



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

Judgment No. 2014-UNAT-489

**Sidell
(Applicant)**

v.

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

JUDGMENT ON CORRECTION AND INTERPRETATION

Before: Judge Sophia Adinyira, Presiding
Judge Luis María Simón
Judge Mary Faherty

Cases Nos.: 2013-523 & 2013-525

Date: 17 October 2014

Registrar: Weicheng Lin

Counsel for Applicant: Joseph Grinblat

Counsel for Respondent: Sergio B. Arvizú

JUDGE SOPHIA ADINYIRA, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it two applications, one for correction and the other for interpretation, of Judgment No. 2013-UNAT-348, in the case of *Sidell v. United Nations Joint Staff Pension Board*, which was rendered on 21 June 2013. Mrs. Trang Sidell filed her applications on 9 September 2013, and the United Nations Joint Staff Pension Fund (UNJSPF or Fund), acting on behalf of the United Nations Joint Staff Pension Board (UNJSPB), filed comments to the two applications on 26 September 2013. By Order No. 165 (2013), the Appeals Tribunal rejected Mrs. Sidell's motion to file comments on UNJSPF's 26 September 2013 comments.

Background

2. Mrs. Sidell challenged the decision taken by the UNJSPB not to pay her a widow's benefit because she had not been reported to the Fund as being married to Mr. Sidell at the time of his separation from service in 2002. Mrs. Sidell and Mr. Sidell married in December 2000. After his separation, in October 2003, Mr. Sidell contacted the UNJSPF to report his marriage in 2000. Subsequently, he mailed the marriage certificate to the UNJSPF at the latter's request. Mr. Sidell died on 6 May 2010.

3. In Judgment No. 2013-UNAT-348, the Appeals Tribunal reviewed the UNJSPF's relevant Regulations and Administrative Rules and concluded that the UNJSPF's Administrative Rules did not prevent a participant such as Mr. Sidell from changing his record to acknowledge the valid marriage that he had entered into before his separation, and that it was unreasonable to deny Mrs. Sidell a widow's benefit. However, the Appeals Tribunal also concluded that the Sidells were negligent in not reporting their marriage before their respective separations from service and that the negligence on the part of the Sidells caused the UNJSPF to incur additional new obligations. Accordingly, the Appeals Tribunal ordered that the payment of the widow's benefit to Mrs. Sidell should start from 21 June 2013, the date of the Judgment.

Submissions

Mrs. Sidell's Applications for Correction and Interpretation

4. Judgment No. 2013-UNAT-348 should be corrected, because it was a mistake to link her and her late husband's repatriation packages at the single rate with their not reporting their

marriage before separation, and it was a factual error to say that their not reporting their marriage before separation amounted to negligence and caused an extra cost to the UNJSPF.

5. Judgment No. 2013-UNAT-348 calls for interpretation, because, in her view, paragraphs 31 and 34 are ambiguous. They need to be clarified to reflect that the UNJSPF is required to pay Mrs. Sidell the entire amount of the widow's benefit to which she is entitled, starting from 6 May 2010, but without incurring any interest for the delayed payment.

UNJSPB's Comments

6. The Appeals Tribunal was correct in finding negligence on the part of the late Mr. Sidell in not reporting his marriage to Mrs. Sidell prior to his separation from service, and accordingly, in deeming it equitable to order that payment of the widow's benefit should start from the date of the Judgment, and not any earlier.

7. Judgment No. 2013-UNAT-348 should be upheld, because there is no ambiguity in understanding its paragraphs 31 and 34.

Considerations

8. In the instant case, Judgment No. 2013-UNAT-348 set aside the decision of the Standing Committee of the UNJSPB that a widow's benefit was not payable to Mrs. Sidell because she had not been reported to the Fund as being married to Mr. Sidell at the time of the latter's separation. The Appeals Tribunal made the following consequential orders and judgment:

Consequential Orders

... The Tribunal recognizes the additional new obligations on the Fund by providing Mrs. Sidell with a widow's benefit. Had the neglect to inform the Fund of the Sidells' marriage been the fault of UNDP, pursuant to Article 25(e) of UNJSPF Regulations, the UNDP would have been required to pay the actuarial cost due for the error.

... Since there was no error on the part of UNDP and the Fund has to bear this extra cost (caused by the negligence of Mr. Sidell in not reporting his marriage prior to his separation from service in June 2002), this Tribunal deems it equitable to order that the payment of the widow's benefit by the Fund should start from the date of this Judgment.

... All other reliefs are rejected.¹

¹ *Sidell v. United Nations Joint Staff Pension Board*, Judgment No. 2013-UNAT-348, paras. 30-32.

9. In its Judgment the Appeals Tribunal declared:

... The appeal is allowed. The decision of the Standing Committee of the UNJSPB is set aside.

... It is hereby ordered that the UNJSPF pay Mrs. Sidell her widow's benefit starting from the date of this Judgment. All other reliefs are rejected.²

10. Mrs. Sidell applies for correction and interpretation of Judgment No. 2013-UNAT-348.

Correction of Judgment

11. Mrs. Sidell applies for correction of paragraphs 5, 10, 30, and 31 of the Judgment.

12. The grounds for correction are set forth in Article 11(2) of the Statute and Article 26 of the Rules of Procedure (Rules) of the Appeals Tribunal. Article 11(2) of the Statute reads that: “[c]lerical or arithmetical mistakes, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Appeals Tribunal, either on its own motion or on the application of any of the parties.” Article 26 of the Rules contains almost identical language.

13. We have reviewed these paragraphs and there are no clerical or arithmetical mistakes. Mrs. Sidell merely disagrees with the referenced portions of the Judgment. Her arguments do not meet the criteria of Article 11(2) of the Statute and Article 26 of the Rules. The correction procedure is not an opportunity for a party to reargue his or her case.³

Interpretation of Judgment

14. Mrs. Sidell further seeks interpretation of paragraphs 31 and 34 of the Judgment on the grounds that:

There is an ambiguity in understanding paragraphs 31 and 34 of the judgment: Should the Pension Fund not pay at all to [Mrs. Sidell] the widow pension to which she is entitled for the period from the death of her husband to the date of the judgment, or should the Pension Fund pay to [her], starting on the date [of] the judgment, the total pension she is due, including the pension for the last three years, but without having to pay interest for the lateness in paying for the period from the death of her husband to the date of the judgment.

² *Id.*, paras. 33-34.

³ *Sanwidi v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-321, para. 8.

15. The grounds for interpretation are set forth in Article 11(3) of the Statute and Article 25 of the Rules. Article 11(3) of the Statute reads that “[e]ither party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of the judgement”. Article 25 of the Rules provides:

Either party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of a judgement on a prescribed form. The application for interpretation shall be sent to the other party, who shall have 30 days to submit comments on the application on a prescribed form. The Appeals Tribunal will decide whether to admit the application for interpretation and, if it does so, shall issue its interpretation.

16. We have reviewed paragraphs 31 and 34 of the Judgment, but find them clear in meaning on the face of the record. They, therefore, do not need any interpretation.

17. Mrs. Sidell merely expresses her disagreement with the Judgment and seeks to reargue her appeal. This is not the purpose of interpretation as set out in the Statute and Rules of the Appeals Tribunal.

Judgement

18. Both applications for correction and interpretation are denied.

Original and Authoritative Version: English

Dated this 17th day of October 2014 in New York, United States.

(Signed)

Judge Adinyira, Presiding

(Signed)

Judge Simón

(Signed)

Judge Faherty

Entered in the Register on this 22nd day of December 2014 in New York, United States.

(Signed)

Weicheng Lin, Registrar