

2010-UNAT-007, El-Zaim

UNAT Held or UNDT Pronouncements

UNAT considered the Appellant's appeal and had to determine: whether her marriage to the late former staff member was legally valid at the time of his separation from the Organisation in 1998; and whether the Organisation created a legal expectancy of acknowledgement of benefits to the Appellant. UNAT found that the former staff member's alleged divorce from his first wife was not legally valid because the authorities pronouncing it were not competent and did not apply the law under which the marriage had been concluded. It follows that his second marriage to the Appellant was not valid at the time of its celebration, due to the existence of his valid first marriage concluded under French law. UNAT accordingly held that UNJSPF correctly found that the Appellant was not entitled to a widow's benefit since she was not legally married to the former staff member from the time he separated from UNDP until his death. With respect to whether the Appellant was entitled to an acknowledgement of benefits, UNAT noted that UNJSPF's confirmation of her entitlement was based on the former staff member's misleading statement that he had validly divorced his first wife and married the Appellant. UNAT accordingly held that the Appellant did not have a legitimate expectancy of acknowledgement of benefits. UNAT dismissed the appeal in its entirety.

Decision Contested or Judgment/Order Appealed

The Applicant, the purported second wife of a deceased former staff member, claimed a widow's benefit following the former staff member's death. UNJSPF found that the Applicant became the staff member's legal spouse after his separation from service with UNDP and refused to grant the benefit.

Legal Principle(s)

When the marital status is being questioned, the law of the staff member's State of nationality should be referenced. This way, the various cultural and religious sensibilities existing in the world will be respected. A surviving partner is only entitled to a widow's benefit if they were married to the Pension Fund participant from the time they separated from the Organisation until their death.

Outcome

Appeal dismissed on merits

Outcome Extra Text

No relief ordered; No relief ordered.

Full judgment

[Full judgment](#)

Applicants/Appellants

El-Zaim

Entity

UNJSPF

Case Number(s)

2009-008

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Mar 2010

President Judge

Judge Simón

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

United Nations Joint Staff Pension Fund (UNJSPF)

Survivor's benefits

Applicable Law

Staff Rules

UNJSPF Regulations

- Article 34

Related Judgments and Orders

2010-UNAT-044