



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

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Judgment No. 2018-UNAT-814

**Abu Lehia**  
**(Respondent/Applicant)**

**v.**

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

**JUDGMENT**

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**Before:** Judge Dimitrios Raikos, Presiding  
Judge Deborah Thomas-Felix  
Judge Martha Halfeld

**Case No.:** 2017-1102

**Date:** 22 March 2018

**Registrar:** Weicheng Lin

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**Counsel for Mr. Abu Lehia:** Amer Abu-Khalaf, LOSA

**Counsel for Commissioner-General:** Rachel Evers

**JUDGE DIMITRIOS RAIKOS, PRESIDING.**

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal against Judgment No. UNRWA/DT/2017/025, 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 14 June 2017, in the case of *Abu Lehia v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*. The Commissioner-General filed the appeal on 11 August 2017, and Mr. Mohammad Mousa Hussein Abu Lehia<sup>1</sup> filed his answer on 5 December 2017.

**Facts and Procedure**

2. The following facts are uncontested:<sup>2</sup>

... Effective 15 September 1988, [Mr. Abu Lehia] was employed by the Agency as a Medical Officer “B” at Bureij Health Centre, Gaza Field Office (“GFO”).

... Effective 1 January 2012, [Mr. Abu Lehia’s] “X” category fixed-term appointment was converted to an “A” category temporary indefinite appointment.

... On 4 February 2016, [Mr. Abu Lehia] requested the extension of his service beyond the age of retirement for a period of two years, until 30 June 2018.

... On 6 February 2016, the Chief, Field Health Programme (“C/FHP”) received [Mr. Abu Lehia’s] request for sick leave to receive medical treatment, relating to his cardiac condition, in Amman.

.. On 7 February 2016, [Mr. Abu Lehia’s] request for sick leave was approved by C/FHP for the period from 21 March 2016 to 27 March 2016.

... On 28 March 2016, [Mr. Abu Lehia] submitted a medical report issued by the Arab Medical Center in Amman, recommending sick leave from 28 March to 3 April 2016, and noting pains in his back. Later, [Mr. Abu Lehia] submitted another medical report recommending sick leave for the period from 4 April until 17 May 2016.

... By email dated 3 May 2016, the Senior Medical Officer (“SMO”) informed [Mr. Abu Lehia] that his sick leave requests had not been approved, and that his absence would be considered to be annual leave.

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<sup>1</sup> The Appeals Tribunal has adopted the spelling of Mr. Lehia’s last name as used by the UNRWA DT.

<sup>2</sup> Impugned Judgment, paras. 2-18.

... On 17 May 2016, [Mr. Abu Lehia] submitted another medical report, recommending an extension of his sick leave for the period from 18 May 2016 to 7 June 2016. Ultimately, [Mr. Abu Lehia] did not undergo either a cardiac catheterisation nor an open-heart surgery.

... On 22 June 2016, [Mr. Abu Lehia] resumed his duties in Gaza. At some point after his return, he was informed that his absence for the period from 21 March 2016 to 7 June 2016 would be considered as annual leave.

... On 10 July 2016, [Mr. Abu Lehia's] request for the extension of his service beyond the age of retirement was approved and his appointment was extended until 30 June 2018.

... On 31 July 2016, [Mr. Abu Lehia] submitted a request for review of the decision to consider his absence from 21 March 2016 to 7 June 2016, to be annual leave instead of sick leave.

... On 31 August 2016, the Director of UNRWA Operations, Gaza ("DUO/G") affirmed the decision.

... On 31 October 2016, the [...] application was filed with the UNRWA Dispute Tribunal. The application was transmitted to the Respondent on 10 November 2016.

3. On 14 June 2017, the UNRWA DT issued its Judgment wherein it held that while the C/FHP had managerial discretion to grant sick leave, such discretion was not unfettered and the UNRWA DT was entitled to review whether the decision was arbitrary or tainted by bias and improper motive. In reviewing the decision, the UNRWA DT found that Mr. Abu Lehia did not provide medical evidence to support his claim for sick leave for the period of 21 March to 27 March 2016 and the Agency was correct to refuse this as sick leave. As for the remaining period of 28 March through 7 June 2016, the UNRWA DT found that Mr. Abu Lehia provided medical certificates that were fully adequate and amply credible for granting him sick leave. In particular, the UNRWA DT found that Mr. Abu Lehia submitted a medical certificate diagnosing back pain and recommending sick leave from 28 March through 3 April 2016. The Agency wrongfully considered this certificate inadequate on the reasoning that he was originally issued sick leave for heart problems and not back pain. On 4 April 2016, Mr. Abu Lehia submitted a second medical report recommending full bed rest for possible cardiac catheterization. On 18 May 2016, he submitted a third medical certificate, which recommended sick leave through 7 June 2016 for rest necessary for a better assessment of his medical condition and the necessity of open heart surgery. The UNDT reasoned that the fact that ailments were not related to heart

problems or that his leave was originally for catheterisation, which he ultimately did not have, are not grounds to refuse his sick leave.

4. The UNRWA DT further held that there was no reason to question the adequacy or validity of the certificates and thus, the Agency's decision to consider his absence from the duty station as annual leave and not sick leave was manifestly unreasonable and had to be rescinded. Lastly, the UNRWA DT indicated that had Mr. Abu Lehia remained in Gaza and had he submitted medical certificates from a hospital in Gaza, there was reason to believe that he would have been granted sick leave.

5. The UNRWA DT dismissed Mr. Abu Lehia's claim for damages for suffering psychological pressure caused by the refusal of his sick leave requests on the ground that he did not submit any supporting evidence. The UNRWA DT, however, ordered the Agency to amend Mr. Abu Lehia's leave file to reflect sick leave for the period of 28 March through 7 June 2016.

### **Submissions**

#### **The Commissioner-General's Appeal**

6. The Commissioner-General requests the Appeals Tribunal to vacate the UNRWA DT Judgment on the grounds that the UNRWA DT erred in law and fact. The Commissioner-General challenges the findings relating to the period of 28 March to 7 June 2016. The Commissioner-General argues that it is his discretion to decide whether sick leave should be granted and he delegated his discretion to the C/FHP. The adequacy of the medical reports was jointly evaluated by professional UNRWA medical staff, and the UNRWA DT Judgment substitutes its own unqualified medical opinion for the medically qualified opinion of the C/FHP. For the period of 28 March to 3 April 2016, relating to Mr. Abu Lehia's diagnosis of "back pain" from the Arab Medical Center in Amman, Jordan the Commissioner-General argues that it is not plausible for him to have this condition in addition to his cardiac issues and that the certificate was not supported by reference to any examination. In the absence of any examination or follow-up treatment on back pain, the decision to reject the sick leave request was reasonable. The Commissioner-General also argues that the UNRWA DT exceeded its competence when it found the certificate recommending bed rest from 4 April to 17 May 2016 was "fully adequate and amply credible" as this determination could only be made by a medically trained specialist. The C/FHP opined that cardiac catheterization was a diagnostic procedure and did not require

bed rest beforehand. Furthermore, negative test results supporting the certificate provided a contradictory indication that no catheterization or open-heart surgery was necessary, rendering the C/FHP's decision to deny sick leave reasonable.

7. The Commissioner-General argues that Mr. Abu Lehia did not allege, or provide evidence of, any ill-intent by the C/FHP. The C/FHP's decision was not arbitrary, biased, or improperly motivated. Lastly, the Commissioner-General challenges the UNRWA DT's assumption that Mr. Abu Lehia's sick leave would have been granted had he been in Gaza and not Jordan. The absence of various medical treatments in Gaza, due to the humanitarian situation there, is not an excuse to blindly accept medical reports.

#### **Mr. Abu Lehia's Answer**

8. Mr. Abu Lehia requests that the Commissioner-General's appeal be dismissed in its entirety. He argues that the UNRWA DT has the jurisdiction to review facts and did not err in finding that the denial of Mr. Abu Lehia's sick leave requests was manifestly unreasonable. He argues there is no doubt about the credibility of the medical reports provided by accredited institutions. The UNRWA DT did not substitute its own medical opinion, but rather assessed the evidence per its authority. If the Agency had doubt, it should have sought an independent medical opinion; instead, the report was issued by UNRWA medical staff, which is biased and accountable to the C/FHP. Mr. Abu Lehia's back pain diagnosis is indeed plausible as the Commissioner-General failed to consider his age and overall health factors. If the Agency required a supporting medical examination it should have requested one for its review. Area Staff Rule 106.2(7) leaves it optional stating that a "staff member may be required at any time to submit a medical certificate as to his/her condition or to undergo an examination by a medical practitioner".

9. Mr. Abu Lehia further refutes the Commissioner-General's assertion that the UNRWA DT Judgment sets a dangerous precedent whereby the Agency would be bound by any medical report from a medical institution. The legal framework on sick leave requests provides for approvals to be assessed on a case by case basis. Lastly, Mr. Abu Lehia refutes the Commissioner-General's assertion that the UNRWA DT made assumptions regarding the location of treatment facilities in Gaza versus Jordan, as the UNRWA DT was relying upon facts presented regarding such facility locations.

### **Considerations**

10. In this appeal, the Commissioner-General challenges the UNRWA DT's findings relating to the period of 28 March to 7 June 2016, namely the Agency's decision to consider Mr. Abu Lehia's absence from duty as annual leave instead of as sick leave was unlawful.

11. The applicable law on this matter is as follows:

UNRWA Area Staff Rule 106(2) provides:

... Staff members who are incapacitated from the performance of their duties by illness or injury, or whose attendance is prevented by public health requirements, may be granted sick leave with full pay in accordance with the following provisions.

... ACCRUAL OF SICK LEAVE

Subject to the provisions of staff rule 105.2 paragraph 3, each staff member shall be credited with 2 working days for posts with 5-day working weeks and 2.4 working days for posts with 6-day working weeks, for each calendar month of service, against which authorised absences of sick leave shall be debited.

... AUTHORISATION OF SICK LEAVE

All sick leave must be authorised by the Commissioner-General in accordance with established procedures.

... NOTIFICATION OF ILLNESS OR INJURY

Staff members shall be responsible for informing their supervisors as soon as possible of absences due to illness or injury, and wherever practicable should report to their supervisors before absenting themselves.

... MEDICAL CERTIFICATES AND EXAMINATIONS

Except with the special approval of the Commissioner-General, no staff member may be granted sick leave for a period of more than 3 consecutive working days without producing a certificate from a duly qualified medical practitioner, to the effect that he/she is unable to perform his/her duties and stating the nature of the illness, and the probable duration of the incapacity. Such certificate shall, except in circumstances beyond the control of the staff member, be produced not later than the end of the 4th working day following the initial absence from duty of the staff member. On receipt of such certificate, the Commissioner-General shall decide whether sick leave should be granted. However, in cases of family-related emergencies or obligations, the 3-day limit will not apply and the staff member may, if the circumstances require, be absent for up to 7 consecutive days.

After a staff member has taken periods of uncertified sick leave totaling 7 working days within a service year, any further absence on sick leave beyond 7 days in any calendar year must be supported by a medical certificate, or will otherwise be charged to annual leave for non-teaching staff, and special leave without pay for teaching staff.

A staff member may be required at any time to submit a medical certificate as to his/her condition or to undergo an examination by a medical practitioner nominated by the Director of Health.

UNRWA Area Personnel Directive No. A/6/Part II/Amend.2 provides:

1. Recording of Sick leave Accruals

Chief, Personnel Services Division in Headquarters and Field Human Resources Officers in the Fields are responsible for ensuring that an accurate record is maintained of each staff member's sick leave accruals, and that appropriate adjustments are made to the record when:

(A) sick leave is authorized and taken in accordance with the provisions of Rule 106(2) and this Directive;

(B) a staff member's sick leave accruals reach the maximum of 156 working days for duty stations with 5 day working weeks and 187 working days for duty stations with 6 days working weeks as prescribed in paragraph 3 of Rule 106(2); and

(C) when service credits towards sick leave are affected by the terms of paragraph 3 of Rule 105(2) (Special Leave).

2. Authority for Granting Sick Leave:

Authority for granting sick leave in accordance with Rule 106.2 and the terms of this Directive is delegated to Chief, Personnel Services Division in Headquarters and to Field Human Resources Officers in the Fields. The authority may be sub-delegated in writing to senior officials in the relevant Human Resources Offices, provided that copies of such sub-delegations are transmitted to Chief, Personnel Services Division for record.

3. Application for Sick Leave – Procedures

(A) Application Forms

Application for sick leave will be made by the staff member by completing section 1 and, where applicable, section 2 of UNRWA Form 06.1.203.1 attached as Annex A hereto. The staff member will submit the form through his/her supervisor to the approving officer in the relevant Human Resources Office. The supervisor shall note that sick leave has been applied for, and will sign the form in section 3 before transmitting it to the approving officer in the relevant Human Resources Office. The supervisor should detail any

comments he/she has on the application in section 3 of the form or by accompanying letter, including any request for replacement staff.

**(B) Medical certificates**

When medical certificates are required to support sick leave applications, as prescribed in paragraphs 6, 7 and 8 of Rule 106.21 the staff member applying for sick leave will take all steps available to him/her in the circumstances to ensure that a proper medical certificate reaches the Agency as soon as possible. In so doing, he/she may either obtain a medical certificate from his/her attending doctor and send it to the relevant Human Resources Office, or request his/her doctor to do so or he/she may arrange for the required certificate to be sent under confidential cover to Director of Health at Headquarters or to Chief, Field Health Programme in the Fields as the case may be.

**(C) Consultation and Liaison with the Health Programme**

[...] Field Human Resources Officers in the Fields are responsible for ensuring that the following action is taken where necessary:

(i) that sick leave applications, when required under paragraphs 6, 7 and 8 of Rule 106.2, are supported by adequate medical certificates;

(ii) that all cases of doubt regarding the adequacy of such certificates are referred [...] to the Chief, Field Health Programme for Fields for recommendation, and that the staff member is adequately advised of any further steps that he/she may be required to take in order to meet the requirements of the Rule.

iii) that medical certificates or reports of a confidential nature are transmitted to the Director of Health for Headquarters or Chief, Field Health Programme for the Fields for filing under confidential cover, and that they are substituted on the personnel file of the staff member by appropriate recommendations from the Health Programme.

**(D) Cases of special difficulty will be referred to the Director of Human Resources for advice.**

**(E) Disposal of Sick Leave Applications**

The approving officer will record the decision in section 4 of the form and endorse the sick leave days in the Human Resources Management and Payroll System (HRM).

12. In the course of his appeal submissions, with regard to the period of 28 March through 7 June 2016, relating to Mr. Abu Lehia's diagnosis from the Arab Medical Center in Amman, Jordan of "back pain", the Commissioner-General contends that the UNRWA DT erred in law



and fact, in that it was not plausible for Mr. Abu Lehia to have this ailment in addition to his cardiac issues and that the produced certificate from the said Arab Medical Center was not supported by reference to any examination. The Commissioner-General further argues that in the absence of any examination or follow-up treatment on back pain, the Agency's decision to reject Mr. Abu Lehia's sick leave request was reasonable.

13. These assertions by the Commissioner-General are unpersuasive. Pursuant to Area Staff Rule 106.2(7) and (9) combined with Area Personnel Directive No. A/6/Part II/Amend.2, paras. 3(B) and 3(C)(i), in order for a staff member to be granted sick leave for a period of more than three consecutive working days, he or she is required, as a first step, when applying for sick leave, to produce to the Agency a medical certificate from a duly qualified medical practitioner, to the effect that he or she is unable to perform his or her duties and stating the nature of the illness, and the probable duration of the incapacity. In addition to these provisions, the Appeals Tribunal notes that under UNRWA Staff Rule 106.2(9), for the purpose of determining whether or not to grant the staff member sick leave, the Agency may, at any time, as a second step, request a staff member to either "submit a medical certificate as to his or her condition or to undergo an examination by a medical practitioner nominated by the Director of Health". Under said Area Staff Rule and Area Personnel Directive No. A/6/Part II/Amend.2, para. 3(C)(ii), cases of doubt regarding the adequacy of such certificates produced by the staff member are referred to the C/FHP for recommendation, and the staff member is adequately advised of any further steps that he or she may be required to take in order to meet the requirements of the law.

14. In the case at hand, the evidence on record, as established by the UNRWA DT, shows that Mr. Abu Lehia submitted to the Agency three medical reports relating to his health condition and the relevant sick leave applications. First, on 28 March 2016, he submitted a medical report issued by the Arab Medical Center in Amman, recommending sick leave from 28 March to 3 April 2016, and noting pains in his back. Then, he submitted another medical report recommending sick leave for the period from 4 April until 17 May 2016. Finally, on 17 May 2016, he submitted a third medical report, recommending an extension of his sick leave for the period from 18 May 2016 to 7 June 2016.

15. The Commissioner-General claims that the adequacy of the medical reports was jointly evaluated by professional UNRWA medical staff and recalls that presenting a medical report from a competent authority, in this case, a hospital, is a prerequisite for the said medical report to be considered; however, he is not bound by it. In any event, it does not automatically grant the

sick leave. Additionally, the Commissioner-General argues that this certificate was not supported by any examination (no reference to X-Ray, CT or MRI examination) or any follow-up on Mr. Abu Lehia's condition.

16. First, we agree with the Commissioner-General that the above-quoted provisions of the existing regulatory framework do not establish an automatic right of the staff member to sick leave upon the submission of the pertinent application and the production to the Agency of a medical certificate from a duly qualified medical practitioner. As expressly stipulated in law, on receipt of such certificate, the Commissioner-General shall decide whether sick leave should be granted.

17. The Appeals Tribunal, however, recalls its jurisprudence that the discretionary power of the Administration is not unfettered.<sup>3</sup> The Commissioner-General has an obligation to act in good faith and comply with applicable laws. Mutual trust and confidence between the employer and the employee is implied in every contract of employment. Both parties must act reasonably and in good faith.<sup>4</sup>

18. In the present case, by producing to the Agency the aforementioned medical reports, as not disputed, by qualified medical practitioners, certifying his incapacity to perform his duties during the specific time periods (28 March to 3 April 2016, 4 April to 17 May 2016, and 18 May 2016 to 7 June 2016) and stating the nature of his illness, Mr. Abu Lehia met the first step of conditions to be granted sick leave. While the Commissioner-General asserts that these certificates are not enough, per the evaluation by professional UNRWA medical staff, and were not supported by any examination or any follow-up on this condition, it does not result from the documentary evidence on file that the Agency requested, at any time, Mr. Abu Lehia to undergo an examination by a medical practitioner nominated by the Director of Health, or that the latter

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<sup>3</sup> *Dibs v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-798, para. 24; *Anshasi v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-790, para. 40, citing *Hamayel v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2014-UNAT-459, para. 17, citing *Pérez-Soto v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-329; *Bertucci v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-121 and *Asaad v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2010-UNAT-021.

<sup>4</sup> *Ibid.*

was adequately advised of any further steps he should have taken in order to meet the requirements of the law. This was correctly noted by the UNRWA DT.<sup>5</sup>

19. Further, the Commissioner-General claims that the adequacy of the medical reports was evaluated by professional UNRWA medical staff and, by finding otherwise, the UNRWA DT substituted its own unqualified medical opinion for the medically qualified opinion of the C/FHP, therefore exceeding its competence. Specifically as relates to the sick leave period of 4 April through 17 May 2016, the medical report submitted recommended “full bed rest” prior to a possible cardiac catheterization. The UNRWA DT qualified this certificate as “fully adequate and amply credible”<sup>6</sup>. The UNRWA DT found that the medical certificate recommending sick leave for the period of 18 May until 7 June 2016, “cannot be seriously contested by the Agency. This three-week rest was necessary for a better assessment of [Mr. Abu Lehia’s] medical condition as well as the necessity of an open-heart surgery in his case.”<sup>7</sup>

20. The Appeals Tribunal finds no reason to differ from the UNRWA DT’s conclusions. When judging the validity of the Administration’s exercise of discretion in administrative matters, as in the case of a decision to grant, or not to grant, the staff member sick leave, the first instance tribunal determines if the decision is legal, rational, procedurally correct, and proportionate. The first instance tribunal may consider whether relevant matters were ignored and irrelevant matters considered, and also examine whether the decision is absurd or perverse. It is not the role of the first instance tribunal to consider the correctness of the choice made by the Administration amongst the various courses of action open to it. Nor is it the role of the first instance tribunal to substitute its own decision for that of the Administration. As a result of judicial review, the first instance tribunal may find the impugned administrative decision to be unreasonable, unfair, illegal, irrational, procedurally incorrect, or disproportionate. During this process the first instance tribunal is not conducting a merit-based review, but a judicial review. Judicial review is more concerned with examining how the decision-maker reached the impugned decision and not the merits of the decision-maker’s decision. This process may give an impression to a lay person that the tribunal has acted as an appellate authority over the decision-maker’s administrative decision. This is a misunderstanding of the delicate task of

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<sup>5</sup> Impugned Judgment, para. 32.

<sup>6</sup> *Ibid.*, para. 33.

<sup>7</sup> *Ibid.*, para. 34.

conducting a judicial review because due deference is always shown to the decision-maker, who in this case is the Commissioner-General.<sup>8</sup>

21. The decisions not to grant Mr. Abu Leah sick leave for the specific time periods (28 March to 3 April 2016, 4 April to 17 May 2016, and 18 May 2016 to 7 June 2016) are not reasonable, given the specific factual circumstances of the case at hand, as correctly found by the UNRWA DT. The Appeals Tribunal shares the view of the UNRWA DT that these decisions were not a valid exercise of the Agency's discretion.

22. In conclusion, the Appeals Tribunal affirms the UNRWA DT's findings and conclusions about illegality. The UNRWA DT conducted a thorough judicial review of the administrative decision under challenge. Despite the wrong phraseology ("fully adequate and amply credible" etc.)<sup>9</sup> used in the Judgment, the UNRWA DT was not engaged in making medical findings, which it was not competent to do.<sup>10</sup> It did not erroneously substitute itself for the Administration as argued by the Commissioner-General. It simply examined the facts and their interpretation led to the correct conclusion that the decision-maker had not exercised his discretionary power properly.

23. Additionally, we recall that the findings of fact made by the UNRWA DT can only be disturbed under Article 2(1)(e) of the Appeals Tribunal's Statute when there is an error of fact resulting in a manifestly unreasonable decision. This is not the case here.

24. The Appeals Tribunal emphasizes that the appeals procedure is of a corrective nature and, thus, is not an opportunity for a dissatisfied party to reargue his or her case. A party cannot merely repeat on appeal arguments that did not succeed before the lower court. The function of the Appeals Tribunal is to determine if the UNRWA DT made errors of fact or law, exceeded its jurisdiction or competence, or failed to exercise its jurisdiction, as prescribed in Article 2(1) of the Appeals Tribunal's Statute. An appellant has the burden of satisfying the Appeals Tribunal that

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<sup>8</sup> *Dibs v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-798, para. 24; *Anshasi v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-790, para. 26, citing *Muwambi v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-780, para. 28; *Said v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-500, para. 40; and *Sanwidi v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-084, para. 40.

<sup>9</sup> Impugned Judgment, para. 33.

<sup>10</sup> See, *Karseboom v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-601, paras. 36 and 38.

the judgment he or she seeks to challenge is defective. It follows that an appellant must identify the alleged defects in the impugned judgment and state the grounds relied upon in asserting that the judgment is defective.<sup>11</sup>

25. It is obvious that the Commissioner-General was not satisfied with the UNRWA DT's decision. He has failed, however, to demonstrate any error in the UNRWA DT's finding that the Agency's decision not to grant Mr. Abu Lehia sick leave was not reasonable. The Commissioner-General merely voices his disagreement with the UNRWA DT's findings and repeats his submissions to the Appeals Tribunal. He has not met the burden of proof for demonstrating an error in the impugned Judgment such as to warrant its reversal.<sup>12</sup>

26. Accordingly, the appeal fails.

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<sup>11</sup> *Anshasi v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-790, para. 29, citing *Al-Mussader v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-771, para. 31; *El Saleh v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2015-UNAT-594, para. 30; *Achkar v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2015-UNAT-579, para. 15 and citations therein; *Ruyooka v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-487, para. 24.

<sup>12</sup> *Anshasi v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-790, para. 30, citing *Al-Mussader v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-771, para. 32; *Ruyooka v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-487, para. 24; *Gehr v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-236, para. 37; see also *Abbassi v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-110, para. 27; *Crichlow v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-035, para. 30.

**Judgment**

27. The appeal is dismissed. UNRWA DT Judgment No. UNRWA/DT/2017/025 is hereby affirmed.

Original and Authoritative Version: English

Dated this 22<sup>nd</sup> day of March 2018 in Amman, Jordan.

*(Signed)*

Judge Raikos, Presiding

*(Signed)*

Judge Thomas-Felix

*(Signed)*

Judge Halfeld

Entered in the Register on this 23<sup>rd</sup> day of May 2018 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar