



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2016/086  
Judgment No.: UNDT/2016/215  
Date: 6 December 2016  
Original: English

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**Before:** Judge Nkemdilim Izuako

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

NTUK

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT ON RECEIVABILITY**

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**Counsel for the Applicant:**  
Ben Akpan

**Counsel for the Respondent:**  
None

## **Introduction**

1. On 28 November 2016, the Applicant, a former staff member of the United Nations Industrial Development Organization (UNIDO), filed an application with the United Nations Dispute Tribunal (the Tribunal) contesting the decision not to conduct an investigation in relation to the alleged alteration of the United Nations Joint Staff Pension Fund (UNJSPF) instructions for payment of benefits that the Applicant submitted upon his retirement.

2. The Applicant is seeking two reliefs. The first that an investigation be conducted in relation to the alleged alteration of the UNJSPF form that he submitted for the payment of his pension entitlement. The second is the payment of one-third lump sum less all deductions of the UNJSPF payments done from September 2015 to date.

## **The Applicant's case**

3. The Applicant is a former staff member of UNIDO who joined the Organization in Nigeria in 2000 as a driver and rose to the rank of a senior driver at the G-3 level. He retired in August 2015.

4. All through the years that he served in UNIDO, the Applicant was a contributor to the UNJSPF. Prior to his retirement, he completed the required UNJSPF form for the disbursement of his benefits. The said form was sent through the UNIDO Regional Office in Nigeria to the UNIDO Headquarters in Vienna. In the UNJSPF form, the Applicant had indicated that he wanted the one-third lump sum payment option.

5. When the Applicant received his first pension payment in January 2016, he was bewildered to find that instead of the one-third lump sum he had opted for, he only received arrears of monthly pension payments.

6. By an email dated 16 February 2016 to the Chief of the UNJSPF Office in Geneva, the Applicant requested clarifications concerning the funds received as pension benefits.

7. He received a response dated 17 February 2016 from the Client Servicing and Records Management Unit of the UNJSPF Geneva Office. He was told in the said response that his pension benefits had been paid in accordance with the “PENS.E/7” payment instruction dated and duly signed by the Applicant on 29 April 2015 where he opted for a full monthly pension payment without a lump sum.

8. By letter dated 12 April 2016, the Applicant requested the UNJSPF Administration to investigate the discrepancies between the UNJSPF form that he submitted and the form that was received and processed by the UNJSPF.

9. On 28 November 2016, the Applicant filed a motion for extension of time to file an application with the Tribunal and the Application itself.

## **Considerations**

### ***Locus standi***

10. The singular issue that arises at this point is whether the Applicant has the legal capacity or *locus standi* to bring this application. It is for this reason that the Tribunal has chosen not to transmit the Application to the Respondent and to consider the issue *suo moto* and to proceed to judgment based on the apparent lack of legal capacity on the part of the Applicant.

11. The UNDT has no jurisdiction to hear applications from staff members or former staff members of UNIDO.

12. UNIDO is a specialized agency of the United Nations. In accordance with UNIDO staff regulation 12.1 and staff rule 112.01, UNIDO staff members have access to an internal Joint Appeals Board to challenge administrative decisions. Furthermore, pursuant to UNIDO staff regulation 12.2 and staff rule 112.03, UNIDO

staff members have the right of further appeal against administrative decisions before the Administrative Tribunal of the International Labour Organization (ILOAT).

13. There is an exception, however, in relation to appeals concerning the decisions of the Standing Committee acting on behalf of the United Nations Joint Staff Pension Board (UNJSPB) where staff members including those of UNIDO shall have direct recourse to the United Nations Appeals Tribunal (UNAT).

14. In other words, while the Applicant has no *locus standi* before this Tribunal, his case should properly be filed either with the ILOAT or with the UNAT Registry.

### **Conclusion**

15. The Application is accordingly refused.

*(Signed)*

Judge Nkemdilim Izuako

Dated this 6<sup>th</sup> day of December 2016

Entered in the Register on this 6<sup>th</sup> day of December 2016

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi