



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

**Skoda
(Appellant)**

v.

**United Nations Joint Staff Pension Board
(Respondent)**

JUDGMENT

[No. 2010-UNAT-017]

Before: Judge Kamaljit Singh Garewal, Presiding
Judge Mark P. Painter
Judge Rose Boyko

Case No.: 2010-022

Date: 30 March 2010

Counsel for Appellant: Antonio Bautista

Counsel for Respondent: Dulcie Mapondera

JUDGE KAMALJIT SINGH GAREWAL, Presiding.

Synopsis

1. During the period of his secondment from the United Nations Children's Fund (UNICEF) to the World Bank, neither the Appellant, John Skoda (Skoda), nor UNICEF made any contribution to the United Nations Joint Staff Pension Fund (UNJSPF or Fund). Skoda had many opportunities, but failed to do so. He cannot now succeed in getting contributory service to accrue in his favour for the period of the secondment. The decision of the United Nations Joint Staff Pension Board is affirmed.

Facts and procedure

2. On 2 April 1976, Skoda, a staff member of UNICEF, joined the UNJSPF as a participant.

Fund and neither did UNICEF or the World Bank (except for a brief period which we shall clarify later).

6. We would like to note that in cases of secondment, staff members do not lose their service lien with their parent organization. In Skoda's case, his parent organization was UNICEF. In terms of the Inter-Organization Agreement concerning Transfer, Secondment, or Loan of Staff among the Organizations Applying the United Nations Common System of Salaries and Allowances, UNICEF would be called the releasing organization and the World Bank the receiving organization. But we are uncertain if this agreement covered cases of secondment to the World Bank. We felt it necessary to clarify the position of seconded staff members because in the instant case Skoda was for many years treated by UNICEF as staff on leave without pay and not as staff on secondment. This has been the cause of all the confusion.

7. It may be noted here that the World Bank was not a member of the Fund in the same way as UNICEF was. However, the World Bank had a special agreement with UNJSPF on the continuity and transfer of pension rights of participants in the Fund and of participants in the World Bank's Staff Retirement Plan. Of course, without making any contribution, Skoda could not derive any benefit for the accrual of contributory

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the need for him to contribute monthly to the UNJSPF during his secondment. The “special leave without pay” status was a legal fiction that UNJSPF had created without the necessary notification or instruction to either Skoda or his employers as to how to avoid the discontinuity of his UNJSPF participation. How was Skoda to know what advance payments to make regarding “concurrent contributions” to UNJSPF?

14. Upon his return to UNICEF at the end of 1989, Skoda informed UNICEF/New York that the funds provided in the secondment contract for the pension were available and asked UNICEF/New York to contact UNJSPF regarding the transfer of those funds to UNJSPF.

UNJSPF’s Answer

15. According to UNJSPF there are many issues in the appeal which are outside the purview of this Court. The finding of the UNJSPF Standing Committee not to allow Skoda to accrue contributory service retroa

been duty bound to make its corresponding contribution. As he failed to perform his duty, Skoda cannot ask or expect UNICEF to perform its corresponding duty to make contributions on his account.

Judgment

23. The appeal is dismissed.

THE UNITED NATIONS APPEALS TRIBUNAL

Case No. 2010-022



Judge Garewal, Presiding



Judge Painter

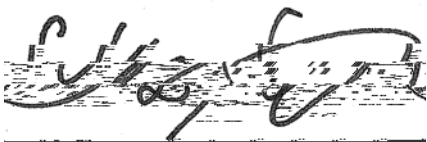


Judge Boyko

Dated this 30th day of March 2010 in Geneva, Switzerland.

Original: English

Entered in the Register on this 26th day of April 2010 in New York, United States.



Weicheng Lin, Registrar, UNAT