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

Judgment No. 2021-UNAT-1144

Eric Bertrand Pierre Duflos
(Appellant)

v.

United Nations Joint Staff Pension Board
(Respondent)

JUDGMENT

Before:	Judge Martha Halfeld, Presiding Judge Graeme Colgan Judge John Raymond Murphy
Case No.:	2020-1485
Date:	29 October 2021
Registrar:	Weicheng Lin

Counsel for Appellant: Self-represented

Counsel for Respondent: Rosemarie McClean

JUDGE MARTHA HALFELD, PRESIDING.

1. Mr. Duflos had two periods of participation in the United Nations Joint Staff Pension Fund (UNJSPF or the Fund). At the end of the first period from 11 December 1995 to 18 October 2000 when he worked for the United Nations Development Programme (UNDP) in the Lao People's Democratic Republic, he received a withdrawal settlement, as he had less than five years' participation. He subsequently re-entered the Fund on 6 June 2016 as he joined the United Nations Secretary-General's Special Advocate for Inclusive Finance for Development (UNSGSA) in New York and worked there till May 2020. That was his second period of participation.

2. The Standing Committee of the United Nations Joint Staff Pension Board (Standing Committee and UNJSPB or the Board, respectively) upheld the decision of the United Nations Staff Pension Committee (UNSPC), which in turn confirmed the decision by the Chief Executive of Pension Administration to deny Mr. Duflos' request for restoration of his prior contributory service, on the basis that it had been made more than one year after his re-entry into the Fund, thus beyond the time-limits prescribed by Article 24 of the Fund's Regulations.

3. For the reasons set out below, we affirm the Standing Committee's decision and dismiss the appeal.

Facts and Procedure

4. At the end of his first period of participation on 18 October 2000, since Mr. Duflos had less than five years of participation in UNJSPF while working for UNDP, he was only eligible to receive a withdrawal settlement of USD 22,842.11, which represented his own pension contribution.

5. As noted above, Mr. Duflos re-entered UNJSPF on 6 June 2016. On the next day, 7 June 2020

***NOTE: The completed form must bear your ORIGINAL SIGNATURE, no faxes or e-mails will be accepted.**

APPLICABLE ONLY TO NEW ENTRANTS OR RE-ENTRANTS:

It may be possible to validate prior non-contributory service and/or restore prior contributory service, if any, under articles 23 & 24 of the Regulations, provided that you apply within one year of your entry/re-entry date to the Fund, but before separation should you separate from service earlier. For more information, please visit the UNJSPF website (www.unjspf.org).

6. In February 2019, Mr. Duflos visited the Client Services Section of the Fund in New York. He discussed with a Fund official the possibility of restoration of his prior contributory service (1995-2000) and sought an exception to the one-year time limit under Article 24 of the Regulations, Rules

at the end of the A/2 Form, whose primary objective was not about the possibility for restoration but about the designation of a recipient for a residual settlement in case of death. Mr. Duflos also alleged that the one-year time limit rule was unfair. In his view, it should be possible for staff to restore their prior contributory service with the Fund “whenever they want”.

11. On 8 July 2020, the Standing Committee considered Mr. Duflos' appeal but found that he did not meet the criteria for restoration as set forth in Article 24(a) of the Regulations of the Fund ~~first (and only) time (in 1980) and (2) he is not eligible to restore his service (b) s4.7(t)16.1~~

15. Mr. Duflos also submits that while the word “restoration” is used by the Respondent, it is not mentioned anywhere in the A/2 Form. Moreover, if one does a search on the Fund’s website for “re-instatement” or “re-entrants”, s/he cannot find any specific information.

The Board’s Answer

16. The Board requests that the Appeals Tribunal dismiss Mr. Duflos’ appeal and uphold the contested decision of the Standing Committee.

17. The Board submits that the Fund correctly observed its Regulations, Mr. Duflos’ request for restoration does not satisfy the requirements of the Regulations of the Fund that restoration must be elected within one year of the recommencement of participation, and the Fund did not have discretion to make an exception to Article 24.

18. The Board also submits that the Fund fully discharged its obligation to inform Mr. Duflos in relation to restoration. The Fund has made detailed information on restoration available on its website, including a booklet that describes the restoration provisions, the fi12the

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25. The UNAT has previously adjudicated a case where there was allegation of non-compliance with the Fund's obligation to inform the participant of the applicable legal framework in a certain situation. In *Fox*,² a Pension Fund participant had sought clarification about her benefits on separation but did not receive a clarifying response about the defined benefits to which she would become entitled. The fact that Ms. Fox had conscientiously sought information from the Fund with regard to

28. Furthermore, there is no specific provision in the Regulations of the Fund imposing a duty on the Fund to distribute or otherwise provide further information to participants about their choices of benefit.⁴ As mentioned above, our jurisprudence sets forth that such an obligation on the part of the Fund might only have applied had this information been requested, which was not the case. The Fund's duty of good faith includes responding appropriately to requests from participants for information regarding the exercise of their epij-0.59hrp[(d

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Judgment

34. Mr. Duflos' appeal is dismissed, and the decision of the Standing Committee of 8 July 2020 is upheld.

Original and Authoritative Version: English

Dated this 29th day of October 2021.

(Signed)

Judge Halfeld, Presiding
Juiz de Fora, Brazil

(Signed)

Judge Colgan
Auckland, New Zealand

(Signed)

Judge Murphy
Cape Town, South Africa

Entered in the Register on this 9th day of November 2021 in New York, United States.

(Signed)

Weicheng Lin, Registrar