

Case No

the school had not kept a copy of the transcript. He also mentioned that he had received computer science training (internship in computer studies) at the same institution in 1991 and attached a receipt and a certificate. He had had no doubts as to the authenticity of the documents provided at the time of his appointment and had had no intention of cheating.

9. After receiving this information, the Division asked the Representation Office in Abidjan to conduct an investigation. To that end, the Deputy Representative of UNHCR in Abidjan met the Director of Studies of the Pigier school on 23 January 2007 and obtained confirmation that the subject codes used in the transcript provided by the applicant did not match the codes normally used by the Pigier school. Moreover, the Director of Studies asserted that the signature on the transcript submitted by the staff member was not his own, even though, as the Director since 1984, he had signed virtually all the diplomas conferred by the Pigier school. The Director had met the applicant and informed him directly of these findings.

10. By letter of 7 February 2007, the head of the Vacancy Management Group wrote to the Director of Studies of the Pigier school in order to obtain confirmation of attendance and the delivery of a certificate for an internship in computer studies for the academic year 1990/91. A similar letter, along with a reminder dated 13 March 2007, was sent to the Academy of Nice concerning course No. 4 in accounting, which the applicant included in his P.11 form and curriculum vitae.

11. On 13 July 2007, the Office of the Inspector General contacted the applicant by phone. In response to the inspectors' questions, the applicant explained that he needed proof of enrolment in order to take the Ivorian BTS training in accounting in June 1999. According to the applicant, the transcript was delivered at the Pigier school.¹ The applicant allegedly obtained the disputed transcript at that time in exchange for CFAF 200,000 (approximately USD 460.09)² from an unnamed individual. During the hearing, the applicant stated that this is an established practice. Later, the applicant realized that the Ivorian BTS curriculum was different. He had studied the French, not the Ivorian, tax system. Consequently, the applicant returned to the Pigier school in 2006³ and learned that the transcript had been forged and that the person who had given it to him had been dismissed.

Translated from French

Translated from French

Case No: UNDT/NBI/2009/23
Judgment No: UNDT/2009/091

Translated from French

Case No: UNDT/NBI/2009/23

Judgment No: UNDT/2009/091

28. The applicant could not have imagined that the Pigier school would have no record of having issued the transcrip

him of the conclusions and recommendations of the Office of the Inspector General, the applicant states that he retained his financial responsibilities.

33. Consequently, the decision to dismiss the applicant for serious misconduct without notice or compensation on the basis of the Pigier school transcript is not valid. This administrative measure is overly harsh given that the applicant has had no history of misconduct during his seven years of service, neither in his annual evaluations nor in his dealings with supervisors or colleagues. He also has documentation from INSET and the Academy of Nice to support his BTS level of studies. He is aware of misconduct on the part of colleagues who should have been penalized, but upon which the Administration never acted. For example, following the disappearance of 18 laptop computers from a storeroom, the Administration did not penalize the staff member who was responsible for the computers and had the only keys to the storeroom. An audit was commissioned and conducted from 27 August 2007 to 7 September 2007.* The applicant was not found guilty of fraud, let alone oversight. As another example, some staff members are promoted to higher posts on the basis of their PASes even when such key documents are missing from their file for several years.

Respondent's submissions

34. The respondent maintains that the allegations of serious misconduct by the staff member are well founded. The applicant on several occasions submitted false information on his United Nations personal history form (P.11) and on his curriculum vitae, including during his recruitment for a Professional-grade post.

35. He also submitted false documentation from a university-level institution. The applicant never attended classes at the Pigier school and does not have a BTS level of studies. In his testimony, he made statements that conflicted with those made to the Office of the Inspector General concerning the date on which he had allegedly learned the transcript was a forgery.

36. Despite the applicant's satisfactory performance, the charges against him constitute serious misconduct in light of staff rule 104 (a)** and staff regulation 1.2 (b), thereby justifying his summary dismissal. The practice of the Secretary-General and of UNHCR with regard to fraud and forgery of documents indicate that the disciplinary measure is not disproportionate or biased against the applicant.

37. Furthermore, the applicant's due process rights were respected. The investigation into the allegations of fraud was conducted in accordance with the rules in effect. The applicant's comments were requested on several occasions during the investigation. He was also informed of the option to be assisted by counsel.

38. Lastly, the respondent highlights the fact that the counter-arguments of the applicant in his statement of appeal to the Joint Appeals Board in New York were insufficient because they did not provide compelling evidence to refute the allegations of misconduct against him.

Legal arguments

39. Upon examination of the written evidence, the oral evidence given by the applicant and by the Director of Studies at the Pigier school, and the oral proceedings requested by the parties,

40. And while there is no need to decide on the receivability of this application relating to disciplinary measures,

The Tribunal establishes the legal framework as follows:

41. With regard to the appointment of staff to United Nations service, the Charter of the United Nations provides that "[t]he paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity" (Article 101).

42. This basic principle was later incorporated into the United Nations Staff Regulations. Thus, staff regulation 1.2 (b) provides that:

"Staff members shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status."

43. After examination of the facts, the parties' written and oral submissions, and the written evidence contained in the case file, the Tribunal considers that the decisive issue in this dispute is whether the circumstances of the submission of the forged transcript justify the applicant's summary dismissal.

44. The first fundamental question in the dispute is whether the applicant, upon his appointment, intentionally provided false information in the P.11 form and later submitted a forged transcript to support the information in that form.

Translated from French

forgery until 2006. In light of the minutes of the applicant's conversation with the Office of the Inspector General on 20 July 2007 the Tribunal is not convinced that the applicant did not become aware of the forgery until 2006. Even if no date is referred to in the minutes of that meeting, the applicant told the inspectors that he realized the transcript was a forgery after receiving it and wishing to register for the Ivorian BTS examination. It is clear that five years did not elapse between the day the applicant obtained the forged transcript and the day he decided to register for the BTS examination. There is therefore a clear and patent contradiction between his statements to the Office of the Inspector General and to the Tribunal.

50. It is therefore surprising that the applicant, realizing that the transcript was a forgery, resubmitted the same information in his P.11 form in June 2006 for his appointment to a Professional-grade post at UNHCR. The applicant's submission that he did not modify his P.11 form in June 2006 because he had consistently referred to the BTS level of studies acquired at the Pigier school in order to avoid obvious discrepancies is not acceptable.

51. Making false statements is clearly in violation of the provisions of the Charter of the United Nations and the Staff Regulations. By signing his P.11, the applicant certified the truthfulness of his statements. The provisions of the P.11 read as follows:

“I certify that the statements made by me in answer to the

Translated from French

Case No: UNDT/NBI/2009/23
Judgment No: UNDT/2009/091