

2016-UNAT-658, Kutner

UNAT Held or UNDT Pronouncements

UNAT held that the appeal concerned the interpretation of Article 35 of the UNJSPF Regulations. UNAT found that the Appellant wanted the Standing Committee to accept the period of contributory service with the Fund in order to calculate his own benefit but to take into account a different period vis-à-vis his former spouse. UNAT held that Articles 35bis and 22 of the UNJSPF Regulations were clear and that it could not distinguish where the text was clear. UNAT held that the same date would apply to the calculation of the Appellant's benefits and the determination of whether his former spouse was entitled to a divorced surviving spouse's benefit under Article 35 bis (b)(i), i. e. 15 February 2004. UNAT dismissed the appeal.

Decision Contested or Judgment/Order Appealed

UNJSPF decision: The Applicant contested the Pension Committee's decision that his "Beginning Contributory Service" date was 15 February 2004 and, consequently, his former spouse met the first requirement for eligibility for a potential divorced surviving spouse's benefit under Article 35bis (b)(i) of the UNJSPF Regulations. The Standing Committee agreed with the Pension Committee's finding that the Applicant's "Beginning Contributory Service" date for all benefits flowing from his participation in the Fund was 15 February 2004. This determination was based on his election on 31 December 2004 to have his service with the Inter-Parliamentary Union (IPU) recognized as UNJSPF contributory service.

Legal Principle(s)

The first step of the interpretation of any kind of rules, worldwide, consists of paying attention to the literal terms of the norm. When the language used in the respective disposition is plain, common, and causes no comprehension problems, the text of the rule must be interpreted upon its own reading, without further investigation.

Otherwise, the intent of the statute or regulation under consideration would be ignored under the pretext of consulting its spirit. If the text is not specifically inconsistent with other rules set out in the same context or higher norms in the hierarchy, it must be respected, whatever technical opinion the interpreter may have to the contrary, or else the interpreter would become the author.

Outcome

Appeal dismissed on merits

Outcome Extra Text

No relief ordered; No relief ordered.

Full judgment

[Full judgment](#)

Applicants/Appellants

Kutner

Entity

UNJSPF

Case Number(s)

2015-868

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Jun 2016

President Judge

Judge Weinberg de Roca

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

United Nations Joint Staff Pension Fund (UNJSPF)
Survivor's benefits

Applicable Law

UNJSPF Regulations

- Article 22(c)
- Article 35(b)(i)

Related Judgments and Orders

2012-UNAT-225