGEMENT

Counsel for Applicant: Self-represented
Counsel for Respondent: Rachel Evers (DLA)
Introduction

1. This is an application by Ghada Karazoun (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 promote her to Grade 14.

Facts

2. Effective 2 November 2003, the Applicant was employed by the Agency on a fixed-term appointment, Level 6B, Step 1, as Teacher at Ruseifeh Preparatory Girls School No. 4, Jordan Field Office (“JFO”).

3. Effective 3 November 2013, 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 Assistant Professor, Grade 12, Step 8, at the Faculty of Educational Sciences & Arts (“FESA”).

4. By emails to the Director of UNRWA Operations, JFO (“DUO/J”) dated 24 October 2016 and 3 November 2016, the Applicant requested to be promoted to Grade 14, and to be paid corresponding allowances.

5. By letter to the Applicant dated 4 January 2017, the Head, Field Human Resources Office, Jordan, (“H/FHRO/J”) denied the Applicant’s request.

6. By letter dated 16 January 2017, the Applicant responded to the H/FHRO/J with respect to the decision denying her request to be promoted to Grade 14.

7. By letter to the Applicant dated 17 January 2017, the H/FHRO/J reiterated that the decision dated 4 January 2017, was the final decision concerning her case and reminded the Applicant about her right to request review of the decision and later to submit her application to the UNRWA Dispute Tribunal (the “Tribunal”).

8. By letter to the DUO/J dated 22 February 2017, the Applicant requested the DUO/J to review the H/FHRO/J’s response to her request to be promoted to Grade 14, and to be paid corresponding allowances.
9. The DUO/J did not respond to the Applicant’s request for review.

10. The Applicant continued to pursue her request in a meeting with the Director of Human Resources (“DHR”) on 20 July 2017. In an email dated 3 November 2017, the DHR confirmed that the decision taken by the DUO/J would not be changed.

11. On 14 January 2018, the Applicant submitted a request for decision review to the DUO/J.

12. On 30 June 2018, the present application was filed with the Tribunal. The application was transmitted to the Respondent on 12 July 2018.

13. On 10 August 2018, the Respondent filed his reply. The reply was transmitted to the Applicant on 12 August 2018.

**Applicant’s contention**

14. The Applicant contends that the decision not to promote her was arbitrary and tainted by prejudice.

15. The Applicant requests to be promoted to Grade 14 and to be attributed corresponding allowances and benefits.

**Respondent’s contention**

16. The Respondent contends that the application is not receivable and requests the Tribunal to dismiss the application in its entirety.

**Considerations**

**Receivability**

17. Area Staff Regulation 11.1 provides:

   There shall be a two-tier formal system of administration of justice:
(A) The UNRWA Dispute Tribunal shall, under conditions prescribed in its Statute and Rules of Procedure, which are set out in Staff Regulations 11.4 and 11.5, hear and render judgement on an application from a staff member:

(i) to appeal an administrative decision that is alleged to be in non-compliance with his or her terms of appointment or contract of employment, including all pertinent regulations and rules and all relevant administrative issuances;

(ii) to appeal an administrative decision imposing a disciplinary measure.

18. It follows from the above that an application is receivable only if it contests an appealable administrative decision. This Tribunal is generally very indulgent with respect to the way an application is submitted. Even where an application is not fully clear, the Tribunal always attempts to understand what decision the Applicant is actually contesting. To this end, the Tribunal also considers the Applicant’s request for decision review and the annexes that he or she had submitted.

19. In the present case, despite a careful reading of the Applicant’s submissions, the Tribunal could not identify an administrative decision. The Applicant is an Assistant Professor of English Language at the FESA; however, her application is so chaotic that the Tribunal could not determine the contested administrative decision or understand the Applicant’s contentions. Furthermore, despite the fact that the Respondent raised in his reply these issues, including the receivability of the application, the Applicant did not subsequently make any effort to clarify her application. Consequently, the Tribunal holds that, as there is no articulated contested decision, the application is not receivable ratione materiae.

20. Moreover, assuming arguendo that the contested decision is the H/FHRO/J’s decision dated 4 January 2017, and that the Applicant timely requested the review of that decision by her email to the DUO/J dated 22 February 2017, Area Staff Rule 111.2 on decision review provides:

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; and

(B) in the case of staff members of Headquarters, to the Director of Human Resources.

[...]

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.

21. Article 8(1)(d) of the Statute of the UNRWA Dispute Tribunal provides that the Tribunal is competent to hear and pass Judgment on an application if the application is filed within the following deadlines:

(ii) Within 90 calendar days of the expiry of the relevant response period for the decision review if no response to the request was provided. The response period shall be 30 calendar days after the submission of the decision to decision review[...]

22. It follows from the above provisions that where there is no response to a request for decision review, an application must be filed no later than 120 days from the date of the request for decision review. This was also confirmed in the United Nations Appeals Tribunal’s (“UNAT”) Judgment in Al-Dawoud 2016-UNAT-664. Therefore, the time for the Applicant to have filed an application before this Tribunal had expired 120 days after 22 February 2017, i.e. on 22 June 2017. As the Applicant filed her application only on 30 June 2018, more than a year later, the application is also not receivable ratione temporis.

23. Likewise, if the Tribunal were to assume arguendo that the contested decision is the DHR’s email 3 November 2017, the request for decision review filed on 14 January 2018 was more than 60 days past the date of the decision. As the Tribunal has no authority to waive the deadline in Area Staff Rule 111.2, for this reason the application is not receivable ratione materiae. Finally, the time for the Applicant to have filed an application before this Tribunal would have expired 120 days after 14
January 2018, i.e. on 14 May 2018. As the Applicant filed her application on 30 June 2018, the application would still be not receivable *ratione temporis*.

**Cost**

24. The Respondent requests that the Tribunal impose costs on the Applicant arguing that the application is a manifest abuse of proceedings. The Tribunal agrees with the Respondent that the application was not clear at all and that the Applicant’s submissions were chaotic. Nevertheless, the Tribunal does not consider that this is a case of abuse of proceedings. Therefore, the Respondent’s request for costs is hereby denied.

**Conclusion**

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

   The application is dismissed.

   SIGNED

   Judge Jean-François Cousin

   Dated this 24th day of February 2019

Entered in the Register on this 24th day of February 2019

SIGNED

Laurie McNabb, Registrar, UNRWA DT, Amman