

2018-UNAT-830, Schepens

UNAT Held or UNDT Pronouncements

UNAT held, considering that the Appellant had elected to take a deferred retirement benefit after 1 April 2007 and not taken a withdrawal settlement, that the Fund had no discretion to make an exception under Article 24(a) of UNJSPF Regulations. Regarding the submission that the Fund was in breach of a duty of good faith by not adequately informing the Appellant of the amendment and its implications, UNAT held that it cannot be expected of the Fund to provide information in relation to every conceivable contingency or possibility that might or might not eventuate in the future. UNAT further held that the Fund had not breached the duty of good faith. UNAT dismissed the appeal and affirmed the decision of the Standing Committee.

Decision Contested or Judgment/Order Appealed

UNJSPF decision: The Applicant contested the decision not to restore her most recent period of prior contributory service because she had opted for a deferred retirement benefit. The UNJSPF Standing Committee found that since the Applicant had elected a deferred retirement: i) The Applicant did not meet the criteria for restoration as set out in Article 24(a) of UNJSPF Regulations; and ii) the Fund had no discretion to modify the application of Article 24(a) of UNJSPF Regulations in an individual case.

Legal Principle(s)

The jurisdiction of UNAT regarding an appeal of a decision of the Standing Committee is limited to determining the non-observance of UNJSPF Regulations. UNAT, in previous jurisprudence, interpreted Article 24(a) of UNJSPF Regulations and confirmed that it confers the right to restore prior contributory service only to participants: 1) who upon separation had elected to receive a withdrawal settlement; or 2) who before 1 April 2007 had elected, or were deemed to have elected, to receive a deferred retirement benefit under Article 30 of the Fund's

Regulations that was not yet in payment at the time of the election to restore. Article 24(a) of UNJSPF Regulations thus does not provide a right to restore prior contributory service to participants who, on or after 1 April 2007, had elected to receive a deferred retirement benefit. The duty of good faith on the Fund includes responding appropriately to requests from participants for information regarding the exercise of their choice of benefit options. But, by the same token, UNAT has repeatedly held that it is the staff member's responsibility to ensure that he or she is aware of the provisions of the Regulations and the Administrative Rules, and ignorance of the law is no excuse.

Outcome

Appeal dismissed on merits

Outcome Extra Text

No relief ordered; No relief ordered.

Full judgment

[Full judgment](#)

Applicants/Appellants

Schepens

Entity

UNJSPF

Case Number(s)

2017-1119

Tribunal

UNAT

Registry

New York

Date of Judgement

22 Mar 2018

President Judge

Judge Murphy

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

United Nations Joint Staff Pension Fund (UNJSPF)

Prior contributory service/restoration of

Standing Committee of UNJSPB (UN Joint Staff Pension Board)

Applicable Law

UNAT Statute

- Article 2.9

UNJSPF Administrative Rules

- Rule K.4

UNJSPF Regulations

- Article 24(a)
- Article 31

- Article 4(b)

Related Judgments and Orders

2010-UNAT-067

2015-UNAT-594

2016-UNAT-664

2016-UNAT-656

2010-UNAT-004