UNRWA DISPUTE TRIBUNAL

Case No.: UNRWA/DT/HQA/2019/069
Judgment No.: UNRWA/DT/2020/025
Date: 17 May 2020
Original: English

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

LOUBANI

v.

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

JUDGMENT ON RECEIVABILITY

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Rachel Evers (DLA)
Introduction

1. This is an application by Ezzeddine Loubani (“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 him a Special Allowance (“SA”).

Facts

2. Effective 1 March 2011, the Applicant was employed by the Agency on a fixed-term appointment, Grade 14, Step 1, as Administrative Officer “A” at Headquarters, Amman.

3. On 20 January 2019, the Applicant requested a copy of his post description which had been updated and, on the same day, the Human Resources Assistant, Policy and Development Division, provided the Applicant with the requested document.

4. On 23 January 2019, the Chief Central Support Services, the Applicant’s supervisor, requested the Director of Human Resources (“DHR”) to grant a SA for the post of Administrative Officer “A” encumbered by the Applicant. The DHR did not respond to this request.

5. On 20 March 2019, the Applicant submitted a request for decision review to the Deputy Commissioner-General (“DCG”), not to grant him a SA.

6. By letter dated 18 April 2019, the DCG denied the Applicant’s request.

7. On 16 July 2019, the application was filed with the UNRWA Dispute Tribunal (“Tribunal”). The application was transmitted to the Respondent on 18 July 2019.

8. On 16 August 2019, the Respondent filed a motion for an extension of time to file his reply. The motion was transmitted to the Applicant on 18 August 2019.

10. On 5 September 2019, the Respondent filed his reply. The reply was transmitted to the Applicant on 8 September 2019.

11. On 18 September 2019, the Applicant filed a motion to submit observations and supplementary evidence. The Applicant’s motion was transmitted to the Respondent on 19 September 2019.

12. By Order No. 191 (UNRWA/DT/2019) dated 29 September 2019, the Tribunal granted the Applicant’s request to submit observations and supplementary evidence on the Respondent’s reply.

13. On 28 October 2019, the Applicant submitted his observations and supplementary evidence on the Respondent’s reply. The Applicant’s submission was transmitted to the Respondent on 29 October 2019.

**Applicant’s contentions**

14. The Applicant contends:

   i) He has not been compensated for the additional duties he has been fulfilling since October 2018, according to his updated post description;

   ii) He has not been properly informed about the changes to his post description; and

   iii) He asked his supervisor to request a SA for his post.

15. The Applicant requests:

   i) To be paid a SA;

   ii) To be promoted and to have his post retitled according to the new responsibilities he is assuming; and

   iii) To be compensated for the moral damages he sustained.
Respondent’s contentions

16. The Respondent contends:

i) The Applicant failed to contest an administrative decision subject to judicial review; and

ii) The application is not receivable *ratione materiae*.

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

Considerations

18. The Applicant contests the decision not to pay him a SA following his updated post description, which assigned him additional duties and responsibilities. The Respondent claims that the Applicant failed to contest an administrative decision subject to judicial review, and therefore, the application is not receivable *ratione materiae*.

19. Article 2(1) of the Tribunal’s Statute at Area Staff Regulation 11.4, provides, in relevant part:

The Dispute Tribunal shall be competent to hear and pass judgment on an application filed by an individual, as provided for in article 3, paragraph 1, of the present statute, against the Commissioner-General as the Chief Executive Officer of UNRWA:

(a) To appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment. The terms “contract” and “terms of appointment” include all pertinent regulations and rules and all relevant administrative issuances in force at the time of alleged non-compliance.

20. This Tribunal has consistently held that, in matters of financial entitlements, a staff member has a right to request to be attributed entitlements, as long as the Agency has not explicitly or impliedly refused his/her request, and only a request
filed by the staff member himself/herself can trigger such an administrative decision.

21. In the present case, the Applicant has never personally requested the Agency to grant him a SA. He only asked his supervisor to do so, which his supervisor did. The DHR did not respond to the request of the Applicant’s supervisor. Subsequently, the Applicant, without ever having personally submitted a request for the payment of a SA, submitted a request for decision review. Nevertheless, there was no administrative decision, implied or explicit, that the Applicant was entitled to contest or request to be reviewed. Evidently, the Applicant is also not entitled to contest an implied negative decision concerning his supervisor’s request.

22. Consequently, given the fact that the Applicant failed to contest an administrative decision subject to judicial review, the application is not receivable 
ratione materiae.

Conclusion

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

The application is dismissed.

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Judge Jean-François Cousin

Dated this 17th day of May 2020

Entered in the Register on this 17th day of May 2020

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Laurie McNabb, Registrar, UNRWA DT, Amman