REMEDIES AVAILABLE TO AN EMPLOYEE FOR UNFAIR TERMINATION UNDER NIGERIAN LAW

Introduction

The employment relationship in Nigeria is governed by a complex matrix of common law principles, statutory provisions, and judicial decisions. At the heart of this relationship is the contract of employment, which defines the terms and conditions upon which both employer and employee are bound. The principal statute regulating employment and labour matters is the Labour Act,[1] complemented by constitutional provisions establishing the jurisdiction of the National Industrial Court (NIC)[2] and the National Industrial Court Act 2006.[3]

It is a settled principle of Nigerian employment law that an employer may terminate the contract of service of an employee for any reason, or indeed for no reason at all, provided such termination is effected in accordance with the terms of the contract.[4] In *Ajayi v Texaco Ltd*, the Supreme Court affirmed the discretionary character of the employer's power to terminate, noting that the motive behind the termination was legally irrelevant so long as contractual procedures were followed.[5]

However, this broad employer prerogative is subject to significant qualification. As one authoritative academic commentary has noted, the exercise of this power without due process has become "no longer globally fashionable in industrial relations law," and Nigerian courts have progressively responded to this reality.[6] The question therefore is not merely whether an employer *can* terminate employment, but what remedies are available when such termination is

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[1]Labour Act, Cap L1, LFN 2004.

[2]Constitution of the Federal Republic of Nigeria 1999 (as amended), s 254A.

[3]National Industrial Court Act 2006.

[4]*Chukwuma v Shell Petroleum Development Co Ltd* [1993] 4 NWLR (Pt 289) 512.

[5]*Ajayi v Texaco Ltd* [1987] 2 NWLR (Pt 62) 577.

[6]Quadri Moshood Abiola, 'Unfair Dismissals in the Workplace: An Appraisal of the Available Remedies, The Nigerian Example' (LLB Research Project, University of Lagos 2014) 1.

carried out unlawfully or without compliance with the prescribed procedures. This article provides a structured analysis of those remedies.

Legal Framework Governing Termination of Employment

The legal framework for employment and its termination in Nigeria draws from several sources. The Labour Act remains the primary legislative instrument, regulating notice periods, redundancy, and the basic rights and obligations of employers and employees.[7] Under section 11(2) of the Labour Act, where an employment contract does not specify the period of notice, the following minimum notice periods apply: one day where the contract has subsisted for three months or less; one week where it has continued for more than three months but less than two years; two weeks for two to five years of service; and one month for service of five years or more.[8]

The 1999 Constitution, as altered, is equally significant. The Third Alteration Act 2010 conferred exclusive civil jurisdiction on the National Industrial Court over all matters relating to labour and employment. By virtue of section 254A of the Constitution, the NIC became the sole court of first instance in employment disputes, displacing the jurisdiction of the State High Courts in this area.[9]

Categories of Employment

Nigerian law recognises two broad categories of employment, each with distinct implications for the available remedies in the event of unlawful termination.[10]

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[7]Resolution Law Firm, ' Legal Remedies for Wrongful Termination of Employment in Nigeria' (Mondaq, 25 November 2024) < LEGAL REMEDIES FOR WRONGFUL TERMINATION OF EMPLOYMENT IN NIGERIA> accessed 18 May 2026.

[8]Labour Act (n 1) s 11(2).

[9]AOC Solicitors, 'Termination of Employment: Understanding Nigerian Labour Law' (April 2025) < https://aocsolicitors.com.ng/termination-of-employment-understanding-nigerian-labour-law/ > accessed 18 May 2026.

[10]Resolution Law Firm (n 7).

The first is the *ordinary master and servant relationship*, which encompasses employment in the private sector where the relationship is governed primarily by the common law of contract and the terms of the employment agreement. Under this category, the employer retains wide discretion to terminate the contract provided the agreed or statutory notice is given, or salary in lieu thereof is paid. Courts in this category will not generally order reinstatement, as doing so would amount to foisting a willing employee on an unwilling employer.[11]

The second category is *employment with statutory flavour*, which arises where an employee is engaged pursuant to a statute or statutory regulations, such that the procedure for appointment, discipline, and termination is dictated by the enabling statute. This category is predominantly found in the public sector, including the civil service, universities, and statutory corporations. In such employment, the employer must strictly comply with the statutory procedure; any deviation renders the purported termination null and void.[12]

What Constitutes Unfair or Wrongful Termination

Termination is wrongful or unfair under Nigerian law in several circumstances: where the employer fails to give the requisite notice or payment in lieu thereof; where the employment is terminated based on false or unsubstantiated allegations; where the employer fails to follow the disciplinary procedure stipulated in the contract or applicable regulations; or where the termination is tainted by unlawful discrimination on grounds such as race, religion, gender, or trade union membership. In the case of employment with statutory flavour, wrongful termination occurs whenever the statutory procedure is not followed, regardless of whether appropriate notice has been paid.

It is equally important to note that under Nigerian law, the burden of proving wrongful termination rests firmly on the employee. The employee must establish the terms of the contract,

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[11] *Savannah Bank Plc v Fakokun* [2002] 1 NWLR (Pt 749) 544.

[12] Unini Chioma, 'Remedies for Wrongful Termination of Employment' (TheNigeriaLawyer, 17 November 2015) [Remedies for wrongful termination of employment - TheNigeriaLawyer] accessed 18 May 2026.

demonstrate how those terms were breached, and provide credible evidence to support the claim before the NIC.

Remedies Available to an Employee

I. Damages

Damages constitute the primary and most frequently awarded remedy for wrongful termination of employment under Nigerian law. An employee whose employment has been unlawfully terminated is entitled to recover all the benefits, including salary, allowances, pension entitlements, and other accrued benefits, that would have been payable had the employment been properly terminated.[13]

The measure of damages at common law is typically limited to the wages and benefits that the employee would have earned during the period of proper notice. In *W N D C v Abimbola*, the Supreme Court reduced a trial court award of £2,500 in general damages to £60.10s, being the equivalent of one month's salary, the period required for notice under the contract. Similarly, in *G B Ollivant (Nigeria) Ltd v I B Agbabiaka*, the Supreme Court applied the same principle to reduce an award of £3,000 to the equivalent of one month's pay.[14]

The courts are therefore obliged to assess damages with reference to the security of tenure actually enjoyed by the employee under the contract, rather than by an open-ended award of general damages. This conservatism at common law reflects the underlying contractual nature of the employment relationship and the courts' reluctance to expand the quantum of awards beyond what the agreement itself provides.[15]

II. Severance Pay

The National Industrial Court has taken a notably more expansive approach to compensation than the regular courts. In *Michelin Nigeria Ltd v Footwear, Leather and Rubber Products Senior*

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[13]*S B Olanrewaju v Afribank Plc* [2001] FWLR (Pt 72).

[14]*W N D C v Abimbola* [1966] NMLR 81; *G B Ollivant (Nigeria) Ltd v I B Agbabiaka* [1972] 2 SC 137.

[15]*Araromi Rubber Estates Ltd v Orogun* [1999] 1 NWLR 586.

Staff Association, the NIC introduced the concept of severance pay as a distinct head of compensation, calculated on the basis of the employee's years of completed service rather than the contractual notice period alone. In that case, the court awarded one month's pay for each year of completed service, in addition to other payments already made.[16]

Severance pay, as developed by the NIC, is distinct from contractual entitlements and represents a recognition that long-serving employees who lose their employment are entitled to greater financial protection than mere contractual damages provide. However, it must be noted that the courts may not award severance pay unless it is specifically claimed and, in some instances, unless it is expressly provided for in the contract or industry regulations.[17]

III. Reinstatement

Reinstatement the restoration of an employee to the position held before the unlawful termination, is available as a remedy but is almost exclusively confined to employment with statutory flavour. The foundational authority is the Supreme Court decision in *Shitta Bey v Federal Civil Service Commission*, where the court held that the purported termination of a federal civil servant in breach of the applicable civil service rules was null and void, and ordered the employee's reinstatement to his former position.[18]

This position was reinforced in *Olaniyan v University of Lagos*, where the Supreme Court held that the purported dismissal of university professors by way of mere notice, in circumstances where the applicable statute required a full hearing on grounds of misconduct, was ineffective. The appellants were accordingly reinstated.[19]

In ordinary master-servant employment, the courts have consistently declined to order reinstatement on the grounds that equity cannot compel an unwilling employer to continue a

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[16]*Michelin Nigeria Ltd v Footwear, Leather and Rubber Products Senior Staff Association* [1980–81] NICLR 153.

[17]Resolution Law Firm (n 7).

[18]*Shitta Bey v Federal Civil Service Commission* [1981] 1 SC 41.

[19]*Olaniyan v University of Lagos* [1985] 2 NWLR (Pt 9) 599.

personal services relationship.[20] It is also important to note that even in statutory employment, reinstatement may be withheld if the relevant statute expressly excludes it as a remedy.[21]

IV. Injunction

An injunction may be granted by the court to restrain an employer from acting on an unlawful termination pending the determination of the employee's suit. This remedy is equitable in nature and is exercised at the court's discretion. As a general proposition, the Nigerian courts have been reluctant to grant injunctive relief in personal service contracts, consistent with the principle that courts do not enforce contracts requiring the continued performance of personal services.[22]

Nonetheless, the NIC, exercising its broad equitable jurisdiction under section 14 of the National Industrial Court Act, is empowered to grant partial or absolute remedies as justice demands, including interlocutory injunctions in appropriate cases, particularly where the employer's conduct is egregious or where irreversible harm would otherwise result.[23]

V. Declaration

A declaration is an order of the court that authoritatively states the legal rights of the parties without necessarily ordering any specific act. In employment disputes, a court may declare a purported termination to be null, void, and of no effect where the termination was made contrary to the statute regulating the employee's engagement.[24]

The practical value of a declaration lies in its use as a predicate for further relief. A successful declaration that a termination is unlawful typically provides the basis upon which reinstatement, arrears of pay, or other consequential orders may be made. The declaratory remedy is most

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[21] AOC Solicitors (n 9).

[22] Abiola (n 6) 37–39.

[23] *Bankole v Nigerian Broadcasting Corporation* [1968] 2 All NLR 372.

[24] *Fakoya v St Paul's Church Sagamu* (1966) 4 NSCC 60.

relevant in statutory employment cases, where the unlawfulness of the termination must first be judicially established before the employee can be restored to their former position.[25]

The Role of the National Industrial Court and International Labour Standards

The establishment of the National Industrial Court as a superior court of record with exclusive jurisdiction in labour and employment matters has transformed the remedial landscape for Nigerian workers. Appeals from the NIC lie to the Court of Appeal, which is the final court in employment-related matters, the Supreme Court no longer exercises appellate jurisdiction in this domain. The NIC, in exercising its broad statutory jurisdiction, has demonstrated a willingness to go beyond the conservative common law approach to remedies and to award compensation that more fairly reflects the economic harm suffered by wrongfully dismissed employees.

Significantly, section 254C(1)(f) and (h) of the 1999 Constitution (Third Alteration) Act 2010 expressly empowers the NIC to apply international labour conventions and best practices in determining matters before it.[26] This provision has enabled the NIC to invoke the ILO Convention No 158 on Termination of Employment,[27] which mandates termination for valid reason only, requires that employees be given an opportunity to respond to allegations before termination, and entitles dismissed employees to notice, severance allowance, and access to an impartial appellate body. The NIC has also applied the principle of redundancy fairness enshrined in section 20 of the Labour Act, which requires that in cases of workforce reduction, the "last in, first out" principle be followed as a minimum safeguard against arbitrary selection for redundancy.[28]

Practical Considerations for the Aggrieved Employee

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[25] Abiola (n 6) 41.

[26] Constitution of the Federal Republic of Nigeria (Third Alteration) Act 2010, s 254C(1)(f) and (h).

[27] ILO Convention No 158 on Termination of Employment (1982).

[28] Labour Act (n 1) s 20(1)(b).

An employee who believes that their employment has been wrongfully terminated must act promptly and strategically. As a first step, the employee should consult an employment lawyer specialising in Nigerian labour law to assess the merits of the claim and the most appropriate remedies to seek. Documentary evidence, including the contract of employment, correspondence, payslips, and performance evaluations, is essential, as employment cases are determined on the balance of probabilities.

Where appropriate, negotiation or mediation through the Federal Ministry of Labour and Employment, which offers free mediation services between employees and employers, should be explored before resorting to litigation. Where these processes fail, the employee may file a suit before the National Industrial Court. It is noteworthy that the Court of Appeal, not the Supreme Court, is the final appellate court in employment matters, following the constitutional vesting of exclusive jurisdiction in the NIC.[29]

Conclusion

The remedial framework for unfair or wrongful termination of employment in Nigeria reflects a nuanced interplay between contractual freedom and statutory protection. In ordinary master-servant relationships, damages remain the primary remedy, measured by reference to the wages payable for the requisite notice period. The courts will not compel the continuation of a personal services relationship, and reinstatement is therefore unavailable in the private sector.

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[29] Chioma (n 12); Resolution Law Firm (n 7).