

2024-UNAT-1447, Iyofe Christine Isasi

UNAT Held or UNDT Pronouncements

The UNAT held that Mr. Kankwenda, a late participant in the UNJSPF, married another individual, Ms. M.T., in the Democratic Republic of Congo (DRC) in 1971. This fact, which Ms. Isasi herself did not contest, was supported by a marriage certificate and was consistent with the information regarding the dates of birth of Mr. Kankwenda's children and the identities of their mothers. The UNAT highlighted that Ms. Isasi admitted that the two marriage certificates she submitted after Mr. Kankwenda's death, purportedly showing their marriage on 17 January 1971, were falsified, undermining her credibility and reliability. Moreover, the fact that Mr. Kankwenda reported Ms. Isasi as his spouse when he joined the Organization did not change the legal nature of his relationship with Ms. M.T. or Ms. Isasi. Likewise, the pronouncements issued by the Maryland Court during their divorce proceedings did not constitute evidence of a legal marriage with Mr. Kankwenda, especially since they were based solely on the evidence provided by Ms. Isasi. Indeed, the divorce judgment specifically confirmed that Mr. Kankwenda denied being legally married to Ms. Isasi and even provided an affidavit to the Maryland Court attesting to this.

Therefore, as there was no evidence that Mr. Kankwenda's first marriage to Ms. M.T. in the DRC was ever validly dissolved, and polygamy is not legal in the DRC, the UNAT held that Ms. Isasi's subsequent purported marriage to Mr. Kankwenda in 1980 was not legal, because Mr. Kankwenda was still married to Ms. M.T. at the time.

The UNAT dismissed the appeal and affirmed the Decision of the Standing Committee of the UNJSPB that Ms. Isasi was not eligible to receive a surviving spouse benefit from the UNJSPF.

Decision Contested or Judgment/Order Appealed

UNJSPB Decision: Ms. Isasi filed a request challenging the decision of the UNJSPF, which found that she was not eligible to receive a divorced surviving spouse's benefit under Article 35 bis of the Regulations, Rules and Pension Adjustment System of the UNJSPF (Regulations).

In its Decision, the Standing Committee of the UNJSPB denied Ms. Isasi's request because she had not been married to the late participant, Mr. Kankwenda, for a continuous period of at least ten years, during which he paid contributions to the Fund.

Ms. Isasi appealed.

Legal Principle(s)

The surviving spouse asserting entitlement to a widow's benefit normally bears the burden to prove on the balance of probabilities the condition precedent to entitlement, namely that she/he was married to a participant who died in service at the date of her/his death.

A divorce certificate is not sufficient alone to establish an underlying marriage.

The laws of the country in which a marriage takes place must be respected. If a participant has multiple purported marriages under a regime that does not allow polygamy, the first marriage must be validly dissolved in accordance with the laws that apply to it before a participant has capacity to remarry for the purpose of recognition of a spouse for the determination of entitlements.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Iyofe Christine Isasi

Entity

UNJSPB

Case Number(s)

2023-1834

Tribunal

UNAT

Registry

New York

Date of Judgement

22 Jul 2024

President Judge

Judge Sandhu

Judge Gao

Judge Ziadé

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

United Nations Joint Staff Pension Fund (UNJSPF)

Survivor's benefits

Applicable Law

UNJSPF Administrative Rules

- Rule B.2
- Rule B.3

UNJSPF Regulations

- Article 35

Related Judgments and Orders

2023-UNAT-1326

2022-UNAT-1277

2011-UNAT-155

2010-UNAT-007