

Case Note

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Key Contacts

**Dafe Ugbeta**

Disputes Partner
Litigation & ADR Practice Group
dafe.ugbeta@aret-bret.com

**Beauty Adiola**

Associate
Litigation & ADR Practice Group
beauty.adiela@aret-bret.com

Termination of Non-Statutory Employment in Nigeria: A Commentary on the Supreme Court Decision in *Damisa v U.B.A (2025) 19 NWLR (Pt. 2021) 409*

Introduction

A lingering question in Nigerian employment law is whether an employer can lawfully dismiss an employee for a good reason, a bad reason, or for no reason at all.

Closely related to this inquiry is whether a wrongful dismissal in a master-servant relationship lacking statutory flavour can be declared null and void, thereby entitling an employee to reinstatement

These issues came squarely before the Supreme Court in the recently decided case of *Damisa v U.B.A (2025) 19 NWLR (Pt.2021) 409*. In its decision, the apex court affirmed the concurrent findings of the High Court of Kaduna State and the Court of Appeal, which dismissed the Appellant's claims for declaratory reliefs, reinstatement, and damages for dismissal, while upholding the Respondent's counterclaim. This edition of our Case Note examines the facts, the decision, and the legal significance of the case.

Relevant facts

The Appellant was employed by the Respondent Bank as Senior Manager (Commercials) in its Kaduna Branch. He was accused of gross negligence in the management of a certain Nasara Properties account, which allegedly facilitated the fraudulent conversion of third-party cheques amounting to N6,000,000.00 (Six Million Naira).

A query was issued to the Appellant, and his response was construed by the Respondent as an admission of negligence. Following his suspension and an internal investigation, the Appellant was dismissed from service. Aggrieved, the Appellant instituted an action at the High Court seeking, inter alia:

1. Declarations that his suspension and dismissal were ultra vires, null, and void;
2. A declaration that he was entitled to remain in the Respondent's service until age 55;
3. Orders setting aside the dismissal letter and reinstating him;
4. In the alternative, special and aggravated damages; and
5. Cost of the action.

The trial court dismissed all the Appellant's claims and granted the Respondent's counterclaim of ₦1,588,335.65. The Court of Appeal affirmed the decision. Still dissatisfied, the Appellant further appealed to the Supreme Court.

Decision of the Supreme Court

The Supreme Court upheld the decisions of both lower courts, holding that the employment relationship between the parties was a purely contractual master-servant relationship. The Court restated the settled principle that where an employer terminates such a relationship, even in breach of the contract, the termination cannot be declared null and void, nor can the employee be reinstated. This is because the Court will not impose an employee on an unwilling employer.

The Court further reiterated that an employer (master) reserves the right to dismiss an employee (servant) at any time, provided the dismissal is carried out in accordance with the terms stipulated in the letter of employment, the contract of employment, or whichever document regulating the employment relationship. Although an employer is entitled to terminate an employee's employment without giving a reason, if a reason is given, it must be justified.

Importantly, the Court emphasised that only employment with Statutory flavour can attract declaratory reliefs - nullifying dismissal and ordering reinstatement. Consequently, the Appellant's claim for reinstatement was held to be contrary to the nature of the contractual relationship between the parties and therefore not grantable in law. In a master-servant relationship, the appropriate remedy for wrongful dismissal is an award of damages, not reinstatement. The Appellant's reliance on allegedly breaches of fair hearing requirements and the Senior Staff Conditions of Service was insufficient to elevate the employment to one with statutory flavour. Accordingly, all the declaratory reliefs sought by the Appellant failed.

On the issue of damages, the Supreme Court agreed with the lower courts that Special damages must be specifically pleaded and strictly proved. The Appellant failed to provide particulars or credible evidence to substantiate his huge monetary claims. The Court also reiterated that aggravated or exemplary damages are generally unavailable in employment disputes, except in cases involving oppressive or arbitrary conduct by the government or its agencies. Having failed to prove wrongful dismissal, the Appellant's claim for damages necessarily collapsed.

With respect to the counterclaim, the Respondent tendered the Final Benefits and indebtedness Schedule of the Appellant (Exhibit 18), which clearly established the Appellant's indebtedness in the sum of ₦1,588,336.65. The Appellant failed to adduce any rebuttal evidence. The Supreme Court therefore affirmed the concurrent findings of the lower courts that the counterclaim was duly proven.

Commentary

The decision in *Damisa v UBA* reasserts the settled position that Nigerian courts lack the power to convert a purely contractual employment into one with Statutory flavour by judicial fiat. It highlights the practical limitations faced by private-sector employees who seek reinstatement following wrongful dismissal.

The case also clarifies that declaratory reliefs aimed at nullifying dismissal decisions are inappropriate where the employment relationship is governed solely by contract. It also underscores the stringent evidential burden placed on employees who seek special damages and demonstrates the procedural advantage employed by employers who meticulously document financial liabilities arising from internal disciplinary processes.

Key takeaways from the Decision

1. An employer retains the right to dismiss an employee at any time, subject to compliance with the terms governing the employment relationship.
2. While an employer may terminate employment without giving a reason, any reason provided must be justified.
3. Employment without statutory flavour cannot sustain declaratory reliefs nullifying dismissal or ordering reinstatement.
4. Claims for special damages are generally unavailable in private employment disputes.
5. Exemplary or aggravated damages are generally unavailable in private employment services
6. Concurrent findings of fact by lower courts will not be disturbed on appeal in the absence of perversion or miscarriage of justice.

Final Thoughts

In conclusion, it must be stated that, although this decision represents a helpful restatement of the principles applicable to the termination of purely contractual employment in Nigeria, it is not a binding precedent on the National Industrial Court of Nigeria (NICN) for the purpose of deciding cases filed after the Constitution (Third Alteration) Act 2010. The Third Alteration Act, which amended the Constitution of the Federal Republic of Nigeria, significantly altered Labour jurisprudence in Nigeria. Notably, for employment cases filed after the Third Alteration Act 2010 came into force, recourse must be made only to the decisions of the Court of Appeal, which is now the apex court for the determination of employment disputes as far as the civil jurisdiction of the NICN is concerned.