

2018-UNAT-834, Fox

UNAT Held or UNDT Pronouncements

UNAT considered the appeal. UNAT noted that the relationship between a pension fund and its members and beneficiaries is determined principally by the Regulations of the Fund and that there is no other explicit contractual basis obliging the Fund to assume duties beyond those expressly provided for in the Regulations and Administrative Rules. However, UNAT emphasized the importance of contracts being executed in good faith. UNAT found that the Fund breached its duty of good faith because the correspondence between the Appellant and the Fund indicated that she needed assistance and further information before making her choice of benefit on separation, and the Fund was delayed in replying and failed to provide coherent information. UNAT upheld the appeal to a limited extent and held that, if the Appellant so wishes, the Fund shall afford the Appellant the opportunity to elect a deferred retirement benefit in terms of Article 30 of UNJSPF Regulations with effect from the date of her separation.

Decision Contested or Judgment/Order Appealed

UNJSPF decision: The individual appealed UNSPC's decision to deny her request to be reimbursed the pension contributions she paid on behalf of UNRWA during the two-year period of Special Leave Without Pay. The Committee upheld the decision, citing the Regulations of the United Nations Joint Staff Pension Fund.

Legal Principle(s)

A necessary and suitably tailored pension fund rule should not place an excessive or harsh burden on individual participants that is disproportionate in relation to the collective interest. The principle of good faith and the concomitant duty of care demand due consideration of the interests of individual participants to avoid causing them disproportionate harm or prejudice.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Fox

Entity

UNJSPF

Case Number(s)

2017-1123

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)

UNSPC (UN Staff Pension Committee)

Applicable Law

UNJSPF Regulations

- Article 10
- Article 22
- Article 25
- Article 30
- Article 31

Related Judgments and Orders

2016-UNAT-664

2015-UNAT-594

2010-UNAT-067