



5. On 29 October 2010, Mr. Konaté was charged with:
 - a. including three false documents purporting to constitute three vendor quotations in the procurement stream for a transports/1

good faith. But given the nature of the functions he was occupying he took a big risk. It was his duty to comply with the rule personally, the advice of Mr. Diallo notwithstanding.

8. Accordingly, the UNDT held that “[i]n the circumstances, the sanction of separation from service, whilst severe, was not unduly so”, and dismissed the application. With respect to Mr. Diallo, the Tribunal stated:

... Whilst he is not the subject of the present application, the Tribunal cannot help but remark upon the extraordinary unfairness in the prosecution of disciplinary proceedings against the Applicant, the Operations Manager, whilst the supervisor, the Country Representative, Mr. Diallo, appears to have escaped all inquiry, let alone sanction.

... It was pointed out ... that there was no evidence of any personal gain to the Applicant in the granting of the contract.

11. Mr. Konaté contends that as he held a subordinate position and was one of several people responsible for the procurement process, he had a lower degree of responsibility. Moreover, he acted under the instructions of his supervisor, and the UNDT failed in not considering this as mitigating.

12. Mr. Konaté requests the Appeals Tribunal to vacate the Judgment of the UNDT and to substitute a less severe sanction and compensate him for the loss of income and moral damages he suffered since his separation.

The Secretary-General's Answer

13. The Secretary-General argues that Mr. Konaté established no errors warranting reversal

24. Under these circumstances, separation from service does not appear to be disproportionate and corresponds with the logical loss of trust suffered by the Administration as a consequence of the Appellant's misconduct. The Administration's apparent lack of action with respect to other staff members who may have also been involved, even to a greater degree than the Appellant, does not reduce his accountability but does justify the UNDT's decision to refer the case to the Secretary-General for eventual further actions.

25. For the foregoing reasons, the Judgment under appeal is affirmed.

Judgment

26. The appeal is dismissed.

Original and Authoritative Version: English

Done in New York, United States.

(Signed)

Judge Simón, Presiding