



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

Judgment No. 2022-UNAT-1270

**Moayyad Naeem Dahoud
(Appellant)**

v.

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

JUDGMENT

Before:	Judge Martha Halfeld, Presiding Judge Graeme Colgan Judge John Raymond Murphy
Case No.:	2021-1627
Date of Decision:	28 October 2022
Date of Publication:	17 November 2022
Registrar:	Juliet Johnson

Counsel for Appellant: Self-represented

Counsel for Respondent: Hannah Tonkin

JUDGE MARTHA HALFELD, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal or UNAT) has before it an appeal by Mr. Moayyad Naeem Dahoud, against Judgment No. UNRWA/DT/2021/041 issued by the United Nations Relief and Works Agency for Palestine Refugees in the Near East Dispute Tribunal (UNRWA DT), of 15 September 2021 (impugned Judgment), which rejected his application and upheld a contested decision not to pay him a supplemental benefit upon the termination of his services on medical grounds.

2. For the reasons set out below, we dismiss the appeal.

Facts and Procedure¹

3. Effective 16 August 2007, Mr. Dahoud was employed by UNRWA on a Fixed-Term Appointment, Grade 1, Step 1, as Sanitation Labourer at Marka Camp, Jordan Field Office (JFO).

4. Effective 16 August 2017, Mr. Dahoud's appointment was converted from "X" category Fixed-Term Appointment to "A" category Temporary Indefinite Appointment.

5. On 25 March 2018, Mr. Dahoud incurred a service-incurred injury and was placed on sick leave.

6. On 18 November 2018, the Human Resources Services Officer, Jordan (HRSO/J) informed Mr. Dahoud that he was referred to a Medical Board for an examination on 26 November 2018, with a view to determining his fitness for continued service with UNRWA.

7. On 24 March 2019, the Medical Board concluded that Mr. Dahoud was unfit for continued service with UNRWA in his current post or any other post. The Medical Board also noted that Area Staff Rule 109.7(7) was not applicable in Mr. Dahoud's case.

8. By letter dated 13 June 2019, the HRSO/J informed Mr. Dahoud of the decision to terminate his services on medical grounds effective close of business on 2 June 2019. In the same letter, Mr. Dahoud was also informed that he was eligible to receive a disability benefit in accordance with Area Staff Rule 109.7(2). In that sense, the decision implied, in accordance with

¹ These facts are drawn from paragraphs 2-9 of the impugned Judgment.

the Medical Board's conclusion, that Mr. Dahoud was not considered eligible for an additional benefit as defined in Area Staff Rule 109.7(7). This is the contested decision.

9. Upon his separation, Mr. Dahoud was paid a disability benefit of 12,237,600 Jordanian Dinars (JOD).

10. On 8 August 2019, Mr. Dahoud submitted a request for decision review.

11. On 27 October 2019, Mr. Dahoud filed an application with the UNRWA Dispute Tribunal.

12. On 13 June 2021, by Judgment UNRWA/DT/2021/041, the UNRWA DT rejected on the merits Mr. Dahoud's application where he requested to be paid additional and suitable compensation, and to be compensated for the moral, psychological, and physical damages that he had suffered and continued to suffer as a result of the contested decision.

Procedure before the Appeals Tribunal

13. On 10 November 2021, Mr. Dahoud appeals to the UNAT against the above-referenced UNRWA DT Judgment.

14. On 10 January 2022, the Commissioner-General filed his answer to the Appeal.

Submissions

Mr. Dahoud's Appeal

15. Mr. Dahoud contends that the UNRWA DT judgment was not legal and requests the UNAT to accept his appeal, overturn that judgment and uphold all his rights.

16. Mr. Dahoud submits that the UNRWA DT erred in fact and law when it noted that he had received, as a supplemental benefit, a sum that is the equivalent of one quarter of the disability benefit, and that the sum had been paid to him as part of the JOD12,237,600 that UNRWA had paid him as a disability benefit, pursuant to Area Staff Rule 109.7(7).

17. He maintains he did not receive any supplemental benefit as compensation for a permanent and complete medical impairment concluded and declared by the Medical Board. The sum that UNRWA had paid to him was an end-of-service payment, which, as Mr. Dahoud explained, is calculated according to a legally established percentage based on the number of years

of service and is compensation payable to every employee whose services have been terminated by UNRWA.

18. Mr. Dahoud also submits that the UNRWA DT erred in fact and law when it ignored a medical report dated 26 February 2019, claiming that it was somewhat vague and based on suspicion. That report contained the decision and conclusions of the Medical Board, indicating that Mr. Dahoud had developed a permanent eight per cent medical impairment and disability because of the service-related injury that he had suffered on 25 March 2018.

19. According to Mr. Dahoud, UNRWA and the members of the Medical Board had conspired to suppress that report. On 24 March 2019, another report containing the decision and conclusions of the Medical Board was issued, stating that Area Staff Rule 109.7 was not applicable to Mr. Dahoud's medical condition. The estimated eight per cent medical impairment, which had not yet been paid to him, had been removed. Mr. Dahoud claims that this constituted forgery, which was contrary to the regulations and laws of UNRWA that must be characterized by integrity and transparency.

20. In addition, Mr. Dahoud contends that the UNRWA DT had erred in fact and law when it stated that the exact percentage of his impairment was irrelevant with respect to his entitlements to various compensations under Area Staff Rule 109.7 (7). That rule provides that the injured employee shall be granted a supplemental benefit where the illness or injury has resulted in total and permanent disability and the injured person cannot meet his needs on his own and needs another person to help him meet his needs. Mr. Dahoud claims the provisions of that rule apply to him, who had explained this to the UNRWA DT and had offered sufficient evidence, including medical reports, to substantiate his claims that the injury he suffered at work resulted in his total and permanent medical disability. In addition, it was established that he could not meet his needs on his own and needed someone else to help him meet his needs. Unfortunately, the UNRWA DT failed to take all this evidence into account.

21. Mr. Dahoud claims that the UNRWA DT erred in fact and law when it stated that it did not consider that he had demonstrated a significant change to or deterioration in his condition since the 24 March 2019 conclusion of the Medical Board that would justify a new referral to another medical board, in order to reconsider whether Area Staff Rule 109.7(7) would now be applicable to his case. Mr. Dahoud contends that he had made it abundantly clear and had provided sufficient

evidence, such as medical reports, to the UNRWA DT, demonstrating that his condition had deteriorated significantly and was worsening daily.

22. Mr. Dahoud also contends that the UNRWA DT erred in fact and law when it failed to order him to complete treatment of his service-incurred injury at UNRWA's expense. Accordingly, UNRWA was obliged to pay for all treatment expenses until full recovery or to refer him to another medical board, with a view to determining either his fitness for continued employment with UNRWA or the extent of his medical impairment.

23. According to Mr. Dahoud, the UNRWA DT erred in fact and law when it ignored his request to be compensated for the moral and psychological damages that he had suffered as a result of his service-related injury which left him incapacitated. He is unable to meet his needs by himself and needs someone else to help him with many things. In addition, he claims there is the moral and psychological damage caused by UNRWA's conduct during the Medical Board's deliberations, its falsified conclusions, the denial of his rights, his inability to continue with treatment and UNRWA's refusal to help him continue his treatment, and he had presented sufficient evidence to the UNRWA DT to substantiate and support these claims.

24. Mr. Dahoud also claims that the UNRWA DT erred in fact and law when it ignored the percentage of medical impairment established by the Ministry of Health of Jordan. A medical board, convened for Mr. Dahoud by the Zarqa Health Directorate, and supervised by experts and specialist doctors, had concluded that he suffered from several serious illnesses as a result of the work-related injury and because of his long service with UNRWA as a sanitation labourer, and had decided that the permanent impairment percentage was 80 per cent.

25. Finally, Mr. Dahoud submits that the UNRWA DT judgment is deficient and lacks sufficient explanation. That Tribunal was satisfied with simply citing provisions of the law that did not apply in any way to his case and did not address the arguments and objections. In addition, the judgment lacks a legal basis, fails to take a proper approach, and runs counter to the jurisprudence of the UNAT. Mr. Dahoud claims he has met the burden of proof required to establish that the impugned judgment was arbitrary, capricious, and biased, and that it is flawed because of the failure to follow legal procedures and the fact that mistakes were made.

The Commissioner-General's Answer

26. The Commissioner-General submits that the UNRWA DT did not err as a matter of fact, law, or procedure when it dismissed Mr. Dahoud's application on the merits, and therefore requests that the UNAT dismiss the Appeal in its entirety.

27. The Commissioner-General contends that the Judgment of the UNRWA DT was, as a matter of law, free of error. As regards Mr. Dahoud's contention that the Medical Board had committed fraud and falsified its conclusions, including with respect to the percentage of his impairment, the UNRWA DT had clearly addressed this contention and found that the percentage of Mr. Dahoud's impairment was irrelevant with respect to his entitlements to various compensations.

28. According to the Commissioner-General, it is clear that Mr. Dahoud merely disagrees with the outcome of the UNRWA DT judgment and is in effect engaged in re-arguing his case before the UNAT. The issue of alleged falsified conclusions of the Medical Board was properly addressed by the UNRWA DT and Mr. Dahoud does not present any reasons to suggest that the UNRWA DT reasoning or finding was wrong.

29. On the issue of whether Mr. Dahoud was paid a disability benefit or not, the Commissioner-General explains that he was indeed separated on medical grounds and had already received a disability benefit. The crux of the application before the UNRWA DT was non-payment of additional compensation – the supplemental benefit as provided in Area Staff Rule 109.7(7). The UNRWA DT also correctly explained that staff members who are eligible to receive a disability benefit do not receive termination indemnity. Therefore, there is no merit in Mr. Dahoud's contentions.

30. Regarding Mr. Dahoud's allegation that the UNRWA DT ignored the Medical Board's report and concluded that it was somewhat ambiguous and based on suspicion, the Commissioner-General submits that it is misconceived and should be rejected. Although the UNRWA DT did not specifically refer to that report in its judgment, a dispassionate reading of the judgment reveals that it was no doubt considered and indeed the judgment was based on it.

31. According to the Commissioner-General, given the authoritative finding of the Medical Board that the provisions of Area Staff Rule 109.7(7) did not apply, the UNRWA DT was correct to conclude that the decision not to pay Mr. Dahoud a supplemental benefit was lawful. Mr. Dahoud's submission that there was evidence he suffered from a total and permanent disability and could not meet his needs alone was of no avail, in view of the authoritative conclusion of the Medical Board.

32. As regards Mr. Dahoud's submission that he had submitted sufficient evidence to show that his medical condition had significantly deteriorated and that he should be referred to another medical board, the Commissioner-General acknowledges that the new medical reports presented, were indeed at variance with the conclusions of the Medical Board. However, in the Commissioner-General's view, these reports were invariably issued after the conclusion of the Medical Board and were not therefore necessarily reviewed by the Medical Board. In addition, arguments that his condition fell within the purview of Area Staff Rule 109.7(7) were made and considered by the UNRWA DT. Mr. Dahoud however, had not demonstrated that the UNRWA DT reasoning not to refer him to another medical board was in error.

33. Concerning Mr. Dahoud's contentions on the UNRWA DT finding regarding his need for medical expenses and further surgical interventions, where it opined that these were claims for compensation for service-incurred injury under Area Staff Rule 106.4 and were to be submitted to the competent office, the Commissioner-General further submits that Mr. Dahoud has not demonstrated in what regard the UNRWA DT was in error in its conclusion.

34. With respect to Mr. Dahoud's contention that the UNRWA DT dismissed the Medical Report on the basis that it was somewhat ambiguous and based on suspicion, the Commissioner-General submits that in his view, this was a misreading of the UNRWA DT judgment. The UNRWA DT reference to "rather vague, suspicion-based and speculative" was regarding Mr. Dahoud's contention that the Medical Board was conspiring against him and deleted all the findings with respect to his impairment.

35. As regards Mr. Dahoud's contention that the UNRWA DT erred in fact and law when it ignored his demand for compensation and that the damages sustained by him were clear and did not need other evidence, the Commissioner-General submits this contention is wholly misconceived. With specific reference to moral damages, following amendments to

Article 10 (5) (b) of the Statute of the UNRWA DT effective 1 January 2018, it is now established that the UNRWA DT may only award compensation for harm where the staff member has presented evidence other than his own testimony that he or she suffered moral injury due to the contested decision. In the instant case, no evidence had been presented to show that Mr. Dahoud had suffered moral injury. The UNRWA DT, having dismissed the application, said there was no basis for the consideration of the plea for compensation.

36. Finally, on Mr. Dahoud's contention that the UNRWA DT ignored the conclusion of the Jordanian Ministry of Health, the Commissioner-General submits that it is misconceived. A referral to a Medical Board is governed by the UNRWA Regulatory Framework. Considering that, the finding of the Jordanian Health Ministry Board is not binding or applicable to medical determinations in relation to UNRWA staff members.

37. In view of the above, the Commissioner-General submits that there is no legal basis for the consideration of the relief sought.

Considerations

38. The main issue for consideration and determination in this appeal is whether the UNRWA DT erred when it found that the Agency's decision not to pay Mr. Dahoud a supplemental benefit upon the termination of his services on medical grounds was lawful.

39. UNRWA Area Staff Rule 106.4 establishes the general applicable legal framework concerning compensation for death, injury, or illness attributable to service within the Agency. According to its principles of award and eligibility, as an ordinary rule, compensation shall be awarded in the event of death, injury, or illness of a staff member which the Agency determines to be attributable to the performance of official duties on behalf of the Agency.² This compensation for death, injury or illness can take the form of a disability benefit and/or a supplemental benefit. When a staff member is considered to be unable to work due to disability, he or she may be eligible to receive a *disability benefit* according to Area Staff Rule 109.7(1) which is calculated according to Area Staff Rule 109.7(2) as a percentage of the years of service with the Agency. It is not

² There are exceptions to this rule which are not applicable to the present case. They involve cases where no compensation shall be awarded when such death, injury or illness has been occasioned by: (A) the willful misconduct of any such staff member, including drunkenness; (B) any such staff member's willful intent to bring about the death, injury or illness of himself/herself or another.

disputable that Mr. Dahoud was entitled to and received this disability benefit to the amount of JOD12,237,600 and that he does not contest his amount.

40. What is in dispute in the present case is that, apart from the disability benefit, Mr. Dahoud claims that he is also entitled to the *supplemental benefit*, as specified by Area Staff Rule 109.7(7). According to this provision, where the injury or illness of a staff member has resulted in total and permanent disability of such a nature that the staff member is obliged to depend, for his/her essential personal needs, on the attendance of another person, either constantly or occasionally, and such attendance entails expense, the staff member shall receive a *supplemental benefit* representing the difference between the death benefit which would have been payable in the case of death under Area Staff Rule 109.8 and the standard disability benefit under this specific rule.

41. In keeping with Area Staff Rule 109.7(7), there are hence three *cumulative* conditions which need to be fulfilled for the staff member to be entitled to the supplemental benefit. These conditions are: i) total and permanent disability; ii) dependence; and iii) expense.

42. The UNRWA DT dismissed Mr. Dahoud's application on the grounds of Mr. Dahoud's non-eligibility for the supplemental benefit. The UNRWA DT further found that, having been assessed by a Medical Board consisting of three medical experts on 24 March 2019, Mr. Dahoud submitted or at least should have submitted all his evidence to the Medical Board, which eventually did not consider him eligible for such a benefit.³ Hence, according to the UNRWA DT Judgment, Mr. Dahoud did not meet the requirements to be entitled to the supplemental benefit he is claiming.

43. In his appeal, Mr. Dahoud firstly insists on the fact that the sum he received was an end-of-service payment which is paid to every staff member whose services have been terminated by the Agency. This information is not accurate in the sense that the UNRWA DT correctly found that the disability benefit paid to Mr. Dahoud in accordance with Area Staff Rule 109.7(1) was different from the termination indemnity paid to certain staff members in accordance with Area Staff Rule 109.9.⁴ This was because the termination indemnity should be regarded as a general rule, while the disability benefit is the exception, only payable in those cases where there is disability. Apart from this, the plain reading of Area Staff Rule 109.9(2)B is clear: no termination indemnity shall be payable in cases when Area Staff Rule 109.7 is applicable, that is, when the

³ Impugned judgment, para. 36.

⁴*Ibid.*, para. 34.

staff member is eligible to receive a disability benefit, as in Mr. Dahoud's case. Therefore, there was no error in the UNRWA DT finding in this regard.

44. Furthermore, Mr. Dahoud maintains that the UNWRA DT ignored an annex to the Medical Board report dated 26 February 2019, which contained the information regarding his permanent eight per cent medical impairment and disability as a result of the service-related injury that he had suffered on 25 March 2018. He also alleges that this annex was removed in a subsequent assessment by the Medical Board, which did not act impartially, and had then engaged in forgery of the document together with the Commissioner-General, allegations which can be proven by the annex to the appeal and witnesses named on the annex. Mr. Dahoud also contends that, contrary to the UNWRA DT finding, he had provided sufficient evidence, "such as medical reports" to the UNRWA DT demonstrating that his condition had deteriorated significantly and was worsening daily, to justify a new referral to another medical board to reconsider whether Area Staff Rule 109.7(7) would be applicable to his case.

45. The Appeals Tribunal has reviewed the case records and could not find such pieces of evidence referred to by Mr. Dahoud, even though he had had two opportunities to file supplementary evidence before the UNRWA DT⁵. The only extract of the medical report he annexed to his appeal was dated 26 February 2019, and signaled indeed an impairment of eight per cent, without any indication regarding the nature of the injury incurred. Specifically, the document seems to relate to the conclusions of the Medical Board, whereby it is stated that:

It is the opinion of the medical board that Mr. Moayad Naem Abdallah Dawod; E/No. 10516130 is unfit for continued service with the Agency in his current post or any other post. Provisions of Para. 7 of staff rule 109.7 do not apply in his case, however he developed 8% permanent impairment of the whole person, as a result of the service related injury he had on 25.03.2018.

46. However, despite indicating some permanent impairment, the percentage of 8 per cent mentioned in the conclusions of the Medical Board does not necessarily lead to a finding of permanent and *total* disability, as required by Area Staff Rule 109.7(7), so as to ensure the supplemental benefit. Nor does this medical conclusion mention any possible dependence or resulting expenses caused by such dependence. Moreover, apart from Mr. Dahoud's own

⁵*Ibid.*, paras. 22 and 25.

assertions, there are no witness testimonies in the record before the Appeals Tribunal, which could support his allegation of a significant deterioration of his medical condition.

47. Mr. Dahoud's claim that the Ministry of Health of Jordan established a higher percentage of impairment, in addition to being unsubstantiated, has no impact on Mr. Dahoud's assessment. This is because UNRWA, being an international Agency, should comply with its own internal regulations and not those of the host country, whose external assessments are not binding under the Agency's rules. Likewise, any possible medical reports issued after the conclusion of the Medical Board were belated and thus immaterial for the purposes of the claim of supplemental benefit, as the Agency had taken its decision based on the documents available at the time of the events. Even the higher alleged percentage of 80 per cent impairment, if this were to be considered, would not necessarily mean *total* disability without a medical declaration to this effect.

48. Mr. Dahoud further contends that the UNRWA DT failed to order the Commissioner-General to complete the treatment of his injury, as the Agency was required to pay for all treatment expenses until his full recovery. However, this claim seems to go beyond the scope of the present application, which concerns solely the issue of the supplemental benefit, and not any other compensation deriving from Area Staff Rule 106.4. The UNRWA DT was therefore correct when it found that these claims do not fall within the parameters of the initial application.⁶

49. Finally, Mr. Dahoud's accusations against the members of the Medical Board are groundless, as he failed to provide evidence for his allegations. Apart from his discontentment with the UNRWA DT Judgment, which was incidentally expressed in discourteous and unprofessional terms, there is nothing in the record which could support Mr. Dahoud's assertions of conspiracy, extraneous factors, or bias. As previously stated by this Appeals Tribunal, an appeal is not an opportunity for the parties to reargue their case. It does not fall to the Appeals Tribunal to conduct a new trial.⁷

50. Despite the above, the Appeals Tribunal has detected two inconsequential mistakes in the UNRWA DT Judgment. The first concerns the finding that it was incumbent upon the Commissioner-General to exercise discretion over Mr. Dahoud's right to the supplemental benefit, since the Medical Board's conclusion was that he was not eligible to receive it.⁸ This understanding

⁶ *Ibid.*, para. 40.

⁷ *Antaki v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-096, para. 21.

⁸ Impugned judgment, para. 37.

is indeed incorrect and barred by the principle of legality, which is the first principle of administrative law (and of the rule of law). According to this fundamental precept, the exercise of power must be authorised by law. It is central to the conception of the constitutional order that administrators in every sphere are constrained by the principle that they may exercise no power and perform no function beyond that conferred upon them by law. Therefore, when Area Staff Rule 109.7(7) establishes that the staff member *shall* receive a supplemental benefit once the conditions are presented, the best interpretation is that when such conditions are not fulfilled the staff member *shall not* receive such a benefit. There was hence no room for discretion on the Commissioner-General's part, as the law is clear and imperative in this case.

51. The UNRWA DT also erred when it held that the percentage of impairment was irrelevant with respect to Mr. Dahoud's entitlements to the supplemental benefit.⁹ This assertion is not correct, as discussed above, since *total* disability is one of the conditions for Mr. Dahoud's entitlement to the supplemental benefit. These minor errors are, however, irrelevant for the purposes of the present appeal, as they do not have any bearing on the final determination of the UNRWA DT.

52. Accordingly, even though for different reasons, the Appeals Tribunal affirms the UNRWA DT judgment. Consequently, there is no room for compensation for moral or psychological damages, which, moreover, would have needed to be supported by evidence in terms of Article 10.5(b) of the UNRWA DT Statute.

⁹ *Ibid.*, para. 39.

Judgment

53. The appeal is dismissed, and Judgment No. UNRWA/DT/2021/041 is affirmed.

Original and Authoritative Version: English

Decision dated this 28th day of October 2022 in New York, United States.

(Signed)

Judge Halfeld, Presiding

(Signed)

Judge Colgan

(Signed)

Judge Murphy

Judgment published and entered into the Register on this 17th day of November 2022 in New York, United States.

(Signed)

Juliet Johnson, Registrar