

REDEFINING EMPLOYER LIABILITIES: FROM NOMINAL TO SUBSTANTIAL COMPENSATION FOR WRONGFUL DETERMINATION OF PRIVATE EMPLOYMENT – INSIGHTS FROM SKYE BANK PLC V. ADEGUN (2024) LPELR-62219(SC).

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1. Introduction

The Supreme Court of Nigeria's decision in *Skye Bank Plc v. Adegun*¹ marks a significant shift from the traditional principles governing quantum of damages for wrongful termination² or dismissal³ in private employment. Historically, Nigerian courts followed the common law rule, awarding employees only the salary or benefits they would have earned during the notice period specified in their contract, often leaving them inadequately compensated for the broader impacts of wrongful termination or dismissal.

In *Skye Bank Plc v. Adegun*, the Supreme Court affirmed two years' salary as damages for wrongful dismissal, reflecting a more employee-centric judicial approach. This decision acknowledges the financial and emotional toll of wrongful termination or dismissal, particularly in an economy with limited reemployment opportunities. It highlights the need for employers to handle terminations cautiously and adhere to contractual and statutory obligations to minimize liabilities. The judgment sets a precedent for future disputes, urging employers to rethink their termination practices to avoid costly litigation and reputational damage.

This article examines the implications of this judgment for businesses and provides insights on how employers can mitigate the risks of wrongful termination/dismissal claims in light of this evolving legal landscape.

¹ (2024) LPELR-62219(SC)

² In practice, where the termination of a contract of employment (either due to failure to give the required notice period or payment of salary in lieu of notice) violates a term or condition of the contract, such a termination is wrongful, but not one that is invalid, null and void. See *Abolo v. UBN Plc* (2016) 66 N.L.L.R (Pt. 235) pg. 292.

³ In practice, the term "*dismissal*" refers to the termination of an employee's employment following the completion of a disciplinary process. In the case of summary dismissal, which involves immediate termination without a formal disciplinary process, the grounds for such dismissal must be explicitly stipulated in the employment contract.

2. The Quantum of Damages in Employment Law: From Restrictive Common Law Principles to a Progressive Nigerian Stance

Under common law, damages for wrongful termination or dismissal were traditionally restricted to the financial loss an employee would incur during the notice period,⁴ excluding compensation for emotional distress, reputational harm, or future earnings.⁵ This approach, rooted in the principle of contract law, has been criticized for failing to reflect the complexities of modern employment relationship, where termination can result in severe economic and personal consequences. While developed nations have adapted to these realities, Nigerian courts have historically adhered to this orthodox rule, awarding nominal damages in most cases.

However, recent judicial decisions in Nigeria reflect a shift towards a more progressive approach to awarding damages in employment law.⁶ Notably, prior to *Skye Bank Plc. v. Adegun*, both the National Industrial Court of Nigeria (NICN)⁷ and Court of Appeal⁸ have made pronouncements departing from the

⁴ See *Nigerian Produce Marketing Board v. Adewunmi* (1972) LPELR-2033(SC) (Pp. 7 paras. D); *Osisanya v. Afribank (Nig.) Plc.* (2007) LPELR- 2809(SC) (Pp. 15-17 paras. C); *Amson Babatunde Olarewaju v. Afribank Nigeria Plc.* (2001) 13 NWLR (Pt. 731) 691; *Maiduguri Flour Ltd v. Abba* (1996) 1 NWLR (Pt. 473) 506 @ 511; *Chukwuma v. Shell Petroleum Development Company of Nigeria Ltd* (1993) LPELR-864 (SC) PG. 83, Para. A-D.

⁵ See *Western Nigeria Development Corporation v. Abimbola* (1966) LPELR-25344(SC) (PP. 3-4 Para. C) wherein the Supreme Court of Nigeria quoted with approval the dictum of Lord Loreburn in *Addis v. Gramophone Company Ltd.* [1909] A.C. 488 at page 491 thus: "*If there be a dismissal without notice the employer must pay an indemnity; but that indemnity cannot include compensation either for the injured feelings of the servant, or for the loss he may sustain from the fact that his having been dismissed of itself makes it more difficult for him to obtain fresh employment*".

⁶ See *Navy Captain Dada Olaniyi Labinjo v. Nigerian Navy & Ors* (Suit No. NICN/LA/67/2023 – Unreported decision of the NICN delivered on March 24, 2025, per I.G Nweneka J.) – although this judgement is in relation to statutory employment, the legal thinking from the decision aligns with the subject of discourse.

⁷ See *Mrs. Olawunmi Oyebola v. Sahara Energy Resources Limited* (Suit No. NICN/LA/191/2014 – Unreported decision of the NICN delivered on July 14, 2016, per Peters J.); *Captain Yahaya Wambai v. Bourbon InterOil (Nigeria) Limited & Anor* (Suit No. NICN/OW/11/2017 – Unreported decision of the NICN delivered on January 31, 2019, per I.S. Galadima J.)

⁸ See the decision of the Court of Appeal in *Sahara Energy Resources Ltd v. Mrs. Olawunmi Oyebola* (2020) LPELR-51806 (CA) wherein the Court of Appeal affirmed the National Industrial Court's decision on the award of two years' salary as general damages for the unlawful termination of the Respondent. Also, in *British Airways v. Mkanjuola* (1993) 8 NWLR (Pt. 311) Pg. 276 at 288, per Ubaezonu JCA, the Court of Appeal affirmed the award of two years' salary as damages by the trial court to the employee whose employment was wrongfully terminated after unfounded allegations of malpractice which carried a stigma on the character of the employee and made it difficult for him to get another job.

traditional common law rule. This evolution is largely attributable to the Third Alteration Act, 2010, which amended the Constitution of the Federal Republic of Nigeria, 1999 (as amended) (the "**1999 Constitution**"), granting the NICN the authority to apply international best practices in its adjudicatory role.

In *Skye Bank Plc v. Adegun*, the Supreme Court marked a significant departure by upholding two years' salary and additional entitlements as compensation for wrongful dismissal. This decision acknowledges that employment relationships go beyond contractual obligations and aligns with global trends prioritizing fairness and deterrence of unjust employer actions.

The judgment also emphasizes the need for equity, recognizing the power imbalance between employers and employees. It signals a shift towards employee-centric remedies, considering the broader economic, emotional, and professional consequences of wrongful determination of employment. As Nigerian courts continue to embrace these progressive principles, they contribute to a more balanced and fair employment environment, encouraging employers to adopt transparent and cautious termination practices.

3. **Skye Bank Plc. v. Adegun: Summary of Fact**

In *Skye Bank Plc v. Adegun*, the Supreme Court upheld the Court of Appeal's decision in favor of Mr. Adedokun Olusegun Adegun ("**Mr. Adegun**"), a former employee dismissed for alleged fraudulent activities. Mr. Adegun had been employed by Cooperative Bank Plc in 1995, promoted to Treasury Officer, and later faced fraud allegations in 2005. Despite being cautioned, his employment continued until a merger with Skye Bank, which conducted an internal review and dismissed him in 2006 for the same allegations.

Dissatisfied, Mr. Adegun filed a lawsuit at the High Court of Oyo State (the "**Trial Court**"), seeking, amongst others, compensation for wrongful dismissal. The Trial Court found the dismissal wrongful but limited damages to one month's salary in lieu of notice as stipulated in his employment contract. The Court of Appeal overturned this, awarding two years' salary and additional entitlements. The Supreme Court upheld this judgment, emphasizing Mr. Adegun's right to a fair hearing and stating that Skye Bank, having previously disciplined him, was estopped from revisiting the allegations. The Supreme Court affirmed the dismissal as a breach of contract and upheld the compensation, including two years' salary, bonuses, and gratuity, as restitution for the harm caused.

4. Key Highlights from the Decision in *Skye Bank Plc. v. Adegun*

The Supreme Court's decision in *Skye Bank Plc v. Adegun* marks a pivotal moment in Nigerian labour law, redefining wrongful dismissal principles with a focus on fairness, equity, and international labour standards. This judgment expands employee remedies and reinforces employers' responsibility to adhere to contractual and procedural obligations. Below are some of the key highlights of this transformative decision:

(i) Employers Cannot Benefit from Breaching Employment Contracts

The Court clarified that employers who breach employment contracts cannot use the same contract provisions to limit liability for damages. It ruled that wrongful dismissal damages should extend beyond the employee's salary during the notice period, as restricting damages would unfairly allow employers to benefit from wrongful actions.

The Court emphasized that damages should reflect the broader consequences of the breach, such as financial losses, reputational harm, and the impact on future employability, especially where the dismissal damages the employee's career prospects. This progressive ruling aligns Nigerian labour law with international standards, promoting fairness and accountability in employment practices. It sends a strong message to employers that failure to adhere to contractual obligations will result in substantial liability. This principle is rooted in equity, which operates to prevent parties in a contractual relationship from profiting from their own wrongdoing.

(ii) Need to Observe Fair Hearing in the Disciplinary Process at Workplace

In employment law, while employers' disciplinary power is generally upheld,⁹ it is not absolute and can be judicially challenged if the process is unlawful, unjust, oppressive, unfair, or breaches the principles of fair hearing.¹⁰ Fair hearing is the bedrock of any disciplinary process, ensuring justice, transparency, and procedural fairness and integrity. Any violation

⁹ NEPA v Olagunju [2005]3 NWLR (PT 913) 602.

¹⁰ Anyabam v. Benue State Govt. & Ors (2016) 64 NLLR (Pt. 227) 438; Yaroe v. NSE (2014) 46 NLLR (Pt. 147) 45.

of this principle, regardless of how minor, renders the process and its outcomes wrongful.¹¹

Fair hearing in employment law is based on two key principles: *audi alteram partem* (the right to be heard) and *nemo iudex in causa sua* (no one shall be a judge in their own case). In *Skye Bank Plc v. Adegun*, the apex court emphasized that fair hearing is mandatory in all workplace disciplinary processes,¹² outlining the following requirements:

- (a) The disciplinary process must follow procedures outlined in the Employee Handbook or relevant governing documents.
- (b) The disciplinary process must be conducted by a competent and authorized authority, with no individual acting as both accuser and judge. For example, a complainant is not competent to authorize the dismissal letter of an employee, putting him in the dual position of an accuser and a judge in his own case.
- (c) The employee must be given a reasonable opportunity to respond to the allegations, either orally or in writing.
- (d) The disciplinary panel must be impartial, excluding potential accusers or complainants, thereby adhering to the *nemo iudex in causa sua* principle.
- (e) Employers must exercise caution when using dismissal, which is the highest verdict in a disciplinary process, ensuring it is not applied arbitrarily or oppressively.

(iii) **Estoppel and Condonation: Safeguards Against Arbitrary Employer Actions**

The principles of estoppel and condonation prevent employers from revisiting disciplinary matters that have already been addressed. In *Skye Bank Plc v. Adegun*, the Court applied these principles to prevent Skye Bank from imposing a harsher penalty on Mr. Adegun. Estoppel operates to prevent a party from acting in contradiction to a position it has

¹¹ *Adigun & Ors v. A.G. Oyo State* (1987) 1 NWLR (Pt. 53) 678 at 758. See Section 36(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

¹² In *Adigun & Ors v. A.G. Oyo State & Ors.* (supra), the apex court held that the rules of natural justice must be observed in an administrative enquiry.

previously established to another party's detriment.¹³ The original employer had issued a caution after investigating the misconduct, creating a legitimate expectation that the matter was resolved. Revisiting the issue to impose a harsher penalty, especially after a long time, was deemed unconscionable.

Condonation occurred when Skye Bank's predecessor overlooked Mr. Adegun's misconduct and imposed a lesser penalty. Revisiting the matter in bad faith breached equitable principles, particularly due to the lapse of time.¹⁴ The judgment emphasizes that employers must act consistently and in good faith, as estoppel and condonation protect employees from arbitrary actions and promote fairness and trust in employment relationships.

(iv) **Application of International Best Practices in Labour and Employment: A Progressive Shift in Nigerian Jurisprudence**

The decision underscores Nigeria's commitment to aligning its labour law with international labour standards.¹⁵ By broadening the scope of remedies for wrongful dismissal, the Court moved away from traditional approaches that only considered immediate financial losses, instead adopted a more comprehensive and equitable perspective, emphasizing the long-term consequences suffered by employees.

Relying on the Third Alteration Act to the 1999 Constitution, Section 7(6) of the NICN Act,¹⁶ and international best practices, the Court highlighted the need to assess damages beyond mere salary entitlements during the notice period. It considered critical factors such as reputational harm, diminished career prospects, and the stigma associated with wrongful dismissal. This approach acknowledges that the repercussions of wrongful termination extend far beyond immediate financial harm,

¹³ *Aliero v. Saidu & Ors.* (2023) LPELR-59951(SC).

¹⁴ *Benue State University v. Mogaji* (2022) LPELR-56729; *PML Nig. Ltd v. FRN* (2017) LPELR-43480 (SC); *Ekundayo v. University of Ibadan* (2000) 12 NWLR Pt. 681, Pg. 220 at 241; *Electricity Corporation of Nigeria v. NICOL* (1969) NMLR 265 Pg. 269.

¹⁵ Particularly with those of the International Labour Organization (ILO). See for example Articles 4, 5, 6 and 7 of the International Labour Organisation (ILO) Termination of Employment Convention, 1982 (No. 158).

¹⁶ Section 7(6) of the NICN Act provides that: "*The Court shall, in exercising its jurisdiction or any of the powers conferred upon it by this Act or any other enactment or law, have due regard to good or international best practice in labour or industrial relations...*".

particularly in cases where an employee's future employability and professional standing are adversely affected.

This progressive stance aligns Nigerian labour law with global practices that emphasize fairness and equity in labour relations, sending a strong message to employers about the importance of adhering to procedural and substantive fairness. It also reinforces the judiciary's role in promoting a more balanced, equitable and accountable employment environment, ensuring that employees are not left to bear disproportionate consequences for breaches of contract by their employers. The judgment sets a strong precedent for workers' rights and strengthens Nigeria's position within international labour standards.

(v) **Termination of Employment Without Cause: An Outdated Practice**

Under traditional common law in Nigeria, employers were not required to provide reasons for terminating an employment contract,¹⁷ as long as they adhered to the termination procedure outlined in the employment contract, such as giving appropriate notice or payment in lieu.¹⁸

However, the legal landscape has changed. An employer is now required to provide valid or substantial reasons for termination to avoid wrongful termination.¹⁹ This shift in responsibility, as established in *Skye Bank v. Adegun*, is particularly significant in determining the potential damages awardable to the employee and assessing the employer's motive, which has now become a key factor in cases of wrongful determination of employment.

In *Skye Bank v. Adegun*, the Supreme Court emphasized the necessity for employers to substantiate the reasons for dismissal. The Court stated that a termination without cause or valid justification is no longer acceptable or fashionable,²⁰ and reasons for dismissal must be based on factors such

¹⁷ See *Olanrewaju v. Afribank Nigeria Plc.* (2001) LPELR – 2573 (SC); *Fakuade v. O.A.U.T.H* (1993) 5 NWLR (Pt. 291) 47.

¹⁸ See *Union Bank v. Salaudeen* (2017) LPELR – 3415 (CA).

¹⁹ See *Ebere Aloysuis v. Diamond Bank Plc.* (2015) 58 NLLR (Pt. 199) 92; *Duru v. Skye Bank* (2015) 59 NLLR (Pt. 207) 608.

²⁰ See *Ebere Aloysuis v. Diamond Bank Plc.* (2015) 58 NLLR (Pt. 199) 92; *Duru v. Skye Bank* (2015) 59 NLLR (Pt. 207) 608.

as the employee's qualifications or performance, misconduct, redundancy, or any other substantial reason.²¹

5. Conclusion

The Supreme Court's decision in *Skye Bank Plc v. Adegun* marks a significant shift in how employers handle wrongful dismissal claims, emphasizing fairness, transparency, and adherence to both contractual and statutory obligations. Employers must now provide justifiable reasons for termination to avoid costly damages, calling for a more diligent and consistent approach to disciplinary actions.

To mitigate the risk of wrongful dismissal claims, businesses should implement clear disciplinary procedures and performance management systems, ensuring employees are granted a fair hearing. Legal counsel is essential in navigating these complexities, as Nigerian employment law aligns with international standards. Proactive legal advice helps reduce litigation risks while fostering a fair and respectful workplace culture.

For more detailed guidance on the proper termination of employment contracts in Nigeria, please contact at dapo.akinosen@scp-law.com and dayo.bello@scp-law.com

²¹ See Article 4 of the International Labour Organisation (ILO) Termination of Employment Convention, 1982 (No. 158).