



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

**Salem
(Appellant)**

v.

**Commissioner-General
of the United Nations Relief and Works Agency
for Palestine Refugees in the Near East
(Respondent)**

JUDGMENT

Before:	Judge Sabine Knierim, Presiding Judge John Murphy Judge Martha Halfeld
Case No.:	2018-1144
Date:	29 June 2018
Registrar:	Weicheng Lin

JUDGE SABINE KNIERIM, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal against Judgment No. UNRWA/DT/2017/042, rendered by the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA DT or UNRWA Dispute Tribunal and UNRWA or Agency, respectively) on 7 December 2017, in the case of *Salem v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*. Ms. Ayat Salem filed her appeal on 23 January 2018, and the Commissioner-General filed an answer on 26 March 2018.

Facts and Procedure

2. Effective 20 April 2016, Ms. Salem was employed by the Agency as a Protection Information Management & Reporting Officer at the Jordan Field Office (JFO) on a Limited Duration Contract (LDC) with an expiration date of 19 October 2016.

3.

change on the position could be for her, Ayat decided not to accept the extension we were proposing to her. This is of course completely her choice and we certainly fully respect it.

7. On 19 October 2016, upon the expiry of her appointment, Ms. Salem was separated from the Agency.

8. By memorandum to the joint investigators dated 25 October 2016, the DUO/J set out the terms of reference for a preliminary assessment into Ms. Salem's complaint of prohibited conduct. The preliminary assessment report dated 13 November 2016 recommended that the case be closed. The report, *inter alia*, states as follows:

VII. Assessment of Case:

Upon interviewing Ms. Salem and the Driver, it was noted that the complaint [against] Ms. Kaberia is credible. The interview with the Driver supported some of Ms. Salem's allegations: Instructing the Driver not to respond to her phone calls; instructing the driver to drive from her home to Zarqa to pi

16.

21. As regards the remedies sought by Ms. Salem, the Commissioner-General asserts that Ms. Salem has failed to demonstrate any reversible error by the UNRWA DT or the existence of any negative consequences warranting the award of compensation. Her appeal seems not to challenge the main element of the application before the UNRWA DT, namely the decision not to extend her contract for six months. Moral damages may not be awarded in the absence of evidence of harm, as stated by the Appeals Tribunal's jurisprudence.

22. In light of the foregoing, the Commissioner-General requests that the Appeals Tribunal dismiss the appeal in its entirety.

Considerations

23. Article 2(1) of the Statute of the Appeals Tribunal provides:

The Appeals Tribunal shall be competent to hear and pass judgement on an appeal filed against a judgement rendered by the United Nations Dispute Tribunal in which it is asserted that the Dispute Tribunal has:

- (a) Exceeded its jurisdiction or competence;
- (b) Failed to exercise jurisdiction vested in it;
- (c) Erred on a question of law;
- (d) Committed an error in procedure, such as to affect the decision of the case; or
- (e) Erred on a question of fact, resulting in a manifestly unreasonable decision.

24. We find that Ms. Salem has not shown any errors in the UNRWA DT Judgment and her claims on appeal cannot succeed.

Closing of case against the PMO based on the recommendation of the 13 November 2016 Preliminary Assessment Report

25. The UNRWA DT examined whether the decision not to renew Ms. Salem's appointment for six months was motivated by retaliation because of her complaint against the PMO. We find no fault in the UNRWA DT's finding that there was no retaliation against Ms. Salem. Contrary to her contentions, the UNRWA Dispute Tribunal did not err on a question of law or fact, resulting in a manifestly unreasonable decision, nor did it commit an error in procedure, such as to affect the decision of the case.

Justification for the non-renewal decision

28. The UNRWA DT did not err in finding that Ms. Salem's contentions do not demonstrate that the justification provided for the non-renewal decision by the Commissioner-General was a false one. Contrary to Ms. Salem's submissions, there is no contradiction between the various statements given to Ms. Salem as to the reasons

