
UNITED NATIONS DISPUTE TRIBUNAL



Case No.: UNDT/NY/2022/044

Judgment No.: UNDT/2023/051

Date:

Introduction

1. By application filed on 6 September 2022, the Applicant, a former staff member, contests the decision to find him ineligible to participate in the Organization's after-service health insurance

9. Ultimately, in an email dated 1 April 2022, HLIS informed the Applicant that following receipt of relevant information from WHO as well as a review of the related Personnel Action forms, they had determined that he was not eligible for ASHI since he did not meet the requirement of 10 years of contributory participation in a United Nations health insurance plan. HLIS pointed out that the Applicant's periods of short-term employment and consultancy with WHO could not be counted towards ASHI because he was not on a fixed-term or continuing appointment during that period.

App

10. The Applicant submits that HLIS has improperly applied the eligibility criteria for enrolment in ASHI thereby excluding him from the benefit. He states that between 28 August 1999 and 20 February 2005, he was employed by WHO on multiple 200-series contracts and contributed to the staff health insurance scheme (SHI). He separated from WHO in 2005 but was reappointed in the United Nations

15. ASHI is governed by ST/AI/2007/3, the administrative instruction on After-service health insurance, and the eligibility criteria for enrolment in the programme are set out in sec. 2.1 of the provision, which reads, in relevant part:

Eligibility for after-service health insurance coverage

2.1 Individuals in the following categories are eligible to enrol in the after-service health insurance programme:

(a) A 100 series or 200 series staff member who was **recruited on or after 1 July 2007**, who while a contributing participant in a United Nations contributory health insurance plan as defined in section 1.2 above, was separated from service, other than by summary dismissal:

(i) At any age with a disability benefit under the Regulations of the United Nations Joint Staff Pension Fund (UNJSPF) or with compensation for disability under appendix D to the Staff Rules;
or

(ii) At 55 years of age or later, provided that he or she had been a participant in a contributory health insurance plan of the United Nations for a **minimum of ten years**

contributory health insurance plan of the United Nations common system for a minimum of five years in order to qualify for ASHI, whereas if he is deemed to have been recruited on or after this date, the requisite period of time to qualify for ASHI would be a minimum of 10 years.

17. In this regard, the United Nations Staff Regulations and Rules provide guidance by clearly stating that when a former staff member is re-employed by the Organization, the terms of the new appointment shall be fully applicable without regard to any period of former service (unless the staff member is reinstated). Moreover, the service shall not be considered as continuous between the prior and new appointments. Specifically, staff rule 4.18 provides as follows:

Re-employment

- (a) A former staff member who is re-employed under conditions established by the Secretary-General shall be given a new appointment unless the staff member is reinstated under staff rule 4.17.
- (b) The terms of the new appointment shall be fully applicable without regard to any period of former service. When a staff member is re-employed under the present rule, the service shall not be considered as continuous between the prior and new appointments.
- (c) When a staff member receives a new appointment in the United Nations common system of salaries and allowances less than 12

accrued annual leave [...] ASHI is not one of the exclusions specified in Staff Rule [4.18(c)] (see *Couquet* 2015-UNAT-574, para. 35).

19. In the case at hand, it is undisputed that following an 11-year separation from the United Nations common system, the Applicant was re-employed in October 2016 and given a new appointment. He was not reinstated. Accordingly, the terms of the new appointment are fully applicable without regard to any period of former service. Further, since the Applicant's re-employment and new appointment occurred *after* 1 July 2007, his eligibility to participate in ASHI is contingent on his fulfilling the criteria laid out in sec. 2.1(a)(ii) of ST/AI/2007/3. Specifically, he is required to have been a participant in a contributory health insurance plan of the United Nations for a *minimum of ten years*.

20. The record shows that following his re-employment, the Applicant was not a participant in such a contributory health insurance plan for a minimum of ten years prior to his retirement on 31 October 2020. He was only a participant during his period of service with UNICEF, which amounted to a total of 4 years and 29 days. As a result, the Tribunal finds that 19.

Conclusion

21. In view of the foregoing, the Tribunal DECIDES to reject the application.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 12th day of June 2023

Entered in the Register on this 12th day of June 2023

(Signed)

Isaac Endeley, Registrar, New York