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

AWWAD

v.

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

JUDGMENT ON RECEIVABILITY

Counsel for Applicant:
Sani Khoury

Counsel for Respondent:
Rachel Evers (DLA)
Introduction

1. This is an application by Najah Awwad (“Applicant”) against the decision of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, also known as UNRWA (“Respondent”), not to grant her an increase in steps.

Facts

2. Effective 14 August 1999, the Applicant was employed by the Agency on a fixed-term appointment, Level B, Step 2, as Teacher at UNRWA Schools in the West Bank Field Office (“WBFO”). Following several extensions and promotions, the Applicant was offered the post of English Teacher, Grade 11, Step 13, which she held until her retirement in August 2018.

3. By letter dated 30 January 2017, the Applicant, together with five other staff members, asked the Director of UNRWA Operations, WBFO to review their terms of employment and grant them step increases. Their request was based on the differences in steps between their appointments and the appointments of other teachers employed by the Agency, who performed the same tasks and possessed the same qualifications as they did.

4. Effective 31 August 2018, the Applicant retired from the Agency.

5. By letter to the Field Human Resources Services, West Bank dated 12 October 2018, the Applicant requested to be compensated for the aforementioned step difference between her appointment and those of other teachers employed by the Agency.

6. On 27 March 2019, the present application was filed with the UNRWA Dispute Tribunal (“Tribunal”). The application was transmitted to the Respondent on 28 March 2019.

7. On 19 April 2019, the Respondent filed his reply. The reply was transmitted to the Applicant on 21 April 2019.
 Applicant’s contentions

8. The Applicant contends:

   i) The Agency failed to give the Applicant an increase in steps during her years working as a Teacher at UNRWA schools, despite the step difference between her and other teachers who performed the same tasks, possessed the same qualifications and held the same seniority as did she;

   ii) The failure to grant her an increase in steps was arbitrary and amounts to favouritism, abuse of power and discrimination on the basis of gender;

   iii) She recurrently brought this issue to the attention of her supervisors, but to no avail; and

   iv) She had to bear the loss in her salary and entitlements as a consequence of the Agency’s negligence.

9. The Applicant requests:

   i) To be paid retroactively for the difference in the salary she had received and the salary she would have received if she had been promoted according to her qualifications and years of service; and

   ii) To be paid her retirement benefits according to the step she should have been granted.

Respondent’s contention

10. The Respondent contends that the Applicant failed to submit a request for decision review, and therefore, the application is not receivable ratione materiae.

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

12. The Applicant contests the Agency’s decision not to grant her an increase in steps and not to compensate her accordingly. However, the Respondent submits that the application is not receivable, as the Applicant failed to submit a request for decision review.

13. During her employment with the Agency, the Applicant recurrently requested, for the last time on 30 January 2017, the Agency to review her terms of employment and to grant her an increase in steps, given the step differences between her and other teachers who were employed by the Agency. Following her retirement, effective 31 August 2018, the Applicant, by letter dated 12 October 2018, requested to be compensated for the aforementioned step difference. The Agency did not respond to the Applicant’s request. Accordingly, it is clear that an implied decision refusing the Applicant’s request was taken by the Agency.

14. 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 decision review within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested.

15. 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.

16. Considering that, in her application the Applicant admits that she did not submit a request for decision review as required under the aforementioned Area Staff Rule 1112 prior to filing her application before the Tribunal, and that the Tribunal has no jurisdiction to waive this requirement, the Tribunal holds that the application is not receivable *ratione materiae*.

**Conclusion**

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

The application is dismissed.

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Judge Jean-François Cousin
Dated this 19th day of March 2020

Entered in the Register on this 19th day of March 2020

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Laurie McNabb, Registrar, UNRWA DT, Amman