



UNITED NATIONS APPEALS TRIBUNAL

TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2025-UNAT-1534/Corr.1

Dionette Pino Genayas
(Appellant)

v.

United Nations Joint Staff Pension Board
(Respondent)

JUDGMENT

Before:	Judge Kanwaldeep Sandhu, Presiding Judge Katharine Mary Savage Judge Gao Xiaoli
Case No.:	2024-1931
Date of Decision:	21 March 2025
Date of Publication:	8 May 2025
Registrar:	Juliet E. Johnson

Counsel for Appellant:	Self-represented
Counsel for Respondent:	Rosemarie McClean

JUDGE KANWALDEEP SANDHU, PRESIDING.

1. Ms. Dionette Pino Genayas, a close relative of a deceased participant (Participant) in the United Nations Joint Staff Pension Fund (UNJSPF or Fund), sought review of the decision not to recognize her as the beneficiary of the residual settlement under Article 38 of the Regulations, Rules and Pension Adjustment System of the United Nations Joint Staff Pension Fund (the Regulations). In disbursing the residual settlement, the Fund relied on the Participant's designation of the beneficiary completed on 19 August 2016 and not a subsequent form dated shortly before the Participant's death.

2. The Standing Committee of the United Nations Joint Staff Pension Board (Standing Committee and the Pension Board, respectively) upheld the contested decision (impugned Decision). Ms. Genayas appeals the impugned Decision to the United Nations Appeals Tribunal (Appeals Tribunal or UNAT).

3. For the reasons set out below, the Appeals Tribunal dismisses the appeal and affirms the impugned Decision.

Facts and Procedure¹

4. The facts are largely not in dispute.

5. The Participant, Ms. Genayas' sister, ² commenced participation in the Fund on 17 August 2016, as a staff member of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).³

6. In accordance with Article 38 of the Regulations and Sections B.5 and J.3 of the Fund's Administrative Rules, a residual settlement is paid to the beneficiary or beneficiaries specified by the participant on a designated form (the Pens.A/2 form).

¹ Summarized from the impugned Decision as relevant to the appeal.

² The Participant appears to have identified their relationship as one between stepsisters (Pens.A/2 form dated 27 October 2020).

³ Impugned Decision, p. 1.

7. On 19 August 2016, the Participant completed and signed a Pens.A/2 form in which she designated a colleague (CDC) to receive 100 per cent of any residual settlement that might be payable at the time of her death.⁴

8. On 30 April 2020, the United Nations Staff Pension Committee awarded the Participant a disability benefit under Article 33 of the Regulations.⁵ The medical assessment on which the award of the disability benefit was based noted that the Participant had progressively developed various medical conditions requiring hospitalization and medical evacuation from her duty station and that she was “showing signs of incoherence and impairment in concentrating” and “was diagnosed with possible dementia”.⁶

9. Following the award of the disability benefit, the Participant separated from service for health reasons on 2 September 2020.⁷

10. The Participant passed away on 5 December 2020.⁸ The disability benefit payable to her for the period from 3 September 2020 to 31 December 2020 was remitted to her estate based on payment instructions that Ms. Genayas had submitted as executor. Upon the Participant’s death, the residual settlement became payable under Article 38 of the Regulations.

11. After the Participant’s death, on 10 March 2021, the Fund received, via MONUSCO, a new Pens.A/2 form dated 30 October 2020, submitted by Ms. Genayas.⁹ It was completed in the Participant’s name, bearing a thumbprint and stated that Ms. Genayas and the Participant’s three other stepsisters were to be the recipients of any residual settlement.¹⁰

12. On 3 March 2022, the Fund received from MONUSCO information “confirming that [the Participant had been] incapacitated and hospitalized”.¹¹ As the source of this information, MONUSCO referred to an e-mail it received on 10 November 2020 from a staff member who was not a medical professional, informing that the Participant was in a “vegetative state”.¹²

⁴ *Ibid.*

⁵ *Ibid.*

⁶ 6 April 2020 medical report by the Deputy Director of the Medical Services Division.

⁷ Impugned Decision, p. 1.

⁸ *Ibid.*, pp. 1-2.

⁹ Impugned Decision, p. 2; answer brief, para. 10.

¹⁰ Pens.A/2 form dated 30 October 2020.

¹¹ 3 March 2022 e-mail.

¹² 10 November 2020 e-mail.

13. By letter dated 9 August 2023, Ms. Genayas was informed of the decision of the Chief Executive of Pension Administration (CE/PA) not to accept the Pens.A/2 form dated 30 October 2020 and determining that the residual settlement should be paid to CDC.¹³

14. On 7 November 2023, Ms. Genayas requested review of the CE/PA's decision by the Standing Committee.¹⁴

15. In response to a request by the Legal Office of the Fund in preparation for the consideration of the case by the Standing Committee, on 28 December 2023 Dr. BL, Director of the Division of Healthcare Management and Occupational Safety and Health, Department of Operational Support, advised that the medical reports and the death certificate of the Participant did "not contain medical evidence that would speak to the Participant's ability to understand or sign a beneficiary form at the time on or around October 2020".¹⁵

The impugned Decision

16. The Standing Committee considered Ms. Genayas' request for review at its 210th meeting held on 6 March 2024.¹⁶ As documented in the impugned Decision dated 8 March 2023, the Standing Committee determined that the Fund had correctly applied the Regulations and upheld the decision of the CE/PA.

17. The Standing Committee noted that there was serious doubt as to the Participant's capacity to manage her own affairs when the updated Pens.A/2 form dated 30 October 2020 was prepared.¹⁷ Further, that form did not comply with the requirement of being signed. The inference that the Participant had been "conscious and of sound mind" on 30 October 2020 was not supported by the documents on record, e.g., the medical reports submitted by Ms. Genayas related to assessments by physicians who had treated the Participant more than a year earlier and were not, therefore, relevant.

¹³ Impugned Decision, p. 2; 09 August 2023 letter of the CE/PA.

¹⁴ Impugned Decision, p. 1.

¹⁵ 27 and 28 December 2023 e-mails.

¹⁶ Impugned Decision, pp. 1-2.

¹⁷ *Ibid.*, p. 2.

Submissions

Ms. Genayas' Appeal

18. Ms. Genayas requests the Appeals Tribunal to order the Fund to accept the Pens.A/2 form dated 30 October 2020 as valid and the basis for awarding the residual settlement.

19. She submits that the Pens.A/2 form dated 27 October 2020 has been erroneously referred to as dated 30 October 2020.

20. Ms. Genayas submits that the Participant was not suffering from any form of dementia, as certified by one of her attending physicians, Dr. AL.¹⁸

21. Ms. Genayas maintains that the Participant was conscious and of sound mind when she thumbprinted the Pens.A/2 form dated 30 October 2020, as attested to by the Joint Affidavit of her caregivers at the hospital, Ms. B and Ms. C. The Joint Affidavit also attests that Ms. B and Ms. C were present when the Participant affixed her thumbprint on the document and that it had been prepared on the Participant's instruction. The Joint Affidavit was never refuted by CDC. CDC never showed any concern for the Participant, never visited the hospital or the wake and did not provide any financial assistance to the Participant.

22. Ms. Genayas submits that the Pens.A/2 form dated 30 October 2020 was validly executed. It was in the form prescribed by the Fund. A thumbprint is a valid form of signature and legally acceptable not only in the Philippines but internationally as well. The document was thumbprinted because the Participant was physically incapable of writing or signing due to her illness.

The Pension Board's Answer

23. The Pension Board requests the Appeals Tribunal to dismiss the appeal and uphold the impugned Decision.

24. The Pension Board submits that Ms. Genayas' statement that the Fund erroneously referred to a Pens.A/2 form dated 30 October is incorrect. The Fund never received the Pens.A/2 form dated 27 October 2020 until this appeal. Ms. Genayas had referenced the latest

¹⁸ Ms. Genayas refers to the Certification Letter dated 3 November 2023.

Pens.A/2 form as updated on 30 October 2020 and had never raised the possibility of the existence of a Pens.A/2 form dated 27 October 2020.

25. The Pension Board argues that the Participant submitted a validly executed Pens.A/2 form dated 19 August 2016, at the time of her entry into service. The form complies with the Fund's requirements and should serve as the basis for payment of the residual settlement. The claim that CDC did not visit the Participant in the hospital or provide her with any financial assistance, even if accepted, would not negate the designation on the 19 August 2016 form.

26. The Pension Board contends that the updated Pens.A/2 form, dated 30 October 2020 is unreliable and cannot be accepted by the Fund. The available documentation casts serious doubt as to the Participant's capacity to manage her affairs at the time that the new form was completed.¹⁹ There is no evidence that her medical condition had improved between April 2020 and October 2020.

27. The Pension Board submits that the updated Pens.A/2 form dated 30 October 2020 does not satisfy the Fund's requirements that it bear an "original signature".²⁰ Even in cases where the Fund accepts a thumbprint, it must always be authenticated. Furthermore, the fact that the Participant was no longer able to use her scripted signature in October 2020 supports an inference that there was a significant change in her medical condition. Moreover, at no point prior to her death did she or any of her relatives contact the Fund to seek information on how the Pens.A/2 form could be updated. If she was indeed able to manage her own affairs but unable to sign, the Fund could have taken other measures to ascertain her intention to change her designated beneficiary.

28. The Pension Board argues that the documentation provided by Ms. Genayas does not support an inference that the Participant was able to manage her affairs at the end of October 2020. By Dr. AL's own account, she treated the Participant several months before the latter was placed on disability and more than a year before the new Pens.A/2 form was completed. Similarly, the Participant's discharge summary relates to June 2019. The Joint Affidavit of the caregivers is

¹⁹ The Pension Board refers to the medical report dated 6 April 2020, the thumbprint in lieu of a signature, and the 10 November 2020 e-mail from a MONUSCO staff member.

²⁰ The Pension Board refers to the PENS.A/2-REV.5 (06-06)-E form and the Fund's booklet titled "Legal guardianship and estate" of May 2014.

inconsistent as to the date of affixing the thumbprint and they do not provide any explanation for why the Participant would have done so in lieu of a signature.

Considerations

42. The issue in the appeal is whether the Fund erred in not accepting a Pens.A/2 form dated 27 or 30 October 2020 that purportedly changed the Participant's designated beneficiary of the residual settlement payable under Article 38 of the Regulations.

Oral hearing

43. As a preliminary issue, we must address Ms. Genayas' request for an oral hearing before the Appeals Tribunal.

44. Articles 8(2) and 8(3) of the Appeals Tribunal's Statute and Article 18(1) of the Appeals Tribunal's Rules of Procedure provide that the Appeals Tribunal shall decide whether the personal appearance of the appellant or any other person is required at oral proceedings. In turn, these rules stipulate that the judges hearing a case may hold oral hearings on the written application of a party or on their own initiative if such hearings would assist in the expeditious and fair disposal of the case.

45. An oral hearing before the UNAT does not aim to provide any further oral evidence or otherwise, but to discuss elements of fact and of law which are already on the record.²¹

46. Ms. Genayas requests an oral hearing in order to "present witnesses who can attest that [the Participant] was conscious and of sound mind when she executed Pens A/2 Form dated 27 October 2020 and the same was thumb-printed because [the Participant] was physically incapable to write or sign anymore due to her illness".

47. Ms. Genayas has provided a sworn statement or "Joint-Affidavit of Two Disinterested Persons" from two caregivers of the Participant who are the affiants. The Joint Affidavit was sworn on 11 May 2023. In the Joint Affidavit, the caregivers attest that the Participant was "still conscious and of sound mind when she put her thumbmark" on the form.

²¹ *Wissam Zeid v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2022-UNAT-1235, para. 21 (internal citation omitted).

48. We find that Ms. Genayas has already provided witness evidence to attest to the issue of the state of mind of the Participant. She is now trying to provide additional or new evidence to support her case. The factual and legal issues arising from this appeal have already been clearly defined by the parties and there is no need for further clarification.

49. Therefore, we do not find that an oral hearing would assist in the expeditious and fair disposal of the case, as required by Article 18(1) of the Rules of Procedure, since Ms. Genayas has plainly articulated her claims in her appeal.

50. The request for an oral hearing is denied.

Merits of the appeal

51. We now turn to the question of whether the Fund erred in not accepting the 27 or 30 October 2020 Pens.A/2 form changing the Participant's beneficiary designation for the residual settlement.

52. Article 38(a) of the Regulations provides that "[a] residual settlement shall be payable if, upon the death of a participant and the exhaustion, as the case may be, of any entitlements due under these Regulations to his or her survivors, the total amount of the benefits paid to and on account of the participant is less than the participant's own contributions".

53. Section B.5 of the Administrative Rules, applicable in 2020, requires that "[t]he participant shall, as soon as practicable after the commencement of participation, *specify in writing, on a form provided for the purpose by the secretary of the committee*, the person whom he or she designates as the beneficiary in the event of a benefit becoming payable under article 38 of the Regulations".²²

54. Similarly, in accordance with Section J.3 of the Administrative Rules, "[t]he participant shall at the same time, where there is a prospect that a benefit may become payable under article 38 of the Regulations, specify similarly the person designated as the beneficiary".

55. On 19 August 2016, the Participant validly completed a Pens.A/2 form (the form prescribed by the Fund) in which she designated CDC as her beneficiary to receive 100 per cent of any residual settlement that might be payable at her death. She signed that form. The Pens.A/2 form requires:

²² Emphasis added.

“The completed form must bear your ORIGINAL SIGNATURE, no faxes or e-mails will be accepted.”

56. Months after the Participant’s death, Ms. Genayas produced a Pens.A/2 form dated 30 October 2020 purporting to change the beneficiary designation. This form was executed by a thumbprint and not the Participant’s signature. Then, Ms. Genayas provided another Pens.A/2 form dated 27 October 2020 that is also executed by a thumbprint. She provided a Joint Affidavit from two caregivers of the Participant, attesting that as of 27 October 2020, the Participant was conscious and of sound mind.

57. As found in the impugned Decision, on 30 April 2020, the Participant was awarded a disability benefit under Article 33 of the Regulations. The 6 April 2020 medical assessment on which this award was made noted that the Participant had progressively developed various medical conditions requiring hospitalization and medical evacuation from her duty station and that she was “showing signs of incoherence and impairment in concentrating” and “was diagnosed with possible dementia”. As a result, the doctor concluded that the Participant was “incapacitated for work”. This conclusion was made by a medical doctor and based on “reports from the treating physicians”.

58. Therefore, as of that date, the medical evidence was that the Participant had signs of “incoherence”, “impairment in concentrating”, and “dementia”. We find that there is insufficient medical evidence produced that this medical assessment of the Participant had changed as of 27 or 30 October 2020.

59. It is not disputed that the Participant was physically incapacitated to such an extent that she could not place a signature on the forms. As for her mental capacity, Ms. Genayas has provided no evidence to support the contention that the medical diagnosis, determined in the assessment of the Participant’s mental capacity and acuity completed on 6 April 2020, had improved or changed as of 27 or 30 October 2020.

60. Ms. Genayas has not provided any medical evidence to attest to the Participant’s mental capacity when the Pens.A/2 forms dated 27 or 30 October 2020 were purportedly completed. She has provided a Joint Affidavit of the Participant’s caregivers, however they are not medical professionals and do not have the qualifications to attest to the Participant’s mental capacity. Ms. Genayas has also provided a sworn “Certification” from a doctor under whose medical care the

Participant was from 3 January 2019 to 13 June 2019. However, this Certification is evidence of the Participant's mental capacity over a year before she signed the October 2020 forms. It does not support a finding on the Participant's mental state as of October 2020 nor render contradictory the medical assessment of her condition as of April 2020 (nine months after the end of the period attested to in the doctor's Certification) that the Participant was incapacitated for work and was diagnosed with possible dementia.

61. In addition, at the time the October 2020 forms were executed, the Participant was hospitalized and there was evidence before the Fund that the Participant was in an "vegetative state" as of 10 November 2020.²³

62. Given the evidence before it, the Fund did not err when it found that the Pens.A/2 form completed on 27 or 30 October 2020 was unreliable and that they could not infer that the Participant was "of sound mind" and capable of managing her affairs when the forms were completed.

63. Further, we find that there was no error in the Fund's finding that the Pens.A/2 forms did not comply with the requirement of being signed.

64. Section B.5 of the Administrative Rules provides that any changes in the designation of the beneficiary of the residual settlement shall be specified by the participant "in writing", "on a *form* provided for the purpose by the secretary of the committee".²⁴ The prescribed Pens.A/2 form, in the footnote, clearly requires that it had to bear an "original signature". In this instance, this requirement was not met for the 27 or 30 October 2020 Pens.A/2 form.

65. However, the Fund has developed a practice of accepting thumbprints with authentication and verification. Information published on the Fund's website as well as the informational booklet "Legal guardianship and estate" of May 2014, set out that policy for instances where a retiree or beneficiary can no longer sign documents due to ill health. The policy states that the Fund can accept that, in lieu of an original signature, the retiree or beneficiary may affix his or her original thumbprint on a document, provided it is duly authenticated. The thumbprint of the retiree or beneficiary has to be duly authenticated by an official of the retiree's former employing organization or officer of any UNJSPF member organization (such as a Human Resources Officer),

²³ 10 November 2020 e-mail.

²⁴ Emphasis added.

a UNJSPF Official, a Government Official, a Notary Public or an attending physician. The person authenticating the retiree's or beneficiary's thumbprint must affix on the document their full name and title, the date, their stamp or seal of office, and, if applicable, also their license or index number, as well as an original signature. Further, when the retiree or beneficiary uses his or her thumbprint in lieu of a signature for the first time, the Fund must receive a medical certificate or statement in English or French (or accompanied by a professional translation into English or French) on official stationery from his or her attending physician indicating the nature of the retiree's or beneficiary's medical condition, which prevents him or her from signing. This arrangement cannot be used in order to amend the retiree's or beneficiary's payment instructions or the "Designation of recipient of residual settlement" form.

66. The thumbprints on the 27 and 30 October 2020 forms were not authenticated pursuant to the Fund's practice and policy. There was no designated official present who could authenticate the thumbprints and there was no supporting medical certificate.

67. As a result, the only valid designation of the Participant's residual settlement was the Pens.A/2 form completed on 19 August 2016.

68. We find that the Fund did not err in the impugned Decision and the appeal is dismissed.

Judgment

69. Ms. Genayas' appeal is dismissed, and the decision of the Standing Committee of the United Nations Joint Staff Pension Board, dated 8 March 2024, is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 21st day of March 2025 in Nairobi, Kenya.

(Signed)

Judge Sandhu, Presiding

(Signed)

Judge Savage

(Signed)

Judge Gao

Judgment published and entered into the Register on this 8th day of May 2025 in New York, United States.

(Signed)

Juliet E. Johnson,
Registrar