

# **2021-UNAT-1180, Thanaa Kamil Al-Shalchi**

## **UNAT Held or UNDT Pronouncements**

UNAT held that the Appellant did not fall within the exceptional category of participants who exercised their election for a deferred retirement benefit before 1 April 1997 and were therefore entitled to restore their prior contributory service, as the Appellant exercised her election in September 2009. UNAT held that the Appellant was not entitled to restore her prior contributory service. UNAT held that the Appellant's complaint that she did not have access to the UNJSPF Regulations was unconvincing, given, inter alia, the availability of the UNJSPF Regulations and Rules on the website. UNAT held that there was no evidence that the UNJSPF had provided incorrect advice to the Appellant. UNAT dismissed the appeal and affirmed the decision of the Standing Committee.

## **Decision Contested or Judgment/Order Appealed**

The Applicant contested the decision of the UN Staff Pension Committee (UNSPC) to reject her request for restoration of her prior period of contributory service under the Regulations of the UNJSPF. The Standing Committee of the UNJSPF affirmed the decision and held that restoration was precluded by Article 24 of the UNJSPF Regulations because the Applicant, after leaving the service of the Organisation in 2006, had in 2009 selected a deferred retirement benefit pursuant to Article 30 of the UNJSPF Regulations.

## **Legal Principle(s)**

While the UNJSPF has a duty to disclose information in good faith, it does not carry an obligation to educate participants individually about the precise nature and content of the provisions governing benefits. If uncertain, participants should seek

advice not only from the staff of the UNJSPF but from independent advisers. Ignorance of the rules cannot be invoked as an excuse for a failure to comply with them. UNJSPF has no discretion to grant a benefit for which the UNJSPF Regulations do not provide.

## Outcome

Appeal dismissed on merits

## Outcome Extra Text

N/A

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Thanaa Kamil Al-Shalchi

## Entity

UNHCR

## Case Number(s)

2020-1469

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

29 Oct 2021

## 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

## Applicable Law

UNJSPF Regulations

- Article 24(a)
- Article 30
- Article 31(b)(i)

## Related Judgments and Orders

2015-UNAT-559

2010-UNAT-004