

REGISTRY'S SUMMARY¹: *Mr. "LL", Applicant v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2019-1 (April 5, 2019)

STAFF RETIREMENT PLAN SECTION 10.5 – OFFSET OF WORKERS' COMPENSATION ANNUITY AGAINST DISABILITY PENSION – SEPARATION FOR MEDICAL REASONS (GAO NO. 16) – SEPARATION BENEFITS FUND (SBF) PAYMENTS – EARLY RETIREMENT PENSION (SRP SECTION 4.2) – DISABILITY PENSION (SRP SECTION 4.3) – REMEDIES ORDERED BY TRIBUNAL INCLUDE INTEREST ON RETROACTIVE PAYMENTS

Background

Applicant was injured in the course of his employment with the IMF, resulting in a career-ending disability. Applicant's prognosis initially was uncertain, and his injury was only later determined to be permanently and totally disabling.

Applicant filed a request for workers' compensation benefits, but it was rejected as untimely. Applicant was separated from employment for medical reasons pursuant to GAO No. 16. At the time of his separation, the Administration Committee of the Staff Retirement Plan ("SRP" or "Plan") determined that Applicant, an SRP participant, did not qualify for a disability pension in terms of SRP Section 4.3.

Separating from the Fund without access to a disability pension, Applicant was granted Separation Benefits Fund (SBF) payments, pursuant to GAO No. 16. Applicant opted to take part of his SBF benefits as paid leave, bridging him to an early retirement pension under SRP Section 4.2 (which he began to receive in due course), and the remainder as a lump-sum payment.

The case before the Tribunal arose from fifteen Grievances filed by Applicant with the Fund's Grievance Committee, the decisions of Fund Management accepting the Grievance Committee's recommendations, and from subsequent rulings by the SRP Administration Committee relating to Applicant's pension entitlements in light of the later award of a workers' compensation annuity.

Principal decisions challenged

After the Fund waived its timeliness defense to Applicant's request for workers' compensation benefits, the Workers' Compensation Claim Administrator determined that he was eligible for benefits associated with "temporary" but not "permanent" total disability; that is, Applicant was not entitled to a workers' compensation annuity. Applicant challenged that determination before the Grievance Committee, which, following a hearing,

¹ This summary is provided by the Registry to assist in understanding the Tribunal's Judgment. It does not form part of the Judgment. The full Judgment of the Tribunal is the only authoritative text. The Tribunal's Judgments are available at: www.imf.org/tribunal.

recommended that the workers' compensation decision be reconsidered, given the Grievance Committee's finding that the Claim Administrator had failed to apply governing standards and to take account of up-to-date medical records. Upon reconsideration, the Claim Administrator awarded Applicant a workers' compensation annuity of 66-2/3 percent of his final pensionable remuneration, in accordance with GAO No. 20, Section 5.01.1.

Following a further recommendation of the Grievance Committee, Fund Management made Applicant's workers' compensation annuity retroactive to the date that his early retirement pension had commenced. Additionally, it required Applicant to repay (pro-rated over a four-year period) the lump-sum SBF (i.e., medical separation) benefit he had earlier been granted, on the ground that he was now receiving a workers' compensation annuity.

Fund Management then referred questions relating to the "coordination" of Applicant's workers' compensation annuity and SRP pension benefits to the SRP Administration Committee, which took the following decisions: (i) to replace Applicant's early retirement pension with a disability pension, retroactive to his early retirement date; and (ii) to pay Applicant a "coordinated" disability pension and workers' compensation annuity, which was (a) capped at the amount payable to him as a workers' compensation annuity, (b) financed in part by the SRP, and (c) reduced by the amount of the commutation payment Applicant had taken on his early retirement pension.

Tribunal's analysis

Following consideration of the arguments of the parties, including through oral proceedings, the Administrative Tribunal rendered a Judgment in which it sustained Applicant's principal claim, i.e., that the SRP Administration Committee erred when it replaced his early retirement pension with a disability pension and "coordinated" that pension with his workers' compensation annuity in the manner described above. In the view of the Tribunal, the SRP Administration Committee misinterpreted and misapplied SRP Section 10.5, which grants the Committee discretionary authority to offset workers' compensation payments against "such part of [a] disability pension provided hereunder, in such equitable manner as the Administration Committee shall decide."

The Tribunal found no basis in the Fund's law to pay Applicant a single "coordinated" annuity rather than a separate SRP pension and workers' compensation annuity. Furthermore, capping that annuity at the amount Applicant would have received as a workers' compensation annuity meant that the Committee had failed to give any weight to Applicant's years of service and contributions under the Plan. The Tribunal concluded that ". . . it will not ordinarily be equitable for the Committee to permit the [workers' compensation] annuity to be offset against that portion of the disability pension that the SRP participant had, in effect, accrued as a result of contributions made by both the participant and the Fund during the participant's employment." (Para. 174.) Rather, concluded the

Tribunal, the plain meaning of SRP Section 10.5 is that Applicant will retain both an SRP pension and a separate workers' compensation annuity.

The Tribunal additionally addressed the financing arrangement that the Committee had applied to the single annuity. The Tribunal concluded that the blending of Applicant's SRP pension and workers' compensation annuity, such that assets of the SRP were used to finance Applicant's workers' compensation benefits, was plainly contrary to the Plan. SRP Sections 9.1 and 13.2 make clear that the assets of the Plan may be used only to pay the Plan's liabilities, and the Plan's liabilities may be paid only from the assets of the Plan. Accordingly, the Committee's decisions wrongfully deprived Applicant of his SRP pension, fully financed by the Plan, and a separate workers' compensation annuity, fully financed by the IMF.

In concluding that the Committee misinterpreted and misapplied SRP Section 10.5, the Tribunal expressly rejected the Committee's reliance on a 1992 decision of the Fund's Executive Board. The Tribunal held that the Committee's discretion under SRP Section 10.5 is a narrow one, confined by the terms of the Plan. In relying on a Board decision that did not represent an amendment to the Plan, and was contrary to it, the Committee had exceeded the margin of its discretionary authority.

In addition to sustaining Applicant's challenge to the decisions of the SRP Administration Committee, the Tribunal also concluded that the Fund abused its discretion when it decided to require Applicant, on the basis of his later having been granted a workers' compensation annuity, to repay the amount of the lump-sum SBF payment he had received pursuant to GAO No. 16 upon his separation for medical reasons. Neither the Fund's internal law nor Applicant's separation arrangements letter provided a basis for that decision.

Although the Tribunal concluded that Applicant had prevailed on his principal claims, it did not sustain the following complaints: that the Fund wrongfully (i) breached a "duty of care" to take preventative measures to ensure Applicant's health and safety; (ii) failed to provide compensation for alleged injury to his spouse; (iii) failed to provide compensation for lost personal effects; (iv) failed to provide him with "special sick leave" for workers' compensation related absence; (v) failed to compensate him for alleged tax consequences of the Fund's determination of his disability-related benefits; and (vi) failed to provide compensation for alleged procedural irregularities, delays, and failures to address confusion in the Fund's laws on disability.

Remedies

Pursuant to the remedial authority granted by its Statute, the Tribunal rescinded the contested decisions of the SRP Administration Committee, along with the decision of Fund Management requiring Applicant to repay the lump-sum separation payment he had been

granted under GAO No. 16. The Tribunal also ordered measures to “correct the effects” (Statute, Article XIV, Section 1) of those rescinded decisions. Going forward, Applicant will be paid: (i) an early retirement pension (SRP Section 4.2), retroactive to the date of his eligibility for such pension, paid solely by the SRP Retirement Fund; and (ii) a separate workers’ compensation annuity (GAO No. 20) retroactive to the date of his separation from the Fund, paid solely by the IMF. In restoring retroactively Applicant’s rightful entitlements under the Fund’s internal law, the Tribunal ordered that the Fund pay Applicant interest on those past due payments. Additionally, the Tribunal ordered the Fund to reimburse Applicant the total amount of his legal fees and costs incurred in pursuing his case before the Tribunal, in the sum of \$27,531.50.