

Judgment No. 2020-UNAT-997



Counsel for Ms. Clemente: Self-represen603-7 ()TJe

JUDGE JOHN RAYMOND MURPHY , PRESIDING .

1. The Applicant, the United Nations Joint Staff Pension Board (UNJSPB or the Board), has filed an application in terms of Article 11(3) of the Statute of the United Nations Appeals Tribunal (Appeals Tribunal) for a (o)-8.4t 704.94 T[pw 9.48 -0 0 9.48 3260 T0(e)1.M-0 0 9

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- i. to only the period from the 14th day after issuance of the Judgment until the widow's benefit commenced; or
- ii. to the period from the date when each monthly amount would have been due had the benefit been paid immediately following the participant's death until the widow's benefit had commenced being paid?

7. Lastly, the Applicant notes that, although the Judgment indicated that the Secretary-General's Bulletin on Personal status for purposes of United Nations Entitlements (ST/SGB/2004/13/Rev . 1) was issued as a result of the Board's review of Article 34 of the UNJSPF Regulations, the Rules, Regulations and policies of the United Nations are developed independently of the Fund's Regulations and Rules.

Considerations

8. Article 11(3) of the Appeals Tribunal Statute provides that either party may apply to the Appeals Tribunal for an interpretation of "the meaning or scope " of a judgment. Article 25 of the Rules of Procedure of the Appeals Tribunal requires the Appeals Tribunal to decide if any such application for interpretation is admissible and if so to issue its interpretation . Following our jurisprudence, an application for interpretation will be admitted only if the meaning or scope of a judgment is unclear or ambiguous.³

9. The UNJSPB does not point to any words in paragraph 42(d) of the Judgment

Prime Rate or Prime Rate plus five per cent. The increased rate applies if the order was not executed within 14 days of the Judgment. The application for interpretation is accordingly inadmissible on this ground alone.

10. Insofar as the UNJSPB is concerned that the order of this Tribunal is at variance with Article 44 of the UNJSPF Regulations and its own construction of its liability to pay interest to persons from whom it has unlawfully decided to withhold benefits, it has not made an application in terms of Article 11(1) of the Appeals Tribunal Statute for a revision of the Judgment “on the basis of a decisive fact which was, at the time the judgment was rendered, unknown to the Appeals Tribunal and to the party applying for revision” or in terms of Article 11(2) of the Appeals Tribunal Statute which permits the correction of clerical, arithmetical or accidental errors or slips. It is in any event doubtful whether any decisive fact was unknown to the Appeals Tribunal and the UNJSPB at the time the Judgment was rendered or that the alleged error was of the kind contemplated in Article 11(2) of the Appeals Tribunal Statute.

11. In truth, the UNJSPB seeks to appeal against the Judgment on the alleged grounds that the Appeals Tribunal erred in making an award of interest which it believes is inconsistent with the UNJSPF Regulations. This is impermissible. Article 10(6) of the Appeals Tribunal Statute provides that the judgments of the Appeals Tribunal shall be final and without appeal.⁴ They are also definitively binding on the parties.⁵ The order of the Tribunal is decisive. There is accordingly no legal basis to revisit the issue in this case.

12. It is correct that the provisions regulating interest

benefit at the appropriate time . To hold that this Tribunal has no statutory jurisdiction to order the payment of interest *sua sponte* would mean that the Tribunal would not be able to remedy the Fund's wrongful conduct by placing an aggrieved applicant in the same position she or he would have been in but for the unlawful administrative decision.

13. In the result, the application for interpretation of judgment in terms of Article 11(33-3.8) of

Judgment

14. The application is inadmissible and therefore dismissed.

Original and Authoritative Version: English

Dated this 27th day of March 2020.

(Signed)

Judge Murphy , Presiding
Cape Town, South Africa

(Signed)

Judge Halfeld
Bournemouth , United Kingdom

(Signed)

Judge Raikos
Athens, Greece

Entered in the Register on this 19th day of June 2020 in New York, United States.

(Signed)

Weicheng Lin, Registrar