

2015-UNAT-608, Teklu

UNAT Held or UNDT Pronouncements

UNAT held that the Standing Committee correctly determined that the applicable rules provide that the pension participant is required to inform UNJPSF in writing of the benefit election made and of any commutation elected and that there was no provision for third party advisement. UNAT held that the Standing Committee's reliance on Article 30(b) of the UNJSPF Regulations as a rationale for its finding that a deferred retirement benefit became payable to Ms. Assebe upon her separation from service was flawed on the basis that she did not elect for a deferred retirement benefit. UNAT held that the election provided for by Article 30(b) had no logical or causative connection to the primary election to receive a benefit under Article 29. UNAT held that the Standing Committee erred in relying on the provisions of Article 30 when it affirmed the decision of the UNJSPF CEO to deny Mr. Teklu's request relating to Article 29 of the UNJSPF Regulations. UNAT held that UNJSPF could not retroactively seek to justify the contested decision on the basis of Article 32(b). UNAT held that the UNJSPF Regulations and Rules did not provide for the situation which presented itself in the case, namely a pension participant who, within two days of being separated from service and who was not of normal retirement age, passed away without having had the opportunity, by reason of her illness, to exercise her right of election pursuant to Article 27 of the UNJSPF Regulations. UNAT held that the argument that Ms. Assebe could have exercised the necessary election prior to being separated from service could not be dispositive of the appeal. UNAT held that the decision of the Standing Committee, relying on the provisions of Article 30(b) to deny the request for an early retirement benefit, could not be regarded as having been arrived at on a rational or sound basis and that it followed that the matter must be remanded. UNAT held that Mr. Teklu's due process rights had not been violated. UNAT granted the appeal in part. NAT set aside the decision of the Standing Committee and remanded the case to the Standing Committee for due consideration of the matter of Ms. Assebe's retirement benefits.

Decision Contested or Judgment/Order Appealed

On behalf of his deceased wife, Mr. Teklu contested the decision of the Standing Committee of the UNJSPB to uphold the decision to deny his request for the early retirement benefit, noting that the UNJSPF Regulations did not provide for a third-party election of benefit on behalf of a former participant posthumously.

Legal Principle(s)

The absence of a specific rule in the UNJSPF Regulations addressing the circumstances which presented before the Standing Committee does not entitle the Standing Committee to arbitrarily pluck a provision from the UNJSPF Regulations as a substitute for the lacunae.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Teklu

Entity

UNJSPF

Case Number(s)

2014-665

Tribunal

UNAT
Registry
New York
Date of Judgement
30 Oct 2015
President Judge
Judge Faherty
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
TEST -Rename- Benefits and entitlements-45
Pension (see also, UNJSPF)
United Nations Joint Staff Pension Fund (UNJSPF)
Applicable Law
UNJSPF Administrative Rules

- Rule J.1
- Rule J.2

UNJSPF Regulations

- Article 27
- Article 29
- Article 29(e)
- Article 30
- Article 30(b)
- Article 31
- Article 32
- Article 32(a)
- Article 32(b)
- Regulation 30(a)

UNJSPF RoP

Related Judgments and Orders

2014-UNAT-421

2015-UNAT-569

2013-UNAT-343

2011-UNAT-155