

U

1. By Order 71 () of August , the ~~tribunal de~~ ided that it was full briefed and that it would adjudicate the case based on the parties' written submissions.

11. On 1 and 15 August , the Respondent and the Applicant respectively filed their losing submission.

b. According to the Applicant's divorce decree, he was required to pay a

f. ~~he~~ Applicant's allegations that the contested decision violates section 4. of S ~~/A/~~/1 is also meritless. S ~~/A/~~/1 is not the applicable legal framework with respect to this case, as the matter is not about recovery of arrears with respect to the Applicant's personal family support obligations. ~~this is a~~ case about the Organization's recovery of dependent benefits due to the Applicant's failure to provide evidence of his entitlement to those benefits; and

g. ~~he~~ Applicant's arguments regarding when he notified the Organization of his divorce decree are not relevant, as the notification date does not remove his obligation to present, upon request, the requisite evidence of his entitlement to dependent benefits, nor does it remove his obligation to retain all required evidence for a period of five years.

1.3 ~~the present~~ instruction also defines the conditions under which “dependent benefits”, which shall include dependent allowances under staff regulation 3.4 and staff rule 3.6, may be paid in respect of recognized dependants.

1.3 ~~the present~~ instruction also defines the conditions under which “dependent benefits”, which shall include dependent allowances under staff regulation 3.4 and staff rule 3.6, may be paid in respect of recognized dependants.

1.4 Staff members serving under the Staff Regulations and Staff Rules of the United Nations are eligible for dependent benefits, subject to conditions as detailed below.

3 0) 3 ~~THE UNITED NATIONS~~
O ~~UNITED NATIONS~~ ~~UNITED NATIONS~~ ~~UNITED NATIONS~~

...

1.9 Applications for dependent benefits shall be supported by evidence satisfactory to the Secretary-General. Subsequently, certification of personal status, within the meaning of S /SGB/ 4/13/Rev.1, for dependent benefits shall be made on a regular basis in accordance with the procedures set out in the relevant information circulars issued periodically by the Assistant Secretary-General for Human Resources Management, or as may be adjusted to all duty stations outside New York.

1.1 Staff members must retain all required original documentation in support of an entitlement to dependent benefits for a period of five years from the date of claim of the entitlement.

...

...

1.15 In addition to self-certification, staff members may be required to support their applications for a dependent benefit with documentary evidence. Should such documentary evidence be requested, staff members will be required to submit the requisite information within 30 calendar days of the initial request. Failure to provide the requested information within the applicable time frame or to report changes as detailed in section 1.1 above, or falsification of the information provided, may result in one or more of the following:

- (a) Immediate discontinuation of the dependent benefit(s), as applicable;
- (b) Recovery of dependent benefit(s) previously paid by the Organization;
- (c) Any other administrative and/or disciplinary measures in accordance

- a. Does not reside with the staff member;
- b. is married; or
- c. is recognized as a dependant under subparagraph (a) (iii) . above;

...

(b) ~~the dependent~~ allowances, which are applicable to the different categories of staff, shall be published by the Secretary-General. ~~the dependent~~ allowances shall normally be payable in accordance with the applicable rates, unless otherwise provided by the Secretary-General:

...

(iii) Dependent child allowance: eligible staff members shall receive a dependent child allowance for each recognized dependent child, under conditions established by the Secretary-General. Subject to the provisions of staff regulations 3.5 and 3.6 (a), the full amount of the dependent allowance provided under those regulations and under the Staff Rules in respect of a dependent child shall be payable, except where the staff member or his or her spouse receives a direct governmental grant in respect of the same child. Where such a governmental grant is made, the dependent

1. According to the legal provisions above, when a staff member fails to provide

31. Furthermore, the Applicant did not put before the ~~tribunal~~ the alleged agreement between him and his former spouse on child support for examination. In any case, the ~~tribunal~~ notes that said agreement would not have discharged the Applicant from his legal obligation vis-à-vis the Organization to produce evidence of a actual child support payments.

32. As a result, having identified the shortfalls in payment of child support for 16, 17 and 18, the Administration has a legal right to recover the amount paid to the Applicant as dependent allowance in that respect.

33. ~~The Applicant~~ argues that he was unaware that he had an obligation to retain documents in support of his entitlement to child dependent benefits for a period of five years.

34. However, as per the well-settled jurisprudence of U.A. ~~and this~~

39. If the evidence of payments made to the dependants' children had been produced, the Administration would have no need to question continued payment of dependent benefits to the Applicant or to seek to recover past payments.

40. There is no application of an legal provision that was not in existence when the Applicant was granted dependent allowances. The dependent allowances being challenged were paid between 1966 and 1968 and both S /A / 18/6 and S /A / 16/8 adequately provide for the actions taken by the Administration as shown in para. 16 above. And both administrative instructions dispense the same provisions about dependent allowances.

41. Accordingly, the Tribunal is satisfied that the Administration's recovery of the dependent allowances not accounted for by documentary evidence is justified.

42. In view of the foregoing, the Tribunal DECIDES to reject the application in its entirety.

()

Judge, Lilia Bello

Dated this 8th day of September

Entered in the Register on this 8th day of September

()

Liliana López Bello, Officer-in-Charge, New York