

2023-UNAT-1326, Conforte

Uwingabire Banyanga

UNAT Held or UNDT Pronouncements

The UNAT denied Ms. Banyanga's appeal and affirmed the decision of the Standing Committee. The UNAT found that Ms. Banyanga had not adequately explained the inconsistencies between her own personal information and the information submitted by Mr. Mbirange regarding his reported spouse (including that the name "Banyanga" did not appear in the documentation that Mr. Mbirange provided about his spouse).

The UNAT also rejected Ms. Banyanga's reliance on the marriage certificate that she submitted, which showed a purported date of marriage in 1997. The UNAT observed that Mr. Mbirange entered service with the United Nations in 2006 and that the marriage certificates that he provided were issued in 2006 and reflected a marriage to Ms. Uwingabire in July 1984. The UNAT noted that for it to confer a widow's benefit on Ms. Banyanga, it would have to accept that Mr. Mbirange deliberately misrepresented his marriage date to the United Nations for a purpose that was not immediately obvious. The UNAT held that Ms. Banyanga had not provided a cogent or credible explanation for why Mr. Mbirange would have submitted incorrect information that he married in 1984, if in fact he had married Ms. Banyanga in 1997.

The appeal was dismissed.

Decision Contested or Judgment/Order Appealed

Ms. Conforte Uwingabire Banyanga filed a claim for a widow's benefit under Article 34(a) of the United Nations Joint Staff Pension Fund (UNJSPF), following the death in service of Mr. Theoneste Mbirange, whom she claimed was her spouse. The Standing Committee of the UNJSPF denied her request because the personal information that she provided, including her date of birth and the date of her alleged marriage to Mr.

Mbirange, was different from the information that Mr. Mbirange had reported to the United Nations about his spouse. Ms. Banyanga appeals the Standing Committee's decision.

Legal Principle(s)

When faced with two irreconcilable versions in relation to the truth of an alleged marriage, regard must be had to issues of credibility, reliability and the inherent probabilities. These must be assessed in the light of any latent bias (self-interest of the claimant), any internal and external contradictions in the documentary evidence and the inherent probabilities and improbabilities of the two versions. Where the probabilities are equipoised then the burden of proof not being discharged will operate to determine that the entitlement or claim has not been sufficiently established.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Conforte Uwingabire Banyanga

Entity

UNJSPB

Case Number(s)

2022-1698

Tribunal

UNAT

Registry

New York

Date of Judgement

18 Apr 2023

President Judge

Judge Murphy

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Survivor's benefits

United Nations Joint Staff Pension Fund (UNJSPF)

Applicable Law

UNJSPF Administrative Rules

- Rule B.2
- Rule B.3

UNJSPF Regulations

- Article 34