

PARADIGM SHIFT ON REMEDIES FOR WRONGFUL TERMINATION OF MASTER-SERVANT EMPLOYMENT IN NIGERIA*

Abstract

*This paper discusses the legal paradigm shifts introduced by the National Industrial Court of Nigeria (NICN) into the sphere of master-servant employment since its establishment as a specialized Court with exclusive jurisdiction over labour disputes. The paper adopts desk-based research methodology in highlighting the concept of reinstatement extended from statutory flavoured employment into master-servant employment on account of trade union victimization and successful challenge of reason of termination of employment where stated by the employer. It discusses the Supreme Court's decision in *First Bank Ltd. v. Longe* wherein a sui generis master-servant statutory employment was created. The paper argues that through judicial pro-activeness, the hitherto treatment of employees as disposable labour waste in master-servant employment contract has been tamed as reinstatement as been extended to it on account of trade union activities,. It also argues for further strengthening of the mechanism for security of employment in Nigeria. It makes vital recommendations on areas requiring a paradigm shift before concluding.*

Keywords: National Industrial Court, Master-Servant Employment, Supreme Court, Justice

1. Introduction

The contract of employment is an agreement which could be oral, written or both containing definite terms and conditions wherein a person known as the employee offers his/her labour to another known as employer for remuneration either daily, weekly, monthly or as agreed for a period of time.¹ This contract is the basis for the existence of an employer-employee relationship and without it, what would be in existence is a mere contract for service relationship which has different legal implications between the parties thereof.² Customarily, there are two types of employment contracts.³ There is the common law master-servant employment contract and employment contract that is statutorily flavoured. The difference between the two lies in the legal implication and protection afforded the employee.⁴ While the former is a matter of simple contract as agreed between the parties within the permissible circumference of the law, the latter, is regulated by statute in all its ramifications requiring parties compliance.⁵ As far as termination of employment is concerned in Nigeria, employment with statutory flavoured is settled.⁶ The remedy available to an employee whose employment is wrongly terminated is settled under Nigerian law.⁷ This class of employment relationship enjoys legal guarantee, protection and certainty of outcome in the event of wrongful termination of same. The master-servant employment contract on the other hand, in the event of wrongful termination, all that an aggrieved party is entitled to is damages for breach of the contract and nothing more.⁸ It is apposite to note that the justification for ordering reinstatement coupled with an award of damages (in

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¹O. Olugbenga, 'Wrongful Termination of Employment in the Private Sector' in Y. Akinseye-George, S. Osamolu, & A. O. Oluwadayisi, (Eds.) *Contemporary Issues on Labour Law, National Industrial Court Practice and Procedures Essays in Honour of Honourable Justice Babatunde Adeniran Adejumo* (Abuja, LawLords Publications 2014) 259.

² O. D. Amucheazi & E. A. Oji, 'Reinstatement of a Dismissed Employee in a Contract of Employment: A Case Review of *Longe v. First Bank of Nigeria Plc.*' Vol. 4, No. 2, *Nigerian Journal of Labour and Industrial Relations*, 2010, P. 3-4.

³ *Ibid.* at P. 5.

⁴ *Ibid.*

⁵ B. Atilola, 'The Legal Nature of the Contract of Employment of a Managing Director: *Longe v. First Bank*' Vol. (1) 1, *Nigerian Journal of Labour and Industrial Relations*, 2011, P. 5.

⁶ *Ibid.*

⁷ I. N. E. Worugji, 'The Challenges of Economic Termination of Contract of Employment in Nigeria' (5) 2, *Nigerian Journal of Labour Law and Industrial Relations*, 2011, P. 67.

⁸ E. A. Oji & O. D. Amucheazi, *Employment and Labour Law in Nigeria*, (Lagos, Mbeyi & Associates Nig. Ltd., 2015) 364.

deserving cases) in employment with statutory flavoured is failure to adhere to the demands of natural justice (justice) which is what usually makes a termination wrongly and therefore null and void. The same justification is true for master-servant employment contract but the only remedy is damages. The same source producing two different effects, this is appalling and unfortunate.⁹

Despite the above disturbing situation, the National Industrial Court (NIC) has proactively opened a new vista on remedies for wrongful termination in master-servant employment relationship beyond the anachronistic common law damages.¹⁰ This article surveys the paradigm shift introduced by the NICN into the sphere of master-servant employment relationship in Nigeria particularly in relation to damages available to an employee's whose employment has been wrongfully terminated. Indeed, *restitution ad integrum* in modern day's employment relationship has by the laudable pronouncement of the court become grossly inadequate. The need for security of employment outweighs the hitherto mundane pecuniary palliative. This paper is divided into five parts. Part one contains the general introduction. Part two reviews the attitude of Nigerian regular courts on the remedy available to an employee whose employment in a master-servant relationship has been wrongfully terminated howbeit gleaning into the statutory employment passively. Part three discusses the emergence of the hybrid employment contract of master-servant statutory flavoured employment contract against the backdrop of *Longe v. FBN Plc.*¹¹ highlighting its legal implication. Part four examines circumstances where contrary to the norm, reinstatement, instead on damages only would be ordered in wrongful termination of master-servant employment relationship. Part five contains the conclusion and recommendations.

2. Nigerian Courts and Remedies for Wrongful Termination in Master-Servant Employment Contract

Statutorily, sections 9 and 11 of the Labour Act (LA) provides three means through which a contract of employment (master-servant or statutory flavoured) could be terminated. In all contracts of employment, both parties reserve the right to terminate the contract by following the prescribed procedure. This right is inherent in the employment contract and is also recognized by the 1999 Constitution of the Federal Republic of Nigeria which recognizes freedom of contract and prohibits forced labour. A master-servant employment contract is said to have been wrongfully or unlawfully terminated when the laid down procedure (or where no exist, fair hearing is abrogated) is not followed by the terminating party. The Court of Appeal in *FBN Plc. v. Chinyere*¹² pungently defined wrongful termination in the following manner 'an employment can only be said to have been wrongfully terminated if it was done contrary to the conditions governing the particular contract of service or in a manner not contemplated by the stipulations in the condition of service, etc.' The Supreme Court of Nigeria articulating on the concept of wrongful termination in *Isheno v. Julius Berger Nig. Plc.*¹³ held as follows:

An employer who hires an employee under the common law has the corresponding right to fire him at anytime even without assigning any reason for so doing. He must however, fire him within the four walls of the contract between them. Where the employer fires an employee in compliance with the terms and conditions of their contract of employment there is nothing the court can do as such termination is valid in the eye of the law. It is only where the employer, in terminating or disengaging the services of an employee does so without due regard to the terms and conditions of the contract of employment between the parties that problem arises as such a termination is usually not tolerated by the courts and are, without hesitation usually declared wrongful and appropriate measure of damages awarded to the plaintiff. (Underlining ours)

The SC in *Olanrewaju v. Afribank Nigeria Plc.*¹⁴ in a bourgeoisie's manner stated the position of the law hitherto to the NICN pronouncement on the available remedy to an employee whose employment has been wrongfully terminated. It held as follows:

If legal practitioners come to terms with this true position of the law on the subject (that the only available remedy in a Master-Servant class of employment is payment of damages) client's money and the court's time would be saved by their honestly advising their clients accordingly and probably settling the matter out of court by demanding only what is legally due to their client from the employer in breach. In practice however, we see these simple cases of ordinary master and servant being turned into imaginary monsters in which compensation amounting to millions of

⁹F. Aborisade, *Determination of Contract of Employment in Nigeria, South Africa and Zimbabwe*, (Ibadan, Humanista Consult Ltd. & Centre for Labour Studies, 2015) 7.

¹⁰ *Ibid* at P. 178-184.

¹¹ (2010) 2 CLRN 21.

¹² [2012] 2 NLLR (Pt. 41) 62.

¹³ [2012] 2 NLLR (41) 127.

¹⁴ [2001] 13 NWLR (Pt. 731) 691.

naira are claimed and sometimes reinstatement in addition, as in the instant case (Underlining ours)

Another description of master-servant employment relationship is common law employment or ordinary employment relationship.¹⁵ The derogatory prefix ‘ordinary’ to the master-servant employment contract could be viewed as one of the motivation for the unsavoury treatment meted to the employee in it. It does not make sense to jealously protect what is considered as ordinary. The truth is; there is nothing ordinary in any employment contract especially when it is the product of the parties’ agreement based on *pacta sunt servanda*. In fact, the Supreme Court in taken an unrepentant posture that only damages could be awarded to an employee whose employment in a master-servant employment has been wrongfully terminated, have flung the red flag with a warning of awarding cost against any legal practitioner who makes a case for reinstatement. Ogbuagu JSC in *Osisanya v. Afribank Plc.*¹⁶ sternly warned thus:

I will say with greatest respect and humility, that if in future any learned counsel who is aware or ought to know about these firmly established law on master and servant relationship (especially where the contract of employment is in writing) and who brings this type of frivolous appeal up to this court may expose himself to the court awarding cost personally against such counsel...

The CA reiterated this position in *Nigeria Telecommunications Plc. v. Ocholi*¹⁷ where it held that ‘in the event the termination of appointment was carried out contrary to the terms of the agreement between the parties, the employer must pay damages for breach.’ This decision flows *in tandem* with the Supreme Court’s position in *Chukwuma v. Shell*¹⁸ where damages were held to be the only available remedy to the plaintiff was employment was wrongfully terminated. The equitable remedy of specific performance would not be awarded in master-servant employment contract.¹⁹ The reason is that ‘the court will not enforce specific performance of a mere contract of service or employment under common law.’²⁰ Aborisade²¹ has rightly observed that the remedy of reinstatement in the case of unlawful dismissal in statutory employment is based on the need to observe principles of natural justice. What, therefore, justifies the requirement of applying the principle of natural justice in one instance and neglecting to apply same in another context? This attitude of the court is unjustified against the backdrop of domestic and international legal instruments. The preamble to the 1999 Constitution²² states that the Constitution is based on the principle of attaining justice and welfare of all persons. By virtue of section 1 (1) thereof, the Constitution is supreme and binds all persons and authorities within Nigeria, any law that is inconsistent with any of its provision, is null and void.²³

Section 17 (3) (a) and (b) places on the government the duty to ensure that all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment. The government must also ensure that conditions of work are just and humane; health, safety and welfare of all persons in employment are safeguarded and not endangered or abused. Section 7 (6) of the NIC Act²⁴ empowers the court in the exercise of its jurisdiction, to have due regard to good or international best practice in labour or industrial law.²⁵ Section 254C (2) of the 1999 CFRN, empowers the NICN in exercising of the powers conferred on it, to apply international treaties to which Nigeria is a party, international labour standards and practices.²⁶ International legal instruments also guarantee the right to work. Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)²⁷ recognizes the right to work as well as the right to favourable and just conditions of work. Article 23 and 25(1) of the Universal Declaration of

¹⁵ K. C. Agomo, *Nigerian Employment and Labour Relations Law and Practice*, (Lagos, Concept Publications Ltd., 2011) 75.

¹⁶ (2007) 4 MJSC 128 at 147.

¹⁷[2001] 10 NWLR (Pt. 720) 188 at 216.

¹⁸[1993] 4 NWLR (Pt. 289) 512.

¹⁹*Omidiora v. Federal Civil Service Commission* [2007] 14 NWLR (Pt. 1053) 17.

²⁰*Patrick Zuideeh v. River State Civil Service Commission* [2007] 3 NWLR (Pt. 1022) 554.

²¹ Aborisade (n 9) P. 7.

²²1999 Constitution of the Federal Republic of Nigeria Cap. C23 LFN 2004.

²³*Ibid.*

²⁴Section 7(6) National Industrial Court Act, 2006.

²⁵Atilola B. and Morocco-Clarke, A., ‘National Industrial Court and Jurisdiction over International Labour Treaties under the Third Alteration Act’ (5) 4, *Nigerian Journal of Labour and Industrial Relations*, 2011. P. 4.

²⁶P. O. Okonkwo, ‘The Concept of International Core Labour Standards’ (4) 2, *Nigerian Journal of Labour and Industrial Relations*, 2010, P. 46.

²⁷International Covenant on Economic, Social and Cultural Rights, 1966.

Human Rights²⁸ (UDHR) recognizes the right to work. Article 15 of the African Charter on Human and Peoples Rights²⁹ (ACHPR) protects the right to work in Nigeria. It is apposite to note that the ACHPR is a domesticated legislation in Nigeria as was held in *Abacha v. Fawehinmi*.³⁰ All courts in Nigeria therefore have the duty to give effect to its provisions like any other law falling within the judicial powers of the courts. All these legal instruments contemplates a right to work which must be protected by all and sundry the courts inclusive. In fact, from the religious point of view, after the creation of human beings in the Garden of Eden, the first gift or duty God in His infinite wisdom gave man was work.³¹ Thus, work is intrinsic to humanity and all concerned must ensure that man's work is not taken away from him just in exchange of damages only. The stance of the Nigerian court on the remedy available to an employee, whose employment has been wrongfully terminated, leaves a lot to be desired in the 21st century. In fact, the above stated position of the law is an encouragement to employers to deal with employees in the affected category with an attitude of careless abandon. The thesis of 'what is legally due to their client' in cases of wrongful termination of master-servant employment can no longer be applauded in the light of the persistent brazen impunity with which employers lay off employees couple with its attendant consequences on labour.

3. The Emergence of *Sui Generis* Master-Servant Employment Relationship

There are two types of contract of employment, namely, employment with statutory flavor and common law master-servant employment.³² Statutory flavoured employment is one in which the terms and conditions of the employment is regulated by statutes or regulations made pursuant to a statute.³³ The general principle is that where the contract of service is created by a statute and the procedure for the removal of the employee is defined in the said statute, non compliance with that statutory provision renders the termination of such contract unlawful and null and void.³⁴ That an employee is employed in a government or its department does not *ipso facto* mean that the employment is one that is statutorily flavoured.³⁵ The terms and conditions of the employment inclusive of procedure of removal must be regulated by statutes or regulations made pursuant to a statute as was held by Karibi Whyte JSC in *Imoloame v. WAEC*.³⁶ It is created through the agreement of the parties encapsulated in the letter of employment or similar document. It could be brought to an end through any means provided by the parties. The requirement of fair hearing whether provided in the termination procedure by the parties or not is applicable to it since it is a constitutional requirement which cannot be waived.³⁷ The relevance of this dichotomy to both categories of employment lies in the determination of the contract of employment. In the statutory flavoured employment, any party intending to terminate the employment must do so in strict compliance with the laid down statutory procedure.³⁸ The requirement of fair hearing must be strictly adhered to.³⁹ Failure to do so, any purported termination would be declared null and void by the court as in *Olatunbosun v. NISER*.⁴⁰ The consequence of, such declaration is reinstatement.⁴¹ A termination in defiance to the statutory requirement in a statutory flavoured employment is regarded as unlawful while in a master-servant employment it is known as wrongful⁴² as was held by Karibi Whyte JSC in *Imoloame v. WAEC*.⁴³ However, the case of *Longe v. FBN Plc*.⁴⁴ has created a *sui generis* type of employment contract which can be described as 'master-servant statutory flavoured employment contract.' The brief facts of the case are; the Appellant was a Managing Director/Chief Executive Officer of the Respondent. In the course of his employment, there were allegations of impropriety leveled against him requiring the Board of Directors investigation. Due to these allegations, the Board of Director (BOD) summoned a meeting and did not give the Appellant notice of same, he was suspended and his employment as the Managing Director of the

²⁸Article 25 Universal Declaration of Human Rights, 1948.

²⁹African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap. A10, LFN 2004.

³⁰[2000] 6 NWLR (Pt. 600) 228.

³¹Genesis Chapter 2:15 (King James Version).

³² *Amucheazi & Oji* (n 2) *Op. cit.* P. 5.

³³B. Atilola, 'Legal Remedies for Wrongful Termination of Contract of Employment: What Lawyers Must Note' (5) 2, *Nigerian Journal of Labour and Industrial Relations*, 2011, P. 12.

³⁴ *Ulegede v. Military Administrator of Benue State* [2001] 2 NWLR (Pt. 696) 73.

³⁵ *Oji & Amucheazi*, (n 8) *Op. cit.* P. 376.

³⁶ (1992) 3 NSCC 374 at 383.

³⁷ Section 36 1999 CFRN Cap. C23 LFN 2004.

³⁸ *Adedeji v. Police Service Commission* [1967] 1 All NLR 67.

³⁹ *Olaniyan v. University of Lagos* [1985] 2 NWLR (Pt. 9) 599.

⁴⁰[1988] 3 NWLR (Pt. 80) 25.

⁴¹ *Olufeagba v. Abdul-Raheem* [2009] 18 NWLR (Pt. 1173) 384.

⁴² Atilola (n 33) *Op. cit.* P. 13.

⁴³ (1992) 3 NSCC 374 at 383.

⁴⁴ [2010] 6 NWLR (Pt. 1189) 1.

Respondent was subsequently revoked. He sued the Respondent at the Federal High Court seeking a declaration that his suspension by the BOD of the Respondent without giving him notice of the meeting in which he was suspended is null and void by virtue of section 266 (3) of the Companies and Allied Matters Act (CAMA) which requires that every Director of a company incorporated under the CAMA is entitled to receive notice of meeting of the BOD. The Respondent contended that by virtue of the suspension of the Appellant by the Respondent's BOD, he was not entitled to notice of meeting of the BOD in which his appointment was revoked. Besides, it was entitled to terminate his appointment for any or no reason without any notice. Upon conclusion of trial, the FHC dismissed the Appellant's case. Aggrieved, he appealed to the Court of Appeal (CA). The CA upheld the decision of the FHC and treated the relationship between the parties as that of master-servant that his status of Managing Director came about as a result of his appointment by the BOD of the Respondent and not pursuant to CAMA. His suspension by the BOD before the revocation, kept at abeyance his right of notice of meeting of the BOD of the Respondent including the meeting in which he was removed after the suspension. Dissatisfied, he appealed to the Supreme Court (SC). The sole issue for determination was whether having regard to section 266 of CAMA; the Appellant was entitled to receive notice of meeting of the BOD at which a resolution was passed revoking his appointment? The SC reviewed and rejected the decisions of the FHC and CA which created two types of Directors in a Nigerian company incorporated under CAMA. It held that section 244(1) of the CAMA only contemplates one kind of Director irrespective of the type of company and the fact that the Appellant was appointed by the BOD of the Respondent does not remove him from the province of section 266 of CAMA. He is entitled to notice of meeting, the failure to give him violated section 266 of CAMA, it is therefore null and void. The court consequently ordered the reinstatement of the Appellant against existing norm in master-servant employment contract.⁴⁵ This decision creates a third types of employment contract, which is, one in which the parties are in a master-servant employment but the employee has risen to a status that is regulated by a statute. While the employer reserves the right to terminate the contract, he cannot do so without strict compliance with the requirement of the statute regulating such an employment.⁴⁶ The more important aspect of this decision is that it creates an exception to the obnoxious general rule that reinstatement cannot be ordered in master-servant employment reiterated in *Obanye v. UBN Plc.*⁴⁷ It tacitly promotes security of employment amidst the prevalent unstable employment relations in Nigeria exacerbated by massive unemployment and underemployment.

4. National Industrial Court and Expansion of Frontier of Reinstatement in Master-Servant Employment

The National Industrial Court of Nigeria in recent time has opened a new vista in the area of remedies available to an employee whose employment has been wrongfully terminated beyond the bound of ordinary common law damages. Commendably, the NIC has taken into consideration the dire need to protect employees in a volatile labour and employment terrain like Nigeria by taking the bull by the horns. Aside taking positions that have challenged the *status quo* as seen in its disagreement on the right of the employer to terminate the employment of an employee for any reason or no reason at, it has ensured that, wrongful termination is not only redressed through damages. In fact, giving credence to the proactive nature of the NIC, Prof. Agomo has confessed that 'the NIC is beginning to do for the private sector what the Supreme Court did in the 1980s for the public sector, which changed the face of the individual employment law in Nigeria. It is a welcomed development and it takes us back to the 1981 and 1985, the two landmark years in the development of individual employment law jurisprudence.'⁴⁸ In *PNGSSAN v Schlumberger Anadrill Nig. Ltd.*⁴⁹ the NIC held that the employer has a right to hire and fire an employee however, contrary to the norm; it is not desirable that it be for any reason (good or bad) or for no reason at all. In *BCC Plc. v Ager & Anor.*⁵⁰ the CA held that 'an employer has a right of terminating the employment of any of his employee without reason by just paying 1 month or two weeks' salary as the case may be in lieu of notice.'⁵¹ The same position was reiterated in *W. N. D. C. v. Abimbola.*⁵² However, the NIC while agreeing with the employer's right to fire an employee, it has made a case for the stating of a reason for such firing which must be cogent. Where the reason is stated, the employee is at liberty to contest same with a view to absolving him or herself. Thus, where the reason for the termination is involvement in trade union activities, the NIC has declared such a termination wrongful and ordered reinstatement of the affected employees. In *NASCO Foods Nigeria Ltd. v.*

⁴⁵ Atilola (n 5) *Op. cit.* P. 5.

⁴⁶ Amucheazi & Oji (n 32) *Op. cit.* P. 16.

⁴⁷ (2018)LPELR-44702 (SC).

⁴⁸ Here Prof. Agomo was referring to the Supreme Court decisions in *Shitta-Bey v. Federal Public Service Commission* i(1981) SC 40 which reinstatement was ordered despite the argued continues application of Crown Prerogative Right. The second decision is that of *Olaniyan v. University of Lagos* [1985] 2NWLR (Pt. 9) 599.

⁴⁹ Suit No. NIC/9/2004 delivered 18/9/2007.

⁵⁰ [2010] 21 NLLR (Pt.59) 256 at 273 Paras. B-C.

⁵¹ *Chief Tamunoemi Idoniboye-Obu v. NNPC* [2003] 2 NWLR (Pt. 805) 589 at Pp. 626-627, Paras. H-C.

⁵² (1966) 1 All NLR 159.

*FBTSSA*⁵³ the NIC upheld the decision of the Industrial Arbitration Panel (IAP) declaring wrongful the termination by the Appellant of the employment of some members of the Respondent association due to trade union activities and reinstated them. The Court held as follows:

The tribunal believes that the termination of the appointment of the union executives was not in good faith, but because of their union activities which constitutes an infringement of section 9 (6) of the Labour Act, Cap. 198 Laws of the Federation of Nigeria, 1990 which provides that ‘no contract shall cause the dismissal or otherwise prejudice a worker because of trade union activities outside working hours or with the consent of the employer within working hours.

The NIC buttress the above position in *Mix and Bake Flour Mills Industries Ltd. v. FBTSSA*⁵⁴ thus:

This court in a line of authorities has held that there are two instances where reinstatement can be ordered. The first instance is where the employment is statutory; and the second is where the worker was disengaged for embarking on trade union activities-the authority for this being the combined effect of section 9(6) (ii) of the Labour Act and section 43 (1) (b) of the Trade Disputes Act 2004... an employer cannot under the pretext of the right to hire and fire at will trample on the union right of workers especially the right to associate freely and unhindered. Where this happens, the remedy should be one reinstatement.

The NIC thereafter declared null and void the termination of the employment of the four unionists due to their union activities which their employer ordered their reinstatement. This position lay credence to the fact that labour should not be treated as a cheap commodity while protecting capital. The right of the employers particularly in the master-servant employment must be balanced with the need for security of employment; it should only be for justifiable causes that a man should be made to lose his job and not just the expression of the ‘right of firing.’ The courts must become more pragmatic in discharging their duty of administration of justice guided by the considerations of fairness, equity, progress, economic stability and social stability.

5. Conclusion and Recommendations

Basically, in Nigeria, there are two categories of employment contracts. These are private and public which is otherwise known as common law master-servant employment contract and employment with statutory flavour. While the latter is regulated by statute with the effect that parties must abide by the provisions of the statute in their relationship; anything done contrary to the applicable statute, will be declared null and void. The former, is an agreement between the parties which regulates them. The parties reserve the right to terminate the employment contract, they must, however, do so as provided by the agreement. Failure to do so would amount to a breach of contract of employment entitling the aggrieved party to legal remedy. The dichotomy above has the effect that where a contract with statutory flavor is not terminated according to the statute regulating the employment, the termination will be an unlawful act and will be declared null and void. The effect of such a declaration is the reinstatement of the affected worker. However, in master-servant employment, where the termination is in violation of the agreed procedure, the same would be regarded as wrongful, the affected employees’ only remedy is damages for the breach and nothing more. However, this general position with regard to master-servant employment, as seen above, is admissible to certain exceptions which are products of judicial activism anchored on statutory foundation. Thus, where the master-servant employment is of a nature that it has come under the regulation of any statute giving it statutory colouration, it can only be determined in compliance with the statute, where otherwise, the termination would be declared wrongful and in addition to damages, reinstatement would be ordered. Where the termination is due to trade union activities, it will be declared unlawful and reinstatement would be ordered. Based on the findings above, it is recommended that the CA which is the final court in the resolution of disputes emanating from the NIC would adopt the position of the NIC as espoused in the decided cases above which has extended the remedy of reinstatement to master-servant employment so that security of employment and industrial harmony can be engendered. Also, trade unions should create awareness amongst workers on the state of the law to ensure that victimized unionists being aware of this development, can take advantage of it to protect their employment by maintaining an action against any employer who terminates their employment on account of trade union activities and these exceptions should be given statutory backing through amendment of the TDA.

⁵³ Suit No. NIC/6/2003 judgment delivered 16/7/2007.

⁵⁴ [2004] 1 NLLR (Pt. 2) 247.