

2010-UNAT-034, Muthuswami et al.

UNAT Held or UNDT Pronouncements

UNAT noted that the Appellants did not refer to any article of the Regulations that provides that the full retirement benefit may be restored after a participant opts to commute a portion of the retirement benefit into a lump sum. UNAT held that the Appellants were bound by their decision to accept one-third of their pension as a lump sum and a reduced pension. UNAT held that the Appellant's decision could not simply be reversed. UNAT rejected the argument that the Appellants had been discriminated against and that their basic fundamental rights concerning equity, fairness, and justice under the Universal Declaration of Human Rights, 1948, had been violated. UNAT held that the Noblemaire principle, which requires equal pay for work of equal value, did not assist the Appellants in this case, as they did not make any arguments with respect to the pension benefits of the US federal civil service, as the General Assembly Resolution 44/198 reaffirmed that the Noblemaire principle should continue to serve as the basis of comparison between UN emoluments and those of the highest-paying civil service – currently the US federal civil service. UNAT held that the Appellants did not establish that the Standing Committee did not comply with the Regulations of UNJSPF. UNAT dismissed the appeal and affirmed the Standing Committee decision.

Decision Contested or Judgment/Order Appealed

UNJSPF decision: Upon retirement, the Applicants opted for a commutation of a portion of their pension benefit entitlements into a lump sum, in exchange for a reduction in their pension benefits for life. The Applicants later contested the decision to deny their request of restoration of full pension for 1/3 Lump Sum Recipients after a pre-determined period of commutation. The Standing Committee of the UN Joint Staff Pension Board (UNJSPB) decided to uphold UNJSPF's decision to maintain the reduction as being fully compliant with Articles 1(f) and 28(g) of the UNJSPF's Regulations.

Legal Principle(s)

Under the UNJSPF Regulations, all retirees are required to choose between accepting the full pension or taking the lump sum option and receiving a reduced pension. When making this decision, the retirees accept the inherent risks associated with each option. If retirees are not bound by their decision and can simply reverse the decision if it becomes apparent later that the choice they made was not to their advantage, it will fundamentally change the basis upon which the Pension Fund currently operates. Only the General Assembly can amend the UNJSPF's Regulations.

Outcome

Appeal dismissed on merits

Outcome Extra Text

No relief ordered; No relief ordered.

Full judgment

[Full judgment](#)

Applicants/Appellants

Muthuswami et al.

Entity

UNJSPF

Case Number(s)

2009-001

Tribunal

UNAT

Registry

New York

Date of Judgement

1 Jul 2010

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Pension (see also, UNJSPF)

United Nations Joint Staff Pension Fund (UNJSPF)

Standing Committee of UNJSPB (UN Joint Staff Pension Board)

Applicable Law

GA Resolutions

- A/RES/44/198

UNAT Statute

- Article 2.9

UNJSPF Regulations

- Article 1
- Article 28
- Article 29