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**DEFAMATION AND EMPLOYMENT LAW:
SUPREME COURT CLARIFIES THE JURISDICTION OF
THE NATIONAL INDUSTRIAL COURT IN EMMANUEL
ELEGBE & ANOR. V. HP INTERNATIONAL SCHOOLS
LIMITED ORS.**



INTRODUCTION

For years, uncertainty persisted over whether the National Industrial Court of Nigeria (NICN) could adjudicate defamation claims arising from employment disputes, with conflicting Court of Appeal decisions deepening the confusion. Some panels of the Court of Appeal leaned towards restricting the NICN's jurisdiction, while others adopted a more expansive interpretation of its powers under the Constitution and the Third Alteration Act.

The Supreme Court of Nigeria's ("the Supreme Court or the Court") landmark decision in **Emmanuel Elegbe & Anor. v. HP International Schools Limited**¹ has now settled the debate, affirming the NICN's competence in such matters and clarifying the scope or extent of its jurisdiction. By affirming the NICN's competence to entertain defamation claims that are intertwined with employment relationships, the Court not only clarified the scope of the NICN's jurisdiction but also underscored the evolving nature of labour jurisprudence in Nigeria. This judgment carries significant implications for employees, employers, and the broader legal community, as it harmonizes the intersection between workplace disputes and personal rights such as reputation.

Brief facts of the case

The 1st appellant, employed as Head of School by the 1st respondent, resigned following a breakdown in the employment relationship. In a letter to parents, the 1st respondent suggested that the 1st appellant's resignation was linked to an investigation, which the 1st appellant considered inappropriate. She responded with an explanatory email, while her husband (the 2nd appellant) also communicated with parents via WhatsApp. The respondents, including the school and members of the school's board, felt aggrieved by these communications and instituted an action before the Lagos State High Court, alleging defamation.

The appellants challenged the High Court's jurisdiction, arguing that the claims were inseparable from the employment relationship and thus fell within the NICN's exclusive jurisdiction under Section 254C of the Constitution. The High Court dismissed the objection and assumed jurisdiction, prompting an appeal. The Court of Appeal, however, faced difficulty as its numerous earlier decisions on the same issue were divided, highlighting the deep controversy and division among its various divisions over whether the NICN could adjudicate defamation claims.



¹ Appeal No. SC/CV/899/2025

For instance, in cases such as **Akpan v. UNICAL**²; **Olushola & Anor. v. Andrew**³; **UBA & Ors. v. Oladejo**⁴, etc., the Court of Appeal adopted a restrictive approach and held that being a court of limited jurisdiction, the NICN lacked jurisdiction to entertain a claim in tort, as the tort of defamation stands on its own. However, in the second set of cases such as **Nwagbo & Ors. v. National Intelligence Agency (NIA)**⁵; **Nasarawa State Specialist Management Board & Ors. v. Mohammed**⁶; **Omanig v. NSA**⁷ etc., the Court of Appeal adopted a liberal approach and held that any claim factually arising from or connected to the workplace falls within the jurisdiction of the NICN, irrespective of its tortious or contractual character.

Faced with these conflicting decisions, the appellants invoked Section 295(3) of the Constitution, which allows substantial questions of law to be referred to the Supreme Court as a case stated. Recognizing the importance of resolving the controversy and providing clarity for lower courts, the Court of Appeal granted the application and transmitted the jurisdictional question to the Supreme Court for authoritative determination.

Argument of Counsel

The three issues referred to the Supreme Court by the Court of Appeal were:

- 1. Whether the jurisdiction of the High Court of Lagos State is impacted and excluded by Section 254C of the Constitution of the Federal Republic of Nigeria 1999 (as amended) in respect of a claim in defamation in circumstances related or connected with labour and employment.*
- 2. Having regard to Section 254C of the Constitution, whether the termination of an employment relationship simpliciter will vest the High Court of Lagos State with the jurisdiction to entertain a claim in defamation in circumstances related or connected with labour and employment.*
- 3. Whether a purportedly defamatory material arising from an employee's work relationship but made by non-employee can be countenanced by the High Court of Lagos State having regard to Section 254C(c) of the Constitution.*

Counsel for the respective parties duly filed their briefs of arguments. In addition, four amici curiae, namely: **Abimbola Akeredolu, SAN, Dr. Oladapo Olanipekun, SAN, Inam Wilson, SAN and Prof. Emmanuel Ayangarumun Kenen** were invited to make submissions on the subject. In their briefs of arguments, the appellants consistently argued that the High Court lacked the jurisdiction to entertain defamation claims arising from labour and employment setting, and that by virtue of Section 254C of the Constitution, jurisdiction lied exclusively with the NICN over such matters. This position was supported by one of the amici, Dr. Oladapo Olanipekun, SAN.

2 (2016) LPELR-41242 (CA)

3 (2021) LPELR – 5601 (CA)

4 (2021) LPELR – 55320 (CA)

5 (2018) LPELR – 4620 (CA)

6 (2018) LPELR – 44551 (CA)

7 (2021) 10 NWLR (Pt. 1783) 55

Conversely, the respondents, in their brief of argument, vehemently argued that the High Court was the proper forum to adjudicate defamation claims, notwithstanding that the alleged defamatory statements were made in an employment setting. They contended that defamation claims were too remote from the employment context. They also argued that, at the time of the alleged defamatory statements, the 1st appellant was no longer in the employment of the 1st respondent. Furthermore, they maintained that the 2nd appellant had no employment nexus whatsoever with the 1st respondent. The respondents maintained that these circumstances effectively severed the alleged defamatory statements from any employment context, thereby rendering the suit before the trial court a straightforward defamation claim, wholly devoid of labour or employment connections. This position was supported by the other amici - Abimbola Akeredolu, SAN, Inam Wilson, SAN and Prof. Emmanuel Ayangarumun Kenen with little variations.

The Supreme Court's Decision

At the heart of the issues submitted for determination was the proper interpretation of Section 254C of the Constitution, specifically whether claims founded on defamation, though arising in an employment setting, fall within the exclusive jurisdiction of the NICN. Thus, upon careful consideration of the arguments in support of issue one (1), the Supreme Court noted that:

“On a purposive consideration of the constitutional provision, it is evident that the jurisdiction conferred on the NICN is circumscribed to causes and matters arising from, connected with, or incidental to labour, employment, trade unions, industrial relations, workplace conditions, and the welfare of employees and employers. The provision must be construed literally but organically, bearing in the constitutional intent behind the establishment of a specialized court. Defamation, it should be noted remains a distinct tortious cause of action, historically and jurisprudentially rooted in the general law of tort. The mere fact that an allegedly defamatory statement is made in the context of employment ordinarily, does not without more transmute such a claim into a labour or employment dispute within the contemplation of Section 254C of the Constitution. The only Bent is if defamation comes as an ancillary claim to labour or employment matters and the court from the facts assesses it to be inextricably tied or bound up with the main claims before the court, the court can accommodate it under Section 254C1(a) as a cause or claim connected with labour matters.”

In analysing the above conclusion, the Supreme Court relied on a line of its earlier authorities, notably *Egbunu v. Borno Radio Television Corporation*⁸ and *Adenuga & Ors. v. Odumeru & Ors*⁹. In those decisions, the Court had held that “where ancillary or incidental claims are inextricably bound up with the main claims in a suit, a court lacking jurisdiction over the principal claims equally lacks jurisdiction to adjudicate the ancillary ones. This is particularly so where the incidental claims cannot be determined without simultaneously considering the main claims, or where their resolution necessarily involves a determination of the principal claims.”

8 (1997) LPELR-1040 (SC)

9 (2001) 2 NWLR (Pt. 696) 184

The Supreme Court therefore reasoned that *“the jurisdiction conferred on NICN is both substantive and expansive, covering not only disputes strictly arising from labour or employment, but also all matters relating to, connected with, incidental to, or arising from employment relationship and workplace. The Court further stated that the law does not allow any interpretation that would introduce ambiguity and distort the careful constitutional allocation of judicial powers, with the attendant risk of undermining the clearly demarcated jurisdictions of the superior courts of record. Such an approach would also engender doctrinal uncertainty, as litigants may deliberately camouflage ordinary civil claims with the veneers of employment relations in order to improperly invoke the jurisdiction of the NICN.”*

Following the foregoing analysis, the Supreme Court resolved that defamation claims do not fall within the scope of labour and employment matters contemplated by section 254C of the Constitution, unless inextricably tied to principal claims falling within the NICN jurisdiction. The Court further held that such claims are properly adjudicated before the High Court.

The Court noted that the respondents’ cause of action in the case at hand was founded on defamation. The claim was neither predicated on any contract of employment nor on the enforcement of any condition of service. The Court then held that the mere reference in the alleged defamatory publication to the 1st appellant’s resignation from employment did not, in itself, transform the claim into a labour or employment dispute. The Court emphasized that the defamation complained of arose after the cessation of the employer–employee relationship, with no evidence of any subsisting employment relationship between the parties at the material time. Consequently, the appellants failed to establish any credible basis for invoking the jurisdiction of the NICN in respect of a claim wholly unconnected with labour or employment relations. The Court therefore decisively concluded that the respondents’ cause of action, being one in defamation, fell squarely within the jurisdiction of the State High Court and not the NICN, and accordingly resolved issue one in favour of the respondents.

Given the close nexus between issues two and three, the Supreme Court considered and resolved them together. In resolving the issues, the Court identified the determinative question as whether, on the basis of the pleadings, the cause of action was fundamentally rooted in employment rights and obligations within the contemplation of Section 254C of the Constitution, or whether it constitutes an independent tort of defamation falling outside the exclusive jurisdiction of the NICN. The Court then held as follows:

“It is settled law that jurisdiction is determined by the plaintiff’s claim as revealed on the face of the pleadings, and not by the status of the parties or the ultimate success or failure of the claim. What is tangentially paramount is the substance and true character of the cause of action. It follows therefore, that where a claim for defamation is alleged to have arisen in circumstances connected with employment, the Court must enquire whether the determination of the claim necessarily involves the construction, enforcement, or adjudication of rights and obligations arising from a contract of employment, or relates to matters of labour relations, employment rights, or working conditions as constitutionally circumscribed under Section 245C. Where the alleged defamatory statements are so inextricably intertwined with the employment relationship that their truth or falsity cannot be determined without recourse to the terms of employment or the duties and obligations flowing therefrom, jurisdiction properly vests in the National Industrial Court. Conversely, where a claim in defamation exists independently as a tortious cause of action, does not require the interpretation or enforcement of an employment contract, and is directed against a party who does not stand in any employer-employee relationship with the claimant, such a claim falls outside the exclusive jurisdiction of the National Industrial Court and within the general jurisdiction of the State High Court.”

Consequently, in answering issue two (2), the Supreme Court emphatically stated that a claim for termination of employment constitutes a principal claim. Where such a claim is properly before the NICN, any ancillary claim for defamation arising from or connected with the termination may validly fall within its jurisdiction. However, the Court noted that in the present case, no claim relating to termination was brought before the Lagos State High Court. Consequently, the NICN lacked the jurisdiction to entertain the allegation of defamation said to have been committed by the appellants. Consequently, the Court resolved issue two in the negative and issue three in the affirmative.

Implications of the decision

The implications of this Supreme Court's decision are quite significant for the delineation of jurisdiction between the NICN and the State High Courts. Key Implications include:

a. Clarification of Jurisdictional Boundaries

The judgment reinforces that the NICN's exclusive jurisdiction under Section 254C of the Constitution is confined to disputes directly anchored in labour and employment rights. Claims in tort, such as defamation, even if they arise in an employment context, do not automatically fall within NICN's jurisdiction.

b. Protection of State High Court Authority

By affirming that defamation claims remain within the jurisdiction of State High Courts, the decision safeguards their authority over general civil wrongs and prevents an overstretching of NICN's jurisdiction.

c. Guidance for Pleadings

Litigants must carefully frame their pleadings. If the cause of action is fundamentally defamation, it cannot be disguised as an employment dispute to invoke NICN jurisdiction. This ensures that courts are not misled by incidental references to employment.

d. Precedential Value

The case sets a strong precedent for future disputes involving tortious claims that overlap with employment contexts. Courts will now apply this principle to distinguish between employment claims (NICN jurisdiction) and independent torts (State High Court jurisdiction).

e. Practical Effect

Lawyers must be precise in identifying whether a claim is truly employment-related or merely incidental to employment. NICN's jurisdiction remains specialized and limited, preventing jurisdictional overreach.

In essence, the Supreme Court has drawn a bright line between employment disputes and independent tort actions, ensuring that jurisdiction is exercised strictly within constitutional boundaries.



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